LAWS=NEW JERSEY
1995

New Jersey State Library

ACTS

OF THE

Second Annual Session

OF THE

Two Hundred and Sixth Legislature

OF THE

STATE OF NEW JERSEY

AND

Thirty-Sixth Under the New Constitution

New Jersey State Library

1995

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

Legislative Services Commission

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of the
SECOND ANNUAL SESSION
of the

Two Hundred and Sixth Legislature

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(Part of Bergen)
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1 Sworn in 2/9/95.

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(Part of Bergen)
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CHARLES "KEN" ZISA

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(Part of Bergen)
ROSE MARIE HECK
PATRICK J. ROMA

THIRTY-NINTH DISTRICT
(Part of Bergen)
JOHN E. ROONEY
CHARLOTTE VANDERVALK

FORTIETH DISTRICT
(Parts of Bergen, Passaic)
NICHOLAS R. FELICE
DAVID C. RUSSO

1 Sworn in 1/23/95.
2 Died 8/27/95.
3 Sworn in 9/18/95.
4 Resigned 2/9/95.
5 Sworn in 2/27/95.
6 Resigned 2/28/95.
7 Sworn in 3/13/95.
8 Sworn in 1/23/95.

LAWS

ACTS

ENACTED BY THE

Second Annual Session

OF THE

Two Hundred and Sixth Legislature

CHAPTER 1

AN ACT permitting the appointment of alternate members of shade tree commissions and amending R.S.40:64-1, R.S:40:64-2, R.S.40:37-1 and R.S.40:37-2.

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

1. R.S.40:64-1 is amended to read as follows:

Shade tree commission; members; appointment.

40:64-1. The body having charge of the finances of any municipality, and in case of a municipality governed by commissioners, the board of commissioners thereof, may provide by ordinance that the regulation, planting, care and control of shade and ornamental trees and shrubbery upon and in the streets, highways, public places, parks and parkways, of the municipality except State highways unless the Department of Transportation shall assent thereto and except county highways, parks and parkways, in counties now or hereafter having a county shade tree commission, unless the county shade tree commission or county department of parks and recreation shall assent thereto, shall be exercised by and be under the authority of a commission, which shall be known as the shade tree commission of ..... . The commission shall consist of not less than five nor more than seven members, and may include not more than two alternate members. The members and alternate members shall be appointed by the mayor or other chief executive officer of the municipality, shall be residents of the municipality, and shall serve without compensation except as hereinafter provided.

2. R.S.40:64-2 is amended to read as follows:

Commissioners' term lengths; alternates.

40:64-2. The first commissioners shall be appointed within 60 days after the ordinance providing for the commission shall become effective, and their terms of office shall commence upon the day of their appointment and be for the respective periods of one, two, three, four and five years, if the commission consists of five members, beginning on January 1 next succeeding such appointment. If the commission is to consist of six members, the first commissioners shall be appointed as above, except that two shall be appointed for five years; and if the commission is to consist of seven members, two shall be appointed for five years and two shall be appointed for four years. In the event that the membership of any commission is increased, the new members shall be appointed in such manner that the terms shall expire in accordance with the foregoing. The terms of each appointee shall be designated in his appointment. All subsequent appointments, except to fill vacancies, shall be for the full term of five years, to take effect on January 1.

If the ordinance providing for alternate members provides for two alternate members, they shall be designated at the time of appointment as "Alternate No. 1" and "Alternate No. 2" and shall serve during the absence or disqualification of any regular member or members. The term of each alternate member shall be five years commencing on January 1 of the year of appointment; provided, however, that in the event two alternate members are appointed the initial term of "Alternate No. 2" shall be four years and the initial term of "Alternate No. 1" shall be five years. The terms of the first alternate members appointed pursuant to this section shall commence on the day of their appointment and shall expire on the fourth or fifth December 31 next ensuing after the date of their appointments, as the case may be. An alternate member may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member.

3. R.S.40:37-1 is amended to read as follows:

Shade tree commission; freeholders' powers.

40:37-1. The board of chosen freeholders of any county may, by resolution, establish and appoint a board of shade tree commissioners to consist of not more than five residents of the county, and to be known as the "shade tree commission of

..... county". The board of chosen freeholders may also, by resolution, appoint not more than two residents of the county as alternate members to the commission.

The board of chosen freeholders, or such committee or committees thereof as it may designate, may exercise all the functions herein conferred on the shade tree commission.

4. R.S.40:37-2 is amended to read as follows:

Commissioners' term lengths; alternates.

40:37-2. Of the commissioners first appointed, if the commission is to consist of five members, one shall serve for one year, one for two years, one for three years, one for four years, and one for five years, and thereafter one commissioner shall be appointed annually for five years. If the commission is to consist of less than five members the appointments shall be so arranged as to have the term of one commissioner expire each year. Vacancies shall be filled by the board of chosen freeholders by appointment for the unexpired term only.

If the resolution provides for the appointment of two alternate members, they shall be designated at the time of appointment as "Alternate No. 1" and "Alternate No. 2" and shall serve during the absence or disqualification of any regular member or members. Of the alternate members first appointed, "Alternate No. 2" shall serve for one year and "Alternate No. 1" shall serve for two years. Thereafter alternate members shall be appointed for the same term of office as are commissioners. Vacancies shall be filled by the board of chosen freeholders by appointment for the unexpired term only. An alternate member may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member.

5. This act shall take effect immediately.

Approved January 10, 1995.

CHAPTER 2

AN ACT to create the Licensed Lenders Advisory Board in the Department of Banking, supplementing Title 17 of the Revised Statutes and repealing sections 30 and 31 of P.L.1960, c.41.

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

C.17:10C-1 Licensed Lenders Advisory Board.

1. There is created in the Department of Banking a Licensed Lenders Advisory Board. The board shall consist of the Commissioner of Banking or his designee, who shall be ex officio the chair of the board, and seven members to be appointed by the Governor, with the advice and consent of the Senate, for a term of three years. Each member shall hold office for the term of appointment and until his successor is appointed and qualified. A member is eligible to be reappointed to the board. A member appointed to fill a vacancy occurring in the membership of the board for any reason other than the expiration of the term shall have a term of appointment for the unexpired term only. All vacancies shall be filled in the same manner as the original appointment. Any appointed member of the board may be removed from office by the Governor, for cause, after a hearing and may be suspended by the Governor pending the completion of the hearing. Appointed members of the board shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties as members. Action may be taken and motions and resolutions may be adopted by the board at a board meeting by an affirmative vote of not less than four members. Of the seven appointed members, one shall have had, at the time of appointment, not less than five years of practical experience as a licensed first mortgage lender located in the State of New Jersey; one shall have had, at the time of appointment, not less than five years of practical experience as a licensed secondary mortgage lender located in the State of New Jersey; one shall have had, at the time of appointment, not less than five years of practical experience as a licensed mortgage banker or broker located in the State of New Jersey; one shall be a representative from the licensed mortgage lending industry in the State of New Jersey who is not a salaried officer, director, or employee of any licensed mortgage lender, mortgage banker or broker; two shall have had, at the time of appointment, not less that five years of practical experience as lenders licensed for providing loans other than primary or secondary mortgage loans; and one shall be a public member who is not a salaried officer, director or employee of any licensed lender, mortgage banker or broker. At no time shall there be more than one representative on the board from any one licensed lender, mortgage banker or broker.

C.17:10C-2 Board duties.

2. The board shall act as a resource to the commissioner by developing and recommending to the commissioner ideas, programs and tools to assist:

a. in the development of educational requirements for licensees;

b. licensed mortgage lenders, mortgage bankers, brokers and solicitors in meeting the mortgage lending needs of consumers;

c. other licensed lenders in meeting the lending needs of consumers; and

d. consumers in understanding and using:

(1) mortgage lending information and choosing from available mortgage lending opportunities through licensed mortgage lenders, mortgage bankers, brokers and solicitors in this State; and

(2) consumer lending information and choosing from available consumer lenders.

Repealer.

3. Sections 30 and 31 of P.L.1960, c.41 (C.17:16C-91 and 17:16C-92) are repealed.

4. This act shall take effect immediately.

Approved January 10, 1995.

CHAPTER 3

AN ACT allowing for the extension of contracts for laundry and uniform services and amending the "Local Public Contracts Law," P.L.1971, c.198.

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

1. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to read as follows:

C.40A:11-15 Duration of certain contracts.

15. All purchases, contracts or agreements for the performing of work or the furnishing of materials, supplies or services shall be made for a period not to exceed 12 consecutive months, except

that contracts or agreements may be entered into for longer periods of time as follows:

(1) Supplying of:

(a) Fuel for heating purposes, for any term not exceeding in the aggregate, two years;

(b) Fuel or oil for use of airplanes, automobiles, motor vehicles or equipment for any term not exceeding in the aggregate, two years;

(c) Thermal energy produced by a cogeneration facility, for use for heating or air conditioning or both, for any term not exceeding 40 years, when the contract is approved by the Board of Public Utilities. For the purposes of this paragraph, "cogeneration" means the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam;

(2) (Deleted by amendment, P.L.1977, c.53.)

(3) The collection and disposal of municipal solid waste, the collection and disposition of recyclable material, or the disposal of sewage sludge, for any term not exceeding in the aggregate, five years;

(4) The collection and recycling of methane gas from a sanitary landfill facility, for any term not exceeding 25 years, when such contract is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and with the approval of the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection. The contracting unit shall award the contract to the highest responsible bidder, notwithstanding that the contract price may be in excess of the amount of any necessarily related administrative expenses; except that if the contract requires the contracting unit to expend funds only, the contracting unit shall award the contract to the lowest responsible bidder. The approval by the Division of Local Government Services of public bidding requirements shall not be required for those contracts exempted therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);

(5) Data processing service, for any term of not more than three years;

(6) Insurance, for any term of not more than three years;

(7) Leasing or servicing of automobiles, motor vehicles, machinery and equipment of every nature and kind, for a period not to exceed three years; provided, however, such contracts shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(8) The supplying of any product or the rendering of any service by a telephone company which is subject to the jurisdiction of the Board of Public Utilities for a term not exceeding five years;

(9) Any single project for the construction, reconstruction or rehabilitation of any public building, structure or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction;

(10) The providing of food services for any term not exceeding three years;

(11) On-site inspections undertaken by private agencies pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not more than three years;

(12) The performance of work or services or the furnishing of materials or supplies for the purpose of conserving energy in buildings owned by, or operations conducted by, the contracting unit, the entire price of which to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 10 years; provided, however, that such contracts shall be entered into only subject to and in accordance with rules and regulations promulgated by the Department of Environmental Protection establishing a methodology for computing energy cost savings;

(13) The performance of work or services or the furnishing of materials or supplies for the purpose of elevator maintenance for any term not exceeding three years;

(14) Leasing or servicing of electronic communications equipment for a period not to exceed five years; provided, however, such contract shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(15) Leasing of motor vehicles, machinery and other equipment primarily used to fight fires, for a term not to exceed seven years, when the contract includes an option to purchase, subject to and in accordance with rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(16) The provision of water supply services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility, or any component part or parts thereof, including a water filtration system, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the

Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et al.), except for those contracts otherwise exempted pursuant to subsection (30) or (31) of this section. For the purposes of this subsection, "water supply services" means any service provided by a water supply facility; "water filtration system" means any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, rehabilitated, or operated for the collection, impoundment, storage, improvement, filtration, or other treatment of drinking water for the purposes of purifying and enhancing water quality and insuring its potability prior to the distribution of the drinking water to the general public for human consumption, including plants and works, and other personal property and appurtenances necessary for their use or operation; and "water supply facility" means and refers to the real property and the plants, structures, interconnections between existing water supply facilities, machinery and equipment and other property, real, personal and mixed, acquired, constructed or operated, or to be acquired, constructed or operated, in whole or in part by or on behalf of a political subdivision of the State or any agency thereof, for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, or of conserving existing water resources, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering, conserving or transmitting of water and for the preservation and protection of these resources and facilities and providing for the conservation and development of future water supply resources;

(17) The provision of solid waste disposal services by a resource recovery facility, the furnishing of products of a resource recovery facility, the disposal of the solid waste delivered for disposal which cannot be processed by a resource recovery facility or the waste products resulting from the operation of a resource recovery facility, including hazardous waste and recovered metals and other materials for reuse, or the design, financing, construction, operation or maintenance of a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection; and when the facility is in conformance with a solid waste manage-

ment plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(18) The sale of electricity or thermal energy, or both, produced by a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Board of Public Utilities, and when the facility is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(19) The provision of wastewater treatment services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a wastewater treatment system, or any component part or parts thereof, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection pursuant to P.L.1985, c.72 (C.58:27-1 et al.). For the purposes of this subsection, "wastewater treatment services" means any services provided by a wastewater treatment system, and "wastewater treatment system" means equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge, or for the final disposal of residues resulting from the treatment of wastewater, including, but not limited to, pumping and ventilating stations, facilities, plants and works, connections, outfall sewers, interceptors, trunk lines, and other personal property and appurtenances necessary for their operation;

(20) The supplying of materials or services for the purpose of lighting public streets, for a term not to exceed five years, provided that the rates, fares, tariffs or charges for the supplying of electricity for that purpose are approved by the Board of Public Utilities;

(21) In the case of a contracting unit which is a county or municipality, the provision of emergency medical services by a hospital to residents of a municipality or county as appropriate for a term not to exceed five years;

(22) Towing and storage contracts, awarded pursuant to paragraph u. of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) for any term not exceeding three years;

(23) Fuel for the purpose of generating electricity for a term not to exceed eight years;

(24) The purchase of electricity or administrative or dispatching services related to the transmission of such electricity, from a public utility company subject to the jurisdiction of the Board of Public Utilities, a similar regulatory body of another state, or a federal regulatory agency, or from a qualifying small power producing facility or qualifying cogeneration facility, as defined by 16 U.S.C. §796, by a contracting unit engaged in the generation of electricity for retail sale, as of the date of this amendatory act, for a term not to exceed 40 years;

(25) Basic life support services, for a period not to exceed five years. For the purposes of this subsection, "basic life support" means a basic level of prehospital care, which includes but need not be limited to patient stabilization, airway clearance, cardiopulmonary resuscitation, hemorrhage control, initial wound care and fracture stabilization;

(26) Claims administration services, for any term not to exceed three years;

(27) The provision of transportation services to elderly, disabled or indigent persons for any term of not more than three years. For the purposes of this subsection, "elderly persons" means persons who are 60 years of age or older. "Disabled persons" means persons of any age who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, are unable, without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected. "Indigent persons" means persons of any age whose income does not exceed 100 percent of the poverty level, adjusted for family size, established and adjusted under section 673(2) of subtitle B, the "Community Services Block Grant Act," Pub.L. 97-35 (42 U.S.C. §9902 (2));

(28) The supplying of liquid oxygen or other chemicals, for a term not to exceed five years, when the contract includes the

installation of tanks or other storage facilities by the supplier, on or near the premises of the contracting unit;

(29) The performance of patient care services by contracted medical staff at county hospitals, correction facilities and long term care facilities, for any term of not more than three years;

(30) The acquisition of an equitable interest in a water supply facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or an agreement entered into pursuant to the "County and Municipal Water Supply Act," N.J.S.40A:31-1 et seq., if the agreement is entered into no more than six months after the effective date of this amendatory act, P.L.1994, c.71, for any term of not more than 40 years;

(31) The provision of water supply services or the financing, construction, operation or maintenance or any combination thereof, of a water supply facility or any component part or parts thereof, by a partnership or copartnership established pursuant to a contract authorized under section 2 of P.L.1993, c.381 (C.58:28-2) for a period not to exceed 40 years; and

(32) Laundry service and the rental, supply and cleaning of uniforms for any term of not more than three years.

All multiyear leases and contracts entered into pursuant to this section, except contracts for the leasing or servicing of equipment supplied by a telephone company which is subject to the jurisdiction of the Board of Public Utilities, contracts involving the supplying of electricity for the purpose of lighting public streets and contracts for thermal energy authorized pursuant to subsection (1) above, construction contracts authorized pursuant to subsection (9) above, contracts and agreements for the provision of work or the supplying of equipment to promote energy conservation authorized pursuant to subsection (12) above, contracts for water supply services or for a water supply facility, or any component part or parts thereof authorized pursuant to subsection (16) above, contracts for resource recovery services or a resource recovery facility authorized pursuant to subsection (17) above, contracts for the sale of energy produced by a resource recovery facility authorized pursuant to subsection (18) above, contracts for wastewater treatment services or for a wastewater treatment system or any component part or parts thereof authorized pursuant to subsection (19) above, and contracts for the purchase of electricity or administrative or dispatching services related to the transmission of such electricity authorized pursuant to subsection (24) above, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may

be required to meet the extended obligation, or contain an annual cancellation clause.

The Division of Local Government Services shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the fiscal year.

2. This act shall take effect immediately.

Approved January 10, 1995.

CHAPTER 4

AN ACT concerning the Division of Mental Health and Hospitals and revising parts of the statutory law.

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

1. Section 11 of P.L.1965, c.59 (C.30:4-24.3) is amended to read as follows:

C.30:4-24.3 Confidentiality; exceptions.

11. All certificates, applications, records, and reports made pursuant to the provisions of this Title and directly or indirectly identifying any individual presently or formerly receiving services in a noncorrectional institution under this Title, or for whom services in a noncorrectional institution shall be sought under this act shall be kept confidential and shall not be disclosed by any person, except insofar as:

a. the individual identified or his legal guardian, if any, or, if he is a minor, his parent or legal guardian, shall consent; or

b. disclosure may be necessary to carry out any of the provisions of this act or of article 9 of chapter 82 of Title 2A of the New Jersey Statutes; or

c. a court may direct, upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make such disclosure would be contrary to the public interest.

Nothing in this section shall preclude disclosure, upon proper inquiry, of information as to a patient's current medical condition to any relative or friend or to the patient's personal physician or

attorney if it appears that the information is to be used directly or indirectly for the benefit of the patient.

Nothing in this section shall preclude the professional staff of a community agency under contract with the Division of Mental Health Services in the Department of Human Services, or of a screening service, short-term care or psychiatric facility as those facilities are defined in section 2 of P.L.1987, c.116 (C.30:4-27.2) from disclosing information that is relevant to a patient's current treatment to the staff of another such agency.

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

C.30:4-27.2 Definitions.

2. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

m. "In need of involuntary commitment" means that an adult who is mentally ill, whose mental illness causes the person to be dangerous to self or dangerous to others or property and who is unwilling to be admitted to a facility voluntarily for care, and who needs care at a short-term care, psychiatric facility or special psychiatric hospital because other services are not appropriate or available to meet the person's mental health care needs.

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

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

p. "Mental health screener" means a psychiatrist, psychologist, social worker, registered professional nurse or other individual trained to do outreach only for the purposes of psychological assessment who is employed by a screening service and possesses the license, academic training or experience, as required by the commissioner pursuant to regulation; except that a psychiatrist and

a State licensed clinical psychologist who meet the requirements for mental health screener shall not have to comply with any additional requirements adopted by the commissioner.

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

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

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

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

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

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

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

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

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

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

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

bb. "Short-term care facility" means an inpatient, community based mental health treatment facility which provides acute care

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

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

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

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

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

3. Section 1 of P.L.1986, c.71 (C.30:4-82.1) is amended to read as follows:

C.30:4-82.1 Findings, declarations.

1. It is found and declared:

a. That a significant number of inmates in State-owned or operated correctional facilities suffer from mental illness requiring treatment either in the form of counseling or inpatient treatment during the period of their incarceration.

b. That because of prison overcrowding, a lack of resources, and the inability of the Department of Human Services and the Department of Corrections to agree on a policy to provide adequate and appropriate mental health services to these persons, they are not receiving the mental health treatment they need.

c. That the inability of the two departments to agree on policy is attributable to their separate missions, the Department of Human Services being constituted to provide treatment and not security, and the Department of Corrections being constituted to provide secure custody and not treatment.

d. That mentally ill inmates who do not receive treatment present a danger to other inmates and to correction officers while they are incarcerated and pose a threat to their families and to other citizens of the State when they are released.

e. That the existing procedures of the Division of Mental Health Services in the Department of Human Services and of the Department of Corrections, as well as existing laws, seem to provide sufficient authority to enable the two State agencies to alleviate the problems caused by the lack of treatment made available to mentally ill inmates.

4. Section 1 of P.L.1987, c.32 (C.30:4-177.39) is amended to read as follows:

C.30:4-177.39 Findings, declarations.

1. The Legislature finds and declares that:

a. There exists a population of two groups of clients of the Division of Mental Health Services and Division of Developmental Disabilities in the Department of Human Services who are underserved in their current institutional settings.

b. One group of these individuals is comprised of clients in the State psychiatric hospitals or developmental centers who are developmentally disabled and who exhibit psychiatric or behavioral problems and are known as "dually diagnosed" clients. The severity of their conditions precludes effective treatment in either developmental centers or State psychiatric hospitals. For these clients, a more intensive, specialized, behaviorally oriented program is required.

c. The other group of these individuals includes clients of institutions administered by the Division of Mental Health Services who are developmentally disabled, have been administratively or judicially discharged from the Division of Mental Health Services, and who are in need of the services of

the Division of Developmental Disabilities. These clients are known as "discharged pending placement" clients.

d. There exists on the grounds of Ancora Psychiatric Hospital as a pilot program a facility designed to serve the special needs of both the dually diagnosed and discharged pending placement populations that is unfunded for continued operation.

5. Section 2 of P.L.1987, c.32 (C.30:4-177.40) is amended to read as follows:

C.30:4-177.40 Developmental Center at Ancora.

2. The Developmental Center at Ancora is established within the Division of Developmental Disabilities in the Department of Human Services and shall include the pilot program designed to serve the special needs of both the dually diagnosed and discharged pending placement populations. The Developmental Center at Ancora shall accept for treatment only those individuals transferred from State facilities under the supervision of the Division of Mental Health Services and the Division of Developmental Disabilities in the Department of Human Services.

Nothing in this amendatory and supplementary act shall be construed to require placement at the Developmental Center at Ancora of those persons discharged pending placement who are not in need of institutional care and who have been judicially or administratively determined appropriate for community placement.

For those persons for whom institutional placement is initially determined to be judicially or administratively appropriate, the Developmental Center at Ancora shall nevertheless provide discharge-oriented treatment to achieve the goal of ultimate discharge into community settings as soon as their conditions permit.

6. Section 1 of P.L.1957, c.146 (C.30:9A-1) is amended to read as follows:

C.30:9A-1 Declaration of policy.

1. It is declared to be the public policy of this State to encourage the development of preventive, treatment and transitional services for mental health clients through the improvement and expansion of community mental health programs in designated service areas for the entire State which will provide these elements of adequate services:

(a) In-patient services;

(b) Out-patient services;

(c) Partial hospitalization services such as day care, night care, weekend care;

(d) Emergency services 24 hours per day to be available within at least one of the first three services listed above;

(e) Consultation and education services available to community agencies and professional personnel;

(f) Children's services;

(g) Services for the elderly;

(h) Screening services;

(i) Rehabilitative services including vocational and educational programs;

(j) Transitional services;

(k) Advocacy services;

(l) Training services; and

(m) Research and evaluation.

The aforementioned services are to be provided principally for persons residing in a particular community or communities which are designated as the community mental health center service area, in or near which the facilities providing the elements of service are situated.

It is further declared to be the public policy of this State to establish a Community Mental Health Citizens Advisory Board for mental health services to plan, establish and recommend to the Commissioner of Human Services and the Director of the Division of Mental Health Services those policies which are necessary to ensure the development and adequate delivery of the aforementioned elements of mental health services.

7. Section 2 of P.L.1957, c.146 (C.30:9A-2) is amended to read as follows:

C.30:9A-2 Definitions.

2. For the purpose of this act the following terms are hereby defined:

"Community Mental Health Citizens Advisory Board" shall mean a board of 15 members to be appointed by the State Board of Institutional Trustees with the approval of the Governor. Of these 15, eight members shall be chosen from among citizens of the State who, as consumers, have demonstrated an interest in the delivery of mental health services and are not providers of mental health services; one from among persons recommended by the State Association of Freeholders; one from among persons recom-

mended by the State League of Municipalities; two from among providers of mental health services and one from among persons recommended by the chairpersons of the standing Assembly and Senate committees on Human Services.

The term of each member shall be for three years and shall commence on July 1 and shall terminate on June 30, provided, however, that of the new members appointed three shall be appointed for a term expiring one year, three for a term expiring two years, and four for a term expiring three years from July 1 following the date of appointment. Members of the present Community Mental Health Board serving on the effective date of this amendatory act shall continue to serve until the expiration of their current terms.

In addition, the Board of Institutional Trustees will designate two members from among persons currently serving as members of the Board of Managers of each of the four State psychiatric hospitals to be appointed in July of each year. The Director of the Division of Mental Health Services or his designee shall be a nonvoting ex officio member of the Community Mental Health Citizens Advisory Board.

The role of the board shall be to serve as both advocate and advisor to the department for the development of effective mental health services in the community. To fulfill this role, the board shall become and continue to be thoroughly acquainted with those programs of the Department of Human Services dealing with mental health and related social services, particularly those administered by the Office of Community Services, and shall regularly review all such programs. It shall advise and recommend on the development of policies and procedures within the general directives of the department covering these programs.

The board shall promote and maintain constructive relationships with the county mental health boards, community mental health center boards and other official bodies and organized agencies concerned with mental health services. It shall also serve, where possible, in such advisory capacities to the department in the area of community mental health as are required by Federal statutes.

The board shall choose one of its members to act as chairman and shall meet as often as required to conduct the business of the board and to assist and advise in the administration of the duties and responsibilities imposed by this chapter, but not less than 6 times each year.

The board, acting on behalf of the State Board of Institutional Trustees and subject to the authority and direction thereof, may establish within itself committees directly concerned with State-operated facilities, State grant-in-aid programs, Federal grant-in-

aid programs, planning for comprehensive mental health services and mental health manpower resources, utilization and training, and may establish such other committees as it may determine.

The board may, subject to the approval of the State Board of Institutional Trustees, establish any subsidiary unsalaried advisory or consultant committees or study groups as it may deem necessary and proper and shall appoint the members thereof.

"Community mental health program" shall mean a program of preventive, treatment and transitional services for mental health clients, provided in accordance with State or Federal regulations.

"Department" shall mean the Department of Human Services.

"Sponsoring agency" shall mean any county board of freeholders, municipal governing body, board of education or any nonprofit corporation organized for the purpose of providing health or welfare services to the community, which establishes, maintains or expands a community mental health program.

8. Section 2 of P.L.1985, c.296 (C.30:9B-2) is amended to read as follows:

C.30:9B-2 Self-Help Clearinghouse.

2. The Commissioner of the Department of Human Services shall establish a Self-Help Clearinghouse in the Division of Mental Health Services.

9. Section 2 of P.L.1977, c.448, (C.30:11B-2) is amended to read as follows:

C.30:11B-2 Definitions.

2. "Community residence for the developmentally disabled" means any community residential facility housing up to 16 developmentally disabled persons which provides food, shelter and personal guidance for developmentally disabled persons who require assistance, temporarily or permanently, in order to live independently in the community. Such residences shall not be considered health care facilities within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and shall include, but not be limited to, group homes, halfway houses, supervised apartment living arrangements and hostels.

"Community residence for the mentally ill" means any community residential facility which provides food, shelter and personal guidance, under such supervision as required, to not more than 15 mentally ill persons who require assistance temporarily or perma-

nently, in order to live independently in the community. These residences shall be approved for a purchase of service contract or an affiliation agreement pursuant to procedures established by the Division of Mental Health Services in the Department of Human Services. These residences shall not house persons who have been assigned to a State psychiatric hospital after having been found not guilty of a criminal offense by reason of insanity or unfit to be tried on a criminal charge. These residences shall not be considered health care facilities within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and shall include, but not be limited to, group homes, halfway houses, supervised apartment living arrangements, family care homes and hostels.

"Community residence for persons with head injuries" means a community residential facility providing food, shelter and personal guidance, under such supervision as required, to not more than 15 persons with head injuries, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, halfway houses, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.).

"Developmental disability" or "developmentally disabled" means a severe, chronic disability of a person which: a. is attributable to a mental or physical impairment or combination of mental or physical impairments; b. is manifest before age 22; c. is likely to continue indefinitely; d. results in substantial functional limitations in three or more of the following areas of major life activity, that is, self-care, receptive and expressive language, learning, mobility, self-direction and capacity for independent living or economic self-sufficiency; and e. reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. Developmental disability includes, but is not limited to, severe disabilities attributable to mental retardation, autism, cerebral palsy, epilepsy, spina bifida and other neurological impairments where the above criteria are met.

"Mentally ill" means any psychiatric disorder which has required an individual to receive either inpatient psychiatric care or outpatient psychiatric care on an extended basis.

"Person with head injury" means a person who has sustained an injury, illness or traumatic changes to the skull, the brain contents or its coverings which results in a temporary or permanent phys-

iobiological decrease of cognitive, behavioral, social or physical functioning which causes partial or total disability.

10. Section 10 of P.L.1987, c.112 (C.30:11B-4.2) is amended to read as follows:

C.30:11B-4.2 Program standards.

10. a. Within six months of the effective date of this act, the Director of the Division of Mental Health Services in the Department of Human Services shall develop program standards which include criteria for educational and professional experience of employees of a community residence for the mentally ill and staffing ratios appropriate to the needs of the residents of the community residences for the mentally ill.

b. Within six months after the effective date of P.L.1993, c.329, the Commissioner of Human Services shall develop program standards which include criteria for educational and professional experience of employees of a community residence for persons with head injuries and staffing ratios appropriate to the needs of the residents of these community residences.

C.30:1A-1.1 References to "Division of Mental Health and Hospitals."

11. Whenever the term "Division of Mental Health and Hospitals" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the "Division of Mental Health Services."

12. This act shall take effect immediately.

Approved January 10, 1995.

CHAPTER 5

AN ACT concerning the Pharmaceutical Assistance to the Aged and Disabled program, amending P.L.1994, c.67 and supplementing P.L.1975, c.194 (C.30:4D-20 et seq.).

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

1. Section 1 of P.L.1994, c.67, the fiscal year 1995 annual appropriations act, on page 179, at lines 1 through 7 is amended to read as follows:

CASINO REVENUE FUND
GRANTS-IN-AID
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

Notwithstanding the provisions of any other law to the contrary, no amount of the appropriation hereinabove for Pharmaceutical Assistance to the Aged and Disabled - Claims P.L.1975, c.194 (C.30:4D-20 et seq.) shall be expended for payment to a pharmacy unless, at the time of the prescription drug purchase for which the claim is submitted, the label on the prescription drug or the receipt prominently displayed the usual price charged to other persons in the community by the pharmacy; provided, however, that this provision shall be inoperative for the period from July 1, 1994 until the 90th day following enactment of P.L.1995, c.5.

C.30:4D-22.1 Pharmacy payment condition.

2. Payments to pharmacies made by the "Pharmaceutical Assistance to the Aged and Disabled" program in accordance with section 3 of P.L.1975, c.194 (C.30:4D-22) shall not be made unless, at the time of each prescription drug purchase for which a pharmacy submits a claim, the pharmacy prominently displays on the receipt provided with the drug the usual price charged to other persons in the community by the pharmacy.

3. This act shall take effect immediately, but section 2 shall remain inoperative until July 1, 1995 and shall expire July 1, 1998.

Approved January 10, 1995.

CHAPTER 6

AN ACT concerning the harassing or threatening of certain persons and the criteria to be considered in imposing sentence in certain cases and amending N.J.S.2C:12-1 and N.J.S.2C:44-1.

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

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

Assault.

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

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

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

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

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

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

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

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

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

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

(5) Commits a simple assault as defined in subsection a. (1), (2) or (3) of this section upon:

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

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

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

(d) Any school board member or school administrator, teacher or other employee of a school board while clearly identifiable as being engaged in the performance of his duties or because of his status as a member or employee of a school board; or

(6) Causes bodily injury to another person while fleeing or attempting to elude a law enforcement officer in violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this subsection upon proof of a violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10 which resulted in bodily injury to another person.

Aggravated assault under subsections b. (1) and b. (6) is a crime of the second degree; under subsection b. (2) is a crime of the third degree; under subsections b. (3) and b. (4) is a crime of the fourth degree; and under subsection b. (5) is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree.

c. A person is guilty of assault by auto or vessel when the person drives a vehicle or vessel recklessly and causes either serious bodily injury or bodily injury to another. Assault by auto or vessel is a crime of the fourth degree if serious bodily injury results and is a disorderly persons offense if bodily injury results.

As used in this section, "vessel" means a means of conveyance for travel on water and propelled otherwise than by muscular power.

d. A person who is employed by a facility as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as defined in paragraph (1) or (2) of subsection a. of this section upon an institutionalized elderly person as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth degree.

e. A person who commits a simple assault as defined in subsection a. of this section is guilty of a crime of the fourth degree if the person acted, at least in part, with ill will, hatred or bias toward, and with a purpose to intimidate, an individual or group of individuals because of race, color, religion, sexual orientation, or ethnicity.

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

Criteria for withholding or imposing sentence of imprisonment.

2C:44-1. Criteria for Withholding or Imposing Sentence of Imprisonment. a. In determining the appropriate sentence to be

imposed on a person who has been convicted of an offense, the court shall consider the following aggravating circumstances:

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

(2) The gravity and seriousness of harm inflicted on the victim, including whether or not the defendant knew or reasonably should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to advanced age, ill-health, or extreme youth, or was for any other reason substantially incapable of exercising normal physical or mental power of resistance;

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

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

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

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

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

(8) The defendant committed the offense against a police or other law enforcement officer, correctional employee or fireman, acting in the performance of his duties while in uniform or exhibiting evidence of his authority; the defendant committed the offense because of the status of the victim as a public servant; or the defendant committed the offense against a sports official, athletic coach or manager, acting in or immediately following the performance of his duties or because of the person's status as a sports official, coach or manager;

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

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

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

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

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

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

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

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

(3) The defendant acted under a strong provocation;

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

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

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

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

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

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

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

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

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

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

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

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

d. Presumption of imprisonment. The court shall deal with a person who has been convicted of a crime of the first or second degree by imposing a sentence of imprisonment unless, having regard to the character and condition of the defendant, it is of the opinion that his imprisonment would be a serious injustice which overrides the need to deter such conduct by others. Notwithstanding the provisions of subsection e. of this section, the court shall deal with a person who has been convicted of theft of a motor vehicle or of the unlawful taking of a motor vehicle and who has previously been convicted of either offense by imposing a sentence of imprisonment unless, having regard to the character and condition of the defendant, it is of the opinion that his imprisonment would be a serious injustice which overrides the need to deter such conduct by others.

e. The court shall deal with a person convicted of an offense other than a crime of the first or second degree, who has not previously been convicted of an offense, without imposing sentence of imprisonment unless, having regard to the nature and circumstances of the offense and the history, character and condition of the defendant, it is of the opinion that his imprisonment is necessary for the protection of the public under the criteria set forth in subsection a., except that this subsection shall not apply if the person is convicted of any of the following crimes of the third degree: theft of a motor vehicle; unlawful taking of a motor vehicle; or eluding.

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

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

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

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

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

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

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

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

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

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

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

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

3. This act shall take effect immediately.

Approved January 10, 1995.

CHAPTER 7

AN ACT appropriating moneys from the "Water Conservation Bond Act," P.L.1969, c.127, for the costs of acquisitions of lands in Sterling Forest and the pinelands area, for the purpose of augmenting, increasing, improving, preserving, protecting, or conserving natural water resources and supplies important to New Jersey and facilitating recreational uses incidental thereto.

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

1. a. There is appropriated to the Department of Environmental Protection from the "Water Conservation Fund" established pursuant to section 13 of the "Water Conservation Bond Act," P.L.1969, c.127, for distribution to the Palisades Interstate Park Commission, the sum up to $10,000,000 for the acquisition of lands or interests therein by the Palisades Interstate Park Commission in Sterling Forest, New York, for the purpose of augmenting, increasing, improving, preserving, protecting, or conserving natural water resources and supplies important to New Jersey and facilitating recreational uses incidental thereto. The Department of Environmental Protection shall be satisfied that any moneys expended pursuant to this section are consistent with the fair market value of the lands or interests therein purchased.

b. To the extent that the balance of the moneys available in the "Water Conservation Fund" that have not been previously appropriated pursuant to law is insufficient to support the sum appropriated pursuant to subsection a. of this section, the following shall be made available from the "Water Conservation Fund" to support the remainder of the appropriation made in subsection a. as required: (1) moneys returned to the "Water Conservation Fund" due to project withdrawals, cancellations, or cost savings involving projects previously funded by law; and (2) moneys previously appropriated by law from the "Water Conservation Fund" to fund projects but for which no such moneys have been expended, other than for administrative or program purposes, in the five-year period immediately prior to the effective date of this act, or to fund projects deemed by the Department of Environmental Protection as of the effective date of this act to be no longer active, the previous appropriation of which is cancelled subject to the approval of the Joint Budget Oversight Committee or its successor.

2. a. There is appropriated to the Department of Environmental Protection from the "Water Conservation Fund" established pursuant to section 13 of the "Water Conservation Bond Act," P.L.1969, c.127, the sum of $1,000,000 for the 50 percent State share required to match the federal funds available for the acquisition of lands in the pinelands area, which lands have been deemed to have limited practical use because of their location in the pinelands area and are held by landowners who own less than 50 acres in the pinelands area and have exhausted remedies to secure relief, and which acquisition is necessary for the purpose of augmenting, increasing, improving, preserving, protecting, or conserving natural water resources and supplies important to New Jersey and facilitating recreational uses incidental thereto.

b. To the extent that the balance of the moneys available in the "Water Conservation Fund" that have not been previously appropriated pursuant to law is insufficient to support the sum appropriated pursuant to subsection a. of this section, the following shall be made available from the "Water Conservation Fund" to support the remainder of the appropriation made in subsection a. as required: (a) moneys returned to the "Water Conservation Fund" due to project withdrawals, cancellations, or cost savings involving projects previously funded by law; and (b) moneys previously appropriated by law from the "Water Conservation Fund" to fund projects but for which no such moneys have been expended, other than for administrative or program purposes, in the five-year period immediately prior to the effective date of this act, or to fund projects deemed by the Department of Environmental Protection as of the effective date of this act to be no longer active, the previous appropriation of which is cancelled subject to the approval of the Joint Budget Oversight Committee or its successor.

3. The expenditure of the sums appropriated by this act from the "Water Conservation Fund" is subject to the provisions and conditions of P.L.1969, c.127, as amended by section 26 of P.L.1979, c.86, and as amended and supplemented by P.L.1981, c.233.

4. This act shall take effect immediately, except that section 1 of this act shall take effect upon enactment of substantially similar legislation by the State of New York appropriating the sum of at least $10,000,000 and by the federal government appropriating a sum of at least $17,500,000 for the acquisition of lands in Sterling Forest, New York, for the purpose of augmenting, increasing,

improving, preserving, protecting, or conserving natural water resources and supplies, or for recreation and conservation or similar purposes. In no event shall New Jersey's contribution to the purchase of the Sterling Forest when added to New York's contribution, exceed the amount of the federal appropriation. The obligation of funds pursuant to section 1 of this act shall expire if no agreement to purchase lands in Sterling Forest has been executed within three years of the date of enactment of this act.

Approved January 12, 1995.

CHAPTER 8

AN ACT concerning boards of education of school districts involved in sending-receiving relationships and supplementing chapter 38 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:38-8.1 Representation of board of education of sending district; matters covered.

1. In addition to the members of the board of education of a Type I and Type II school district provided by law, in a school district which is receiving pupils from another district or districts pursuant to N.J.S.18A:38-8, there shall be an additional member as provided pursuant to section 2 of this act to represent the board of education of each sending district. Any additional member shall be a member of the board of education of a sending district designated annually by the board of that district and shall be eligible to vote on the following matters before the receiving district board of education:

a. Tuition to be charged the sending district by the receiving district;

b. New capital construction to be utilized by sending district pupils;

c. Appointment, transfer or removal of teaching staff directly providing services to pupils of the sending district; and

d. Addition or deletion of curricular and extracurricular programs involving pupils of the sending district.

C.18A:38-8.2 Representation from sending school district to board of receiving district.

2. A school district which is sending pupils to another school district pursuant to N.J.S.18A:38-8 shall have representation on the board of education of the receiving school district as follows:

a. (1) If the pupils of the sending district comprise less than 10 percent of the total enrollment of the pupils in the grades of the receiving district in which the pupils of the sending district will be enrolled, the sending district shall have no representation on the receiving district board of education.

(2) If the pupils of the sending district comprise at least 10 percent of the total enrollment of the pupils in the grades of the receiving district in which the pupils of the sending district will be enrolled, the sending district shall have one representative on the receiving district board of education.

b. If the total number of pupils of two or more sending districts, which do not qualify for representation under subsection a. of this section, comprise at least 15 percent of the total enrollment of the pupils in the grades of the receiving district in which the pupils of the sending districts will be enrolled, they shall have collectively two representatives on the receiving district board of education. The annual designation of the representatives, in the event more than two districts collectively qualify under this subsection, shall be rotated among the boards of education of the sending districts according to a schedule determined by the joint agreement of the boards.

c. Notwithstanding the provisions of subsections a. and b. of this section, the number of representatives designated by the sending districts to be additional members shall not exceed three additional members on a receiving board with originally nine or more members, two additional members on a receiving board with originally seven or eight members, and one additional member on a receiving board with originally less than seven members. In the event that this restriction results in an unequal representation of sending districts, the annual designation of the representative or representatives shall be rotated among the boards of education of the sending districts according to a schedule determined by the joint agreement of the boards.

d. A representative of a sending district board of education shall be designated at the meeting of the board which is closest in time to the annual organizational meeting of the receiving district board of education and shall serve a one-year term beginning with the organizational meeting of the receiving district board. The representative shall be subject to the rules and procedures of the receiving district board of education.

e. The calculation of percentages required under this section shall be based on the number of pupils reported as of October 15 of each year.

C.18A:38-8.3 Nonapplicability of act.

3. The provisions of this act shall not apply to sending and receiving relationships which are established exclusively for the purposes of special education.

4. This act shall take effect immediately.

Approved January 12, 1995.

CHAPTER 9

AN ACT creating the "Comprehensive Enforcement Program Fund" and revising various parts of the statutory law.

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

C.2B:19-1 Short title.

1. Sections 1 through 9 of this act shall be known and may be cited as the "Comprehensive Enforcement Program Fund Act."

C.2B:19-2 Findings, declarations.

2. The Legislature finds and declares that:

a. The Judiciary routinely enters judgments and court orders setting forth assessments, surcharges, fines and restitution against litigants pursuant to statutory law.

b. The enforcement of court orders is crucial to ensure respect for the rule of law and credibility of the court process.

c. Despite monitoring of judgments and court orders by probation divisions and other segments of the Judiciary responsible for doing so, many orders are not complied with because there is a lack of central coordination, funding, automation, and control.

d. The Judiciary has successfully developed a hearing officer program in child support enforcement and a pilot criminal enforcement court project, which is in the process of being expanded, that have demonstrated significant increases in collections and compliance.

e. The Governor's Management Review Commission has reviewed the collections process in New Jersey and made recommendations supporting the establishment and funding of a Statewide comprehensive enforcement program operated by the Judiciary.

f. Upon passage of this act, the Supreme Court and the Chief Justice will establish a Statewide comprehensive enforcement program within the present structure of the Superior Court which will provide for the enforcement of court orders and oversee collection of court-ordered fines, assessments, surcharges and judgments in the civil, criminal and family divisions, the Tax Court and in certain municipal court matters as provided in section 6 of this act. The comprehensive enforcement program will utilize the child support hearing officer model and the pilot project criminal enforcement court model, supported by a Statewide automation system designed to increase collections, compliance and accountability.

C.2B:19-3 Comprehensive Enforcement Program Fund.

3. There is established as a separate fund in the General Fund, to be administered by the Administrative Office of the Courts, a "Comprehensive Enforcement Program Fund." This fund shall be the depository for the deductions from collections and the enforced community service fees described in sections 4 and 5 of this act for the purpose of operating the comprehensive enforcement program, the computer system established pursuant to P.L.1992, c.169, enforced community service and any subsequent programs or methodologies employed to enforce collection of court ordered financial obligations.

C.2B:19-4 Deduction of collections to fund program, limit.

4. a. Subject to the approval of the Director of the Division of Budget and Accounting, the Administrative Office of the Courts is authorized to deduct an amount up to 25% of all moneys collected through the comprehensive enforcement program, except for victim restitution and for Violent Crimes Compensation Board assessments, for deposit in the "Comprehensive Enforcement Program Fund" established pursuant to section 3 of this act to fund the comprehensive enforcement program, the CAPS computer system, enforced community service, and other programs employed to collect court ordered financial obligations. The Administrative Office of the Courts shall promulgate a schedule for the deduction of collections to be deposited in the "Comprehensive Enforcement Program Fund."

b. Of the funds deposited in the "Comprehensive Enforcement Program Fund," no more than $550,000.00 annually shall be allocated to fund the comprehensive enforcement program.

C.2B:19-5 Labor assistance program established by county; enforced community service program by probation services.

5. a. The governing body of each county, through the sheriff or such other authorized officer, may establish a labor assistance

program as an alternative to direct incarceration to be utilized by the comprehensive enforcement program as a sentencing option. An enrollment fee of $15.00 shall be paid by each person who is sentenced to a labor assistance program. Additionally, each person so sentenced shall pay a fee of $2.00 per day for each day originally sentenced to the labor assistance program. Labor assistance program fees shall be paid to the county treasurer for use by the county.

b. In counties that do not establish a labor assistance program, the probation services division shall establish an enforced community service program as an alternative to direct incarceration, to be utilized by the comprehensive enforcement program as a sentencing option. An enrollment fee of $15.00 shall be paid by each person who is sentenced to the enforced community service program. Additionally, each person so sentenced shall pay a fee of $2.00 per day for each day originally sentenced to the enforced community service program. Enforced community service fees shall be deposited in the "Comprehensive Enforcement Program Fund."

c. (1) As used in this section, "labor assistance program" means, a work program, established by the county under the direction of the sheriff or other authorized county officer, which rigorously supervises offenders providing physical labor as an alternative to incarceration.

(2) As used in this section, "enforced community service" means a work program, established and supervised by the probation division, which directly and rigorously supervises offenders providing physical labor as an alternative to direct incarceration in those counties which have chosen not to create a labor assistance program.

C.2B:19-6 Unresolved money collection matters.

6. a. All matters involving the collection of moneys in the Superior Court and Tax Court which have not been resolved in accordance with an order of the court may be transferred, pursuant to court rule, to the comprehensive enforcement program for such action as may be appropriate.

b. (1) A municipal court may request that all matters which have not been resolved in accordance with an order of that court be transferred to the comprehensive enforcement program for such action as may be appropriate. All moneys collected through the comprehensive enforcement program which result from the enforcing of orders transferred from any municipal court shall be subject to the 25% deduction authorized pursuant to section 4 of this act except for moneys collected in connection with the enforcement of orders related to parking violations.

(2) Nothing contained in this act shall prevent any municipal court from contracting the services of a private collection agency to collect any moneys which have not been remitted in accordance with an order of that court.

C.2B:19-7 Transfer of disobeyed community service matters.

7. All matters involving the imposition of a sentence of community service by either the Superior Court or a municipal court which have not been complied with by the offender shall be transferred, by the sentencing judge to the comprehensive enforcement program for such suitable compliance sanctions as may be appropriate, including incarceration, participation in a labor assistance program, enforced community service, imposition of a financial sanction, or a combination of these sanctions or such other alternative as may be appropriate.

C.2B:19-8 Inability to fulfill financial obligations of sentence; procedure.

8. a. At any time after a person has completed the total sentence to a labor assistance program or enforced community service program, the comprehensive enforcement hearing officer may determine that the payor is financially unable to comply with the financial obligations initially imposed by the sentencing court. The comprehensive enforcement hearing officer may then:

(1) Accept the participation in a labor assistance program or enforced community service in lieu of payment of the remaining court ordered financial obligations;

(2) Impose additional hours in a labor assistance program or enforced community service in lieu of payment of the remaining court ordered financial obligations;

(3) Impose a term of imprisonment in lieu of paying the remaining court ordered financial obligations; or

(4) Docket the total amount due as a judgment in the Superior Court.

b. When the comprehensive enforcement hearing officer has exhausted all of the steps enumerated in this section and any additional hours of a labor assistance program or enforced community service or any term of imprisonment have been completed, the person may be terminated from probation supervision and the total amount owed may be removed from probation records and deducted from outstanding and uncollectable amounts owed. These actions notwithstanding, whenever a judgment is docketed in the Superior Court, the person remains liable to pay the outstanding debt as originally imposed by the sentencing court.

c. Notwithstanding the foregoing, the comprehensive enforcement hearing officer may not relieve the person of the obligation to pay the VCCB assessment or restitution to a victim.

C.2B:19-9 Recommendation of hearing officer.

9. Any recommendation by a comprehensive enforcement hearing officer shall be in conformity with court rules and shall be approved by a judge of the Superior Court prior to entry.

10. N.J.S.2C:46-1 is amended to read as follows:

Time and method of payment; disposition of funds.

2C:46-1. Time and Method of Payment; Disposition of Funds.

a. When a defendant is sentenced to pay an assessment pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a penalty imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee imposed pursuant to N.J.S.2C:35-20 or to make restitution, the court may grant permission for the payment to be made within a specified period of time or in specified installments. If no such permission is embodied in the sentence, the assessment, fine, penalty, fee or restitution shall be payable forthwith, and the court shall file a copy of the judgment of conviction with the Clerk of the Superior Court who shall enter the following information upon the record of docketed judgments:

(1) the name of the convicted person as judgment debtor;

(2) the amount of the assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) and the Violent Crimes Compensation Board as a judgment creditor in that amount;

(3) the amount of any restitution ordered and the name of any persons entitled to receive payment as judgment creditors in the amount and according to the priority set by the court;

(4) the amount of any fine and the governmental entity entitled to receive payment pursuant to N.J.S.2C:46-4;

(5) the amount of the mandatory Drug Enforcement and Demand Reduction penalty imposed;

(6) the amount of the forensic laboratory fee imposed; and

(7) the date of the order.

Where there is more than one judgment creditor the creditors shall be given priority consistent with the provisions of section 13 of P.L.1991, c.329 (C.2C:46-4.1). These entries shall have the same force as a civil judgment docketed in the Superior Court.

b. (1) When a defendant sentenced to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a

fine, a penalty imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee imposed pursuant to N.J.S.2C:35-20 or to make restitution is also sentenced to probation, the court shall make continuing payment of installments on the assessment and restitution a condition of probation, and may make continuing payment of installments on the fine, the mandatory Drug Enforcement and Demand Reduction penalty or the forensic laboratory fee a condition of probation.

(2) When a defendant sentenced to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a penalty imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee imposed pursuant to N.J.S.2C:35-20 or to make restitution is also sentenced to a custodial term in a State correctional facility, the court may require the defendant to pay installments on the assessment, penalty, fee, fine and restitution.

c. The defendant shall pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), restitution, penalty, fee or fine or any installment thereof to the officer entitled by law to collect the payment. In the event of default in payment, such agency shall take appropriate action for its collection.

d. (1) When, in connection with a sentence of probation, a defendant is sentenced to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a penalty imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee imposed pursuant to N.J.S.2C:35-20 or to make restitution, the defendant, in addition, shall be sentenced to pay a transaction fee on each occasion that the defendant makes a payment or an installment payment, until the defendant has paid the full amount he is sentenced to pay. All other individuals making payments on court ordered financial obligations through the probation division shall also pay a transaction fee on each payment or installment payment. The Administrative Office of the Courts shall promulgate a transaction fee schedule for use in connection with installment payments made pursuant to this paragraph; provided, however, the transaction fee on an installment payment shall not exceed $2.00.

(2) When, in connection with a custodial sentence in a State correctional institution, a defendant is sentenced to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a penalty imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee imposed pursuant to N.J.S.2C:35-20 or to make restitution, the defendant, in addition, shall be sentenced to pay a transaction fee on each occasion that the defendant makes a payment or an installment payment until the defendant has paid

the full amount he is sentenced to pay. The Department of Corrections shall promulgate a transaction fee schedule for use in connection with installment payments made pursuant to this paragraph; provided, however, the transaction fee on an installment payment shall not exceed $1.00.

11. N.J.S.2C:46-2 is amended to read as follows:

Consequences of nonpayment; summary collection.

2C:46-2. Consequences of Nonpayment; Summary Collection. a. When a defendant sentenced to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly probation fee, fine, other court imposed financial penalties or to make restitution defaults in the payment thereof or of any installment, upon the motion of the person authorized by law to collect the payment, the motion of the prosecutor, the motion of the victim entitled to payment of restitution, the motion of the Violent Crimes Compensation Board, the motion of the State or county Office of Victim and Witness Advocacy or upon its own motion, the court shall recall him, or issue a summons or a warrant of arrest for his appearance. The court shall afford the person notice and an opportunity to be heard on the issue of default. Failure to make any payment when due shall be considered a default. The standard of proof shall be by a preponderance of the evidence, and the burden of establishing good cause for a default shall be on the person who has defaulted.

(1) If the court finds that the person has defaulted without good cause, the court shall:

(a) Order the suspension of the driver's license or the nonresident reciprocity driving privilege of the person; and

(b) Prohibit the person from obtaining a driver's license or exercising reciprocity driving privileges until the person has made all past due payments; and

(c) Notify the Director of the Division of Motor Vehicles of the action taken; and

(d) Take such other actions as may be authorized by law.

(2) If the court finds that the person defaulted on payment of a court imposed financial obligation without good cause and finds that the default was willful, the court may, in addition to the action required by paragraph (1) of this subsection a., impose a term of imprisonment or participation in a labor assistance program or enforced community service to achieve the objective of the court imposed financial obligation. These options shall not

reduce the amount owed by the person in default. The term of imprisonment or enforced community service or participation in a labor assistance program in such case shall be specified in the order of commitment. It need not be equated with any particular dollar amount but, in the case of a fine it shall not exceed one day for each $20.00 of the fine nor 40 days if the fine was imposed upon conviction of a disorderly persons offense nor 25 days for a petty disorderly persons offense nor one year in any other case, whichever is the shorter period. In no case shall the total period of imprisonment in the case of a disorderly persons offense for both the sentence of imprisonment and for failure to pay a fine exceed six months.

(3) Except where incarceration is ordered pursuant to paragraph (2) of this subsection a., if the court finds that the person has defaulted the court shall take appropriate action to modify or establish a reasonable schedule for payment, and, in the case of a fine, if the court finds that the circumstances that warranted the fine have changed or that it would be unjust to require payment, the court may revoke or suspend the fine or the unpaid portion of the fine.

(4) When failure to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly probation fee, restitution or other financial penalties or to perform enforced community service or to participate in a labor assistance program is determined to be willful, the failure to do so shall be considered to be contumacious.

(5) When a fine, assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), other financial penalty or restitution is imposed on a corporation, it is the duty of the person or persons authorized to make disbursements from the assets of the corporation or association to pay it from such assets and their failure so to do may be held to be contumacious.

b. Upon any default in the payment of a fine, assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), monthly probation fee, other financial penalties, restitution, or any installment thereof, execution may be levied and such other measures may be taken for collection of it or the unpaid balance thereof as are authorized for the collection of an unpaid civil judgment entered against the defendant in an action on a debt.

c. Upon any default in the payment of restitution or any installment thereof, the victim entitled to the payment may institute summary collection proceedings authorized by subsection b. of this section.

d. Upon any default in the payment of an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or any installment thereof, the Violent Crimes Compensation Board or

the party responsible for collection may institute summary collection proceedings authorized by subsection b. of this section.

e. When a defendant sentenced to make restitution to a public entity other than the Violent Crimes Compensation Board, defaults in the payment thereof or any installment, the court may, in lieu of other modification of the sentence, order the defendant to perform work in a labor assistance program or enforced community service program.

f. If a defendant ordered to participate in a labor assistance program or enforced community service program fails to report for work or to perform the assigned work, the comprehensive enforcement hearing officer may revoke the work order and impose any sentence permitted as a consequence of the original conviction.

g. If a defendant ordered to participate in a labor assistance program or an enforced community service program pays all outstanding assessments, the comprehensive enforcement hearing officer may review the work order, and modify the same to reflect the objective of the sentence.

h. As used in this section:

(1) "Comprehensive enforcement program" means the program established pursuant to the "Comprehensive Enforcement Program Fund Act," P.L.1995, c.9 (C.2B:19-1 et seq.).

(2) The terms "labor assistance program" and "enforced community service" have the same meaning as those terms are defined in section 5 of the "Comprehensive Enforcement Program Fund Act," P.L.1995, c.9 (C.2B:19-5).

(3) "Public entity" means the State, any county, municipality, district, public authority, public agency and any other political subdivision or public body in the State.

12. This act shall take effect immediately, except that section 10 shall take effect 60 days after enactment.

Approved January 12, 1995.

CHAPTER 10

AN ACT concerning free balances in public schools and amending P.L.1993, c.80.

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

1. Section 3 of P.L.1993, c.80 (C.18A:7D-27.1) is amended to read as follows:

C.18A:7D-27.1 Appropriation of general fund excess free balances.

3. a. A general fund free balance in excess of 7.5% of the budgeted general fund appropriations for the prebudget year, after deducting from the balance any federal funds provided to a district pursuant to Pub.L.81-874, 20 U.S.C. §236 et seq., shall be appropriated by a school district for the purpose of the budget prepared pursuant to section 22 of P.L.1990, c.52 (C.18A:7D-27).

b. If the appropriation of an excess free balance pursuant to subsection a. of this section will create a hardship for the district in the 1993-94 school year, the district may apply to the county superintendent and receive approval of a schedule for the appropriation of the free balance in excess of 7.5% that will enable the district to meet this requirement no later than the beginning of the 1996-97 school year. The schedule may include approval to transfer the general fund free balance to the capital reserve account established pursuant to N.J.S.18A:21-3.

c. If the appropriation of an excess free balance pursuant to subsection a. of this section will create a hardship for the district in a school year subsequent to 1993-94, the district may transfer the general fund free balance to the capital reserve account established pursuant to N.J.S.18A:21-3.

2. This act shall take effect immediately.

Approved January 18, 1995.

CHAPTER 11

AN ACT concerning the unlawful disposal of solid waste on railroad property, and amending P.L.1989, c.118.

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

1. Section 2 of P.L.1989, c.118 (C.13:1E-9.3) is amended to read as follows:

C.13:1E-9.3 Collection, disposal, transportation of solid waste; authorization.

2. a. No person shall, regardless of intent, engage, or be permitted to engage, in the collection or disposal of solid waste in excess of 0.148 cubic yards of solids or 30 United States gallons of liquids, whether for profit or otherwise, except at a disposal site or any other place which has authorization from the Department of Environmental Protection to accept solid waste.

b. No person shall, regardless of intent, transport or cause or permit to be transported any solid waste in excess of 0.148 cubic yards of solids or 30 United States gallons of liquids, whether for profit or otherwise, to a disposal site or any other place which does not have authorization from the Department of Environmental Protection to accept solid waste.

c. No person shall, regardless of intent, cause, engage in or be permitted to engage in, the disposal of any amount of solid waste on real property subject to the use, control or ownership of a railroad company, unless such disposal is expressly authorized by the railroad company and approved by the Department of Environmental Protection.

d. The provisions of this section shall be enforced by the Department of Environmental Protection and by every municipality, local board of health, or county health department, as the case may be.

2. Section 3 of P.L.1989, c.118 (C.13:1E-9.4) is amended to read as follows:

C.13:1E-9.4 Penalties.

3. a. Any person who violates the provisions of subsection a. or b. of section 2 of P.L.1989, c.118 (C.13:1E-9.3) commits a disorderly persons offense.

b. Any person convicted of a violation of the provisions of subsection a. or b. of section 2 of P.L.1989, c.118 (C.13:1E-9.3) is subject to a fine of not less than $2,500.00 for a first offense, not more than $5,000.00 for a second offense and not more than $10,000.00 for a third and every subsequent offense. Each day during which the violation continues constitutes an additional, separate and distinct offense.

c. If a person is convicted of a violation of the provisions of subsection a. or b. of section 2 of P.L.1989, c.118 (C.13:1E-9.3), the court shall, in addition to the penalties provided under subsection b. of this section, require the person to perform community

service for a term of not more than 90 days, and the person shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period of not less than six months nor more than one year.

d. All conveyances used or intended for use in the unlawful transportation or disposal of solid waste in violation of the provisions of subsection a. or b. of section 2 of P.L.1989, c.118 (C.13:1E-9.3) are subject to forfeiture to the State pursuant to the provisions of P.L.1981, c.387 (C.13:1K-1 et seq.).

e. The provisions of P.L.1981, c.387 (C.13:1K-1 et seq.) or any other law to the contrary notwithstanding, whenever a conveyance is forfeited to the State pursuant to subsection d. of this section, the proceeds from the disposal and sale of such conveyance shall be remitted to the chief financial officer of the municipality wherein the violation occurred, to be used by the municipality to help finance enforcement activities undertaken pursuant to section 13 of P.L.1970, c.40 (C.48:13A-12) or section 2 of P.L.1989, c.118 (C.13:1E-9.3).

f. A person convicted of a violation of the provisions of subsection c. of section 2 of P.L.1989, c.118 (C.13:1E-9.3) shall be liable to the railroad company in the amount of three times the damages caused directly or indirectly by the unlawful disposal together with three times the costs associated with the cleanup of the real property upon which the violation occurred, including, but not limited to, all attorneys' fees and costs which the railroad company may reasonably expend in a civil suit brought in a court of competent jurisdiction to collect the sums imposed by this subsection. In any such suit, a final judgment of conviction shall be admissible as conclusive proof that the person violated the provisions of subsection c. of section 2 of P.L.1989, c.118 (C.13:1E-9.3).

3. This act shall take effect immediately.

Approved January 18, 1995.

CHAPTER 12

AN ACT concerning private sales of personal property by counties and municipalities to certain organizations and amending and supplementing P.L.1971, c.199.

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

1. Section 2 of P.L.1971, c.199 (C.40A:12-2) is amended to read as follows:

C.40A:12-2 Definitions.

2. Definitions. The following words shall have the following meanings, unless the context clearly indicates the contrary:

(a) "Acquire" shall include acquisition by gift, devise, purchase, exchange, grant, lease, condemnation, or installment purchase agreement unless otherwise indicated.

(b) "Buildings" shall include any building or buildings and any structures, improvements, ingress or egress, grounds or plazas, necessary and incidental to the purpose of the building and the safety, comfort and well-being of its occupants.

(c) "Capital improvements" shall include, in addition to buildings, any structures, fixtures, edifices, byways, parking lots, service facilities, and any other facility necessary and incidental to the lawful performance of any function of a county or municipality.

(d) "County" means any county of this State of whatever class.

(e) "Municipality" means any town, township, borough, village or city of whatever class heretofore or hereafter created under general or special charter.

(f) "Personal property" shall mean any personal property necessary and incidental to the furnishing, refurnishing or refurbishing of a building. "Personal property" shall also include, but not be limited to, office furniture, office equipment, office supplies, computers, computer equipment, telephone equipment, cameras, tractors, lawn mowers, dump trucks, golf carts, modular office trailers, tools, janitorial supplies and farm animals.

(g) "Real property" shall include, in addition to the usual connotations thereof, development rights or easements, or any right, interest or estate in the area extending above any real property, or capital improvement thereon, to such a height or altitude as any title, interest or estate in real property may extend, commonly known as "air rights."

(h) "Resolution" or "ordinance" when used in connection with the action of a county or municipality means a resolution or ordinance adopted by the governing body of the county or municipality. In any case in which a resolution or ordinance authorizing the expenditure of public moneys is required to be approved by any other board, body or commission of the State,

county or municipality, "resolution" or "ordinance" shall mean also adopted or approved by the board, body or commission authorized to take such action on behalf of the State, county or municipality.

(i) "Sale" shall include the conveyance of any estate, interest, easement or title to, or the waiver, release, or modification of any conditions, restrictions or limitations on any real property, capital improvement or personal property of the county or municipality, but shall not include any lease or exchange of such property.

C.40A:12-21.1 Private sale of personal property authorized.

2. When the governing body of any county or municipality shall determine that any form of personal property as defined in subsection (f) of section 2 of P.L.1971, c.199 (C.40A:12-2) and as amended in section 1 of P.L.1995, c.12, owned by the county or municipality, is no longer needed for county or municipal purposes, as the case may be, that governing body, by resolution or ordinance, may authorize a private sale of the personal property without compliance with any other law governing disposal of personal property by counties and municipalities, for a consideration, which may be nominal to any organization or association listed in section 21 of P.L.1971, c.199 (C.40A:12-21). The private sale of the personal property shall contain a limitation that the personal property shall be used only for the purposes of that organization or association, and to render those services or to provide those facilities as may be agreed upon, and not for commercial business, trade or manufacture, and that if the personal property is not used in accordance with that limitation, ownership thereto shall revert to the county or municipality.

3. This act shall take effect immediately.

Approved January 18, 1995.

CHAPTER 13

AN ACT concerning certain lawsuits and amending P.L.1988, c.46.

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

1. Section 1 of P.L.1988, c.46 (C.2A:15-59.1) is amended to read as follows:

C.2A:15-59.1 Frivolous causes of action.

1. a. (1) A party who prevails in a civil action, either as plaintiff or defendant, against any other party may be awarded all reasonable litigation costs and reasonable attorney fees, if the judge finds at any time during the proceedings or upon judgment that a complaint, counterclaim, cross-claim or defense of the nonprevailing person was frivolous.

(2) When a public entity is required or authorized by law to provide for the defense of a present or former employee, the public entity may be awarded all reasonable litigation costs and reasonable attorney fees if the individual for whom the defense was provided is the prevailing party in a civil action, and if there is a judicial determination at any time during the proceedings or upon judgment that a complaint, counterclaim, cross-claim, or defense of the nonprevailing party was frivolous.

b. In order to find that a complaint, counterclaim, cross-claim or defense of the nonprevailing party was frivolous, the judge shall find on the basis of the pleadings, discovery, or the evidence presented that either:

(1) The complaint, counterclaim, cross-claim or defense was commenced, used or continued in bad faith, solely for the purpose of harassment, delay or malicious injury; or

(2) The nonprevailing party knew, or should have known, that the complaint, counterclaim, cross-claim or defense was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law.

c. A party or public entity seeking an award under this section shall make application to the court which heard the matter. The application shall be supported by an affidavit stating in detail:

(1) The nature of the services rendered, the responsibility assumed, the results obtained, the amount of time spent by the attorney, any particular novelty or difficulty, the time spent and services rendered by secretaries and staff, other factors pertinent in the evaluation of the services rendered, the amount of the allowance applied for, an itemization of the disbursements for which reimbursement is sought, and any other factors relevant in evaluating fees and costs; and

(2) How much has been paid to the attorney and what provision, if any, has been made for the payment of these fees in the future.

2. This act shall take effect immediately.

Approved January 20, 1995.

CHAPTER 14

AN ACT concerning school ethics and amending P.L.1991, c.393.

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

1. Section 3 of P.L.1991, c.393 (C.18A:12-23) is amended to read as follows:

C.18A:12-23 Definitions.

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

"Administrator" means any officer, other than a board member, or employee of a local school district who (i) holds a position which requires a certificate that authorizes the holder to serve as school administrator, principal, or school business administrator; or (ii) holds a position which does not require that the person hold any type of certificate but is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services by the local school district; or (iii) holds a position which requires a certificate that authorizes the holder to serve as supervisor and who is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services by the local school district;

"Board member" means any person holding membership, whether by election or appointment, on any board of education other than the State Board of Education;

"Business" means any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, union, political organization, or other legal entity but shall not include a local school district or any other public entity;

"Commission" means the School Ethics Commission established pursuant to section 7 of this act;

"Commissioner" means the Commissioner of Education;

"Interest" means the ownership or control of more than 10% of the profits, assets, or stock of a business but shall not include the control of assets in a labor union;

"Local 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 and any jointure commission, county vocational school, county special services district, educational services commission, educational research and demonstration center, environmental education center, and educational information and resource center;

"Member of immediate family" means the spouse or dependent child of a school official residing in the same household;

"Political organization" means a "political committee" or a "continuing political committee" as those terms are defined in "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83 (C.19:44A-1 et seq.);

"Relative" means the spouse, natural or adopted child, parent, or sibling of a school official;

"School official" means a board member, an employee or officer of the New Jersey School Boards Association, but not including any member of the secretarial, clerical or maintenance staff of the association, or an administrator; and

"Spouse" means the person to whom a school official is legally married under New Jersey law.

2. Section 4 of P.L.1991, c.393 (C.18A:12-24) is amended to read as follows:

C.18A:12-24 Conflicts of interest.

4. a. No school official or member of his immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest;

b. No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others;

c. No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect

financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment;

d. No school official shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties;

e. No school official, or member of his immediate family, or business organization in which he has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the school official has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the school official in the discharge of his official duties;

f. No school official shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his immediate family, or any business organization with which he is associated;

g. No school official or business organization in which he has an interest shall represent any person or party other than the school board or school district in connection with any cause, proceeding, application or other matter pending before the school district in which he serves or in any proceeding involving the school district in which he serves or, for officers or employees of the New Jersey School Boards Association, any school district. This provision shall not be deemed to prohibit representation within the context of official labor union or similar representational responsibilities;

h. No school official shall be deemed in conflict with these provisions if, by reason of his participation in any matter required to be voted upon, no material or monetary gain accrues to him as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of that business, profession, occupation or group;

i. No elected member shall be prohibited from making an inquiry for information on behalf of a constituent, if no fee,

reward or other thing of value is promised to, given to or accepted by the member or a member of his immediate family, whether directly or indirectly, in return therefor;

j. Nothing shall prohibit any school official, or members of his immediate family, from representing himself, or themselves, in negotiations or proceedings concerning his, or their, own interests; and

k. Employees of the New Jersey School Boards Association shall not be precluded from providing assistance, in the normal course of their duties, to boards of education in the negotiation of a collective bargaining agreement regardless of whether a member of their immediate family is a member of, or covered by, a collective bargaining agreement negotiated by a Statewide union with which a board of education is negotiating.

3. Section 5 of P.L.1991, c.393 (C.18A:12-25) is amended to read as follows:

C.18A:12-25 Disclosure statements of employment, contracts or business with schools.

5. a. On a form to be prescribed by the commission and to be filed annually with the commission, each school official shall state:

(1) whether any relative of the school official or any other person related to the school official by marriage is employed by the school district with which the school official holds office or employment or, for officers or employees of the New Jersey School Boards Association, any school district, and, if so, the name and position of each such relative;

(2) whether the school official or a relative is a party to a contract with the school district with which the school official holds office or employment or, for officers or employees of the New Jersey School Boards Association, any school district, and, if so, the nature of the contract; and

(3) whether the school official or a relative is employed by, receives compensation from, or has an interest in any business which is a party to a contract with the school district with which the school official holds office or employment or, for officers or employees of the New Jersey School Boards Association, any school district, and, if so, the name of each such business.

b. Each statement shall be signed by the school official filing it, and the school official's signature shall constitute a representation of the accuracy of the contents of the statement.

c. A school official who fails to file a statement or who files a statement containing information which the school official knows to be false shall be subject to reprimand, censure, suspension, or removal pursuant to the procedures established in section 9 of P.L.1991, c.393 (C.18A:12-29). Nothing in this subsection shall be construed to prevent or limit criminal prosecution.

d. All statements filed pursuant to this section shall be retained by the commission as public records.

4. Section 9 of P.L.1991, c.393 (C.18A:12-29) is amended to read as follows:

C.18A:12-29 Complaint procedures.

9. a. Any person, including a member of the commission, may file a complaint alleging a violation of the provisions of this act by submitting it, on a form prescribed by the commission, to the commission. No complaint shall be accepted by the commission unless it has been signed under oath by the complainant. If a member of the commission submits the complaint, the member shall not participate in any subsequent proceedings on that complaint in the capacity of a commission member. If a commission member serves on the school board of, or is employed by, the school district which employs or on whose board the school official named in the complaint serves, the commission member shall not participate in any subsequent proceedings on that complaint.

b. Upon receipt of a complaint, the commission shall serve a copy of the complaint on each school official named therein and shall provide each named school official with the opportunity to submit a written statement under oath. The commission shall thereafter decide by majority vote whether probable cause exists to credit the allegations in the complaint. If the commission decides that probable cause does not exist, it shall dismiss the complaint and shall so notify the complainant and any school official named in the complaint. The dismissal shall constitute final agency action. If the commission determines that probable cause exists, it shall refer the matter to the Office of Administrative Law for a hearing to be conducted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and shall so notify the complainant and each school official named in the complaint.

c. Upon completion of the hearing, the commission, by majority vote, shall determine whether the conduct complained of constitutes a violation of this act or whether the complaint should

be dismissed. If a violation is found, the commission shall, by majority vote, recommend to the commissioner the reprimand, censure, suspension, or removal of the school official found to have violated this act. The commission shall state in writing its findings of fact and conclusions of law. The commissioner shall then act on the commission's recommendation regarding the sanction.

d. Any appeal of the commission's determination regarding a violation of this act and of the commissioner's decision regarding the sanction shall be to the State Board of Education in accordance with Title 18A of the New Jersey Statutes.

e. If prior to the hearing the commission determines, by majority vote, that the complaint is frivolous, the commission may impose on the complainant a fine not to exceed $500. The standard for determining whether a complaint is frivolous shall be the same as that provided in subsection b. of section 1 of P.L.1988, c.46 (C.2A:15-59.1)

f. Notwithstanding the provisions of subsections c. and d. of this section, the commission shall be authorized to determine and impose the appropriate sanction including reprimand, censure, suspension or removal of any school official found to have violated this act who is an officer or employee of the New Jersey School Boards Association. Any action of the commission regarding a violation of P.L.1991, c.393 (C.18A:12-21 et seq.) or the sanction to be imposed in the event that the school official involved is an officer or employee of the New Jersey School Boards Association shall be considered final agency action and an appeal of that action shall be directly to the Appellate Division of the Superior Court.

5. This act shall take effect immediately.

Approved January 22, 1995.

CHAPTER 15

AN ACT concerning the disposition of certain penalties imposed by the New Jersey Racing Commission, supplementing P.L.1940, c.17 (C.5:5-22 et seq.).

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

C.5:5-44.8a Penalty deposited in Backstretch Fund.

1. Notwithstanding the provisions of any other law to the contrary, whenever the New Jersey Racing Commission imposes a monetary penalty on any licensee for a violation of the provisions of P.L.1940, c.17 (C.5:5-22 et seq.), or any regulation promulgated thereunder, the penalty shall be deposited in the Backstretch Fund established pursuant to subsection b. of section 1 of P.L.1993, c.15 (C.5:5-44.8).

2. This act shall take effect immediately.

Approved January 25, 1995.

CHAPTER 16

AN ACT concerning certain discharges of petroleum, and amending P.L.1976, c.141 and P.L.1977, c.74.

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 costs associated with a discharge, incurred by the State or its political subdivisions or their agents or any person with written approval from the department in the: (1) removal or attempted removal of hazardous substances, or (2) taking of reasonable measures to prevent or mitigate damage to the public health, safety, or welfare, including, but not limited to, public and private property, shorelines, beaches, surface waters, water columns and bottom sediments, soils and other affected property, including wildlife and other natural resources, and shall include costs incurred by the State for the indemnification and legal defense of contractors pursuant to sections 1 through 11 of P.L.1991, c.373 (C.58:10-23.11f8 et seq.);

"Commissioner" means the Commissioner of Environmental Protection;

"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 Pro-

tection 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. § 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. § 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;

"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 4 of P.L.1976, c.141 (C.58:10-23.11c) is amended to read as follows:

C.58:10-23.11c Hazardous substance discharge prohibited; exceptions.

4. The discharge of hazardous substances is prohibited. This section shall not apply to discharges of hazardous substances pursuant to and in compliance with the conditions of a Federal or State permit, or to any discharge of petroleum to the surface waters of the State that occurs as a result of the process of recovering, containing, cleaning up or removing a discharge of petroleum in the surface waters of the State and that is undertaken in compliance with the instructions of a federal on-scene coordinator or of the commissioner or the commissioner's designee.

3. Section 6 of P.L.1977, c.74 (C.58:10A-6) is amended to read as follows:

C.58:10A-6 Permits; issuance; exemptions; prohibitions; requirements.

6. a. It shall be unlawful for any person to discharge any pollutant, except as provided pursuant to subsections d. and p. of this section, or when the discharge conforms with a valid New Jersey Pollutant Discharge Elimination System permit that has been issued by the commissioner pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.) or a valid National Pollutant Discharge Elimination System permit issued by the administrator pursuant to the Federal Act, as the case may be.

b. It shall be unlawful for any person to build, install, modify or operate any facility for the collection, treatment or discharge of any pollutant, except after approval by the department pursuant to regulations adopted by the commissioner.

c. The commissioner is hereby authorized to grant, deny, modify, suspend, revoke, and reissue NJPDES permits in accordance with P.L.1977, c.74, and with regulations to be adopted by him. The commissioner may reissue, with or without modifications, an NPDES permit duly issued by the federal government as the NJPDES permit required by P.L.1977, c.74.

d. The commissioner may, by regulation, exempt the following categories of discharge, in whole or in part, from the

requirement of obtaining a permit under P.L.1977, c.74; provided, however, that an exemption afforded under this section shall not limit the civil or criminal liability of any discharger nor exempt any discharger from approval or permit requirements under any other provision of law:

(1) Additions of sewage, industrial wastes or other materials into a publicly owned sewage treatment works which is regulated by pretreatment standards;

(2) Discharges of any pollutant from a marine vessel or other discharges incidental to the normal operation of marine vessels;

(3) Discharges from septic tanks, or other individual waste disposal systems, sanitary landfills, and other means of land disposal of wastes;

(4) Discharges of dredged or fill materials into waters for which the State could not be authorized to administer the section 404 program under section 404(g) of the "Federal Water Pollution Control Act Amendments of 1972," as amended by the "Clean Water Act of 1977" (33 U.S.C. § 1344) and implementing regulations;

(5) Nonpoint source discharges;

(6) Uncontrolled nonpoint source discharges composed entirely of storm water runoff when these discharges are uncontaminated by any industrial or commercial activity unless these particular storm water runoff discharges have been identified by the administrator or the department as a significant contributor of pollution;

(7) Discharges conforming to a national contingency plan for removal of oil and hazardous substances, published pursuant to section 311(c)(2) of the Federal Act.

e. The commissioner shall not issue any permit for:

(1) The discharge of any radiological, chemical or biological warfare agent or high-level radioactive waste into the waters of this State;

(2) Any discharge which the United States Secretary of the Army, acting through the Chief of Engineers, finds would substantially impair anchorage or navigation;

(3) Any discharge to which the administrator has objected in writing pursuant to the Federal Act;

(4) Any discharge which conflicts with an areawide plan adopted pursuant to law.

f. A permit issued by the department or a delegated local agency pursuant to P.L.1977, c.74 shall require the permittee:

(1) To achieve effluent limitations based upon guidelines or standards established pursuant to the Federal Act or to P.L.1977, c.74, together with such further discharge restrictions and safeguards against unauthorized discharge as may be necessary to

meet water quality standards, areawide plans adopted pursuant to law, or other legally applicable requirements;

(2) Where appropriate, to meet schedules for compliance with the terms of the permit and interim deadlines for progress or reports of progress towards compliance;

(3) To insure that all discharges are consistent at all times with the terms and conditions of the permit and that no pollutant will be discharged more frequently than authorized or at a level in excess of that which is authorized by the permit;

(4) To submit application for a new permit in the event of any contemplated facility expansion or process modification that would result in new or increased discharges or, if these would not violate effluent limitations or other restrictions specified in the permit, to notify the commissioner, or delegated local agency, of such new or increased discharges;

(5) To install, use and maintain such monitoring equipment and methods, to sample in accordance with such methods, to maintain and retain such records of information from monitoring activities, and to submit to the commissioner, or to the delegated local agency, reports of monitoring results for surface waters, as may be stipulated in the permit, or required by the commissioner or delegated local agency pursuant to paragraph (9) of this subsection, or as the commissioner or the delegated local agency may prescribe for ground water. Significant indirect users, major industrial dischargers, and local agencies, other than those discharging only stormwater or noncontact cooling water, shall, however, report their monitoring results for discharges to surface waters monthly to the commissioner, or the delegated local agency. Discharge monitoring reports for discharges to surface waters shall be signed by the highest ranking official having day-to-day managerial and operational responsibilities for the discharging facility, who may, in his absence, authorize another responsible high ranking official to sign a monthly monitoring report if a report is required to be filed during that period of time. The highest ranking official shall, however, be liable in all instances for the accuracy of all the information provided in the monitoring report; provided, however, that the highest ranking official may file, within seven days of his return, amendments to the monitoring report to which he was not a signatory. The highest ranking official having day-to-day managerial and operational responsibilities for the discharging facility of a local agency shall be the highest ranking licensed operator of the municipal treat-

ment works in those instances where a licensed operator is required by law to operate the facility. In those instances where a local agency has contracted with another entity to operate a municipal treatment works, the highest ranking official who signs the discharge monitoring report shall be an employee of the contract operator and not of the local agency. Notwithstanding that an employee of a contract operator is the official who signs the discharge monitoring report, the local agency, as the permittee, shall remain liable for compliance with all permit conditions. In those instances where the highest ranking official having day-to-day managerial and operational responsibilities for a discharging facility of a local agency does not have the responsibility to authorize capital expenditures and hire personnel, a person having that responsibility, or a person designated by that person, shall submit to the department, along with the discharge monitoring report, a certification that that person has received and reviewed the discharge monitoring report. The person submitting the certification to the department shall not be liable for the accuracy of the information on the discharge monitoring report due to the submittal of the certification. Whenever a local agency has contracted with another entity to operate the municipal treatment works, the person submitting the certification shall be an employee of the permittee and not of the contract operator. The filing of amendments to a monitoring report in accordance with this paragraph shall not be considered a late filing of a report for purposes of subsection d. of section 6 of P.L.1990, c.28 (C.58:10A-10.1), or for purposes of determining a significant noncomplier;

(6) At all times, to maintain in good working order and operate as effectively as possible, any facilities or systems of control installed to achieve compliance with the terms and conditions of the permit;

(7) To limit concentrations of heavy metal, pesticides, organic chemicals and other contaminants in the sludge in conformance with the land-based sludge management criteria established by the department in the Statewide Sludge Management Plan adopted pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or established pursuant to the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. § 1251 et seq.), or any regulations adopted pursuant thereto;

(8) To report to the department or delegated local agency, as appropriate, any exceedance of an effluent limitation that causes injury to persons, or damage to the environment, or poses a threat to human health or the environment, within two hours of its occurrence, or of the permittee becoming aware of the occurrence.

Within 24 hours thereof, or of an exceedance, or of becoming aware of an exceedance, of an effluent limitation for a toxic pollutant, a permittee shall provide the department or delegated local agency with such additional information on the discharge as may be required by the department or delegated local agency, including an estimate of the danger posed by the discharge to the environment, whether the discharge is continuing, and the measures taken, or being taken, to remediate the problem and any damage to the environment, and to avoid a repetition of the problem;

(9) Notwithstanding the reporting requirements stipulated in a permit for discharges to surface waters, a permittee shall be required to file monthly reports with the commissioner or delegated local agency if the permittee:

(a) in any month commits a serious violation or fails to submit a completed discharge monitoring report and does not contest, or unsuccessfully contests, the assessment of a civil administrative penalty therefor; or

(b) exceeds an effluent limitation for the same pollutant at the same discharge point source by any amount for four out of six consecutive months.

The commissioner or delegated local agency may restore the reporting requirements stipulated in the permit if the permittee has not committed any of the violations identified in this paragraph for six consecutive months;

(10) To report to the department or delegated local agency, as appropriate, any serious violation within 30 days of the violation, together with a statement indicating that the permittee understands the civil administrative penalties required to be assessed for serious violations, and explaining the nature of the serious violation and the measures taken to remedy the cause or prevent a recurrence of the serious violation.

g. The commissioner and a local agency shall have a right of entry to all premises in which a discharge source is or might be located or in which monitoring equipment or records required by a permit are kept, for purposes of inspection, sampling, copying or photographing.

h. In addition, any permit issued for a discharge from a municipal treatment works shall require the permittee:

(1) To notify the commissioner or local agency in advance of the quality and quantity of all new introductions of pollutants into a facility and of any substantial change in the pollutants introduced into a facility by an existing user of the facility, except for such introductions of nonindustrial pollutants as the commis-

sioner or local agency may exempt from this notification requirement when ample capacity remains in the facility to accommodate new inflows. The notification shall estimate the effects of the changes on the effluents to be discharged into the facility.

(2) To establish an effective regulatory program, alone or in conjunction with the operators of sewage collection systems, that will assure compliance and monitor progress toward compliance by industrial users of the facilities with user charge and cost recovery requirements of the Federal Act or State law and toxicity standards adopted pursuant to P.L.1977, c.74 and pretreatment standards.

(3) As actual flows to the facility approach design flow or design loading limits, to submit to the commissioner or local agency for approval, a program which the permittee and the persons responsible for building and maintaining the contributory collection system shall pursue in order to prevent overload of the facilities.

i. (1) All local agencies shall prescribe terms and conditions, consistent with applicable State and federal law, or requirements adopted pursuant thereto by the department, upon which pollutants may be introduced into treatment works, and shall have the authority to exercise the same right of entry, inspection, sampling, and copying, and to impose the same remedies, fines and penalties, and to recover costs and compensatory damages as authorized pursuant to subsection a. of section 10 of P.L.1977, c.74 (C.58:10A-10) and section 6 of P.L.1990, c.28 (C.58:10A-10.1), with respect to users of such works, as are vested in the commissioner by P.L.1977, c.74, or by any other provision of State law, except that a local agency, except as provided in P.L.1991, c.8 (C.58:10A-10.4 et seq.), may not impose civil administrative penalties, and shall petition the county prosecutor or the Attorney General for a criminal prosecution under that section. Terms and conditions shall include limits for heavy metals, pesticides, organic chemicals and other contaminants in industrial wastewater discharges based upon the attainment of land-based sludge management criteria established by the department in the Statewide Sludge Management Plan adopted pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or established pursuant to the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C.§1251 et seq.), or any regulations adopted pursuant thereto.

(2) Of the amount of any penalty assessed and collected pursuant to an action brought by a local agency in accordance with section 10 of P.L.1977, c.74 or section 6 of P.L.1990, c.28

(C.58:10A-10.1), 10% shall be deposited in the "Wastewater Treatment Operators' Training Account," established in accordance with section 13 of P.L.1990, c.28 (C.58:10A-14.5), and used to finance the cost of training operators of municipal treatment works. The remainder shall be used by the local agency solely for enforcement purposes, and for upgrading municipal treatment works.

j. In reviewing permits submitted in compliance with P.L.1977, c.74 and in determining conditions under which such permits may be approved, the commissioner shall encourage the development of comprehensive regional sewerage planning or facilities, which serve the needs of the regional community, conform to the adopted area-wide water quality management plan for that region, and protect the needs of the regional community for water quality, aquifer storage, aquifer recharge, and dry weather based stream flows.

k. No permit may be issued, renewed, or modified by the department or a delegated local agency so as to relax any water quality standard or effluent limitation until the applicant, or permit holder, as the case may be, has paid all fees, penalties or fines due and owing pursuant to P.L.1977, c.74, or has entered into an agreement with the department establishing a payment schedule therefor; except that if a penalty or fine is contested, the applicant or permit holder shall satisfy the provisions of this section by posting financial security as required pursuant to paragraph (5) of subsection d. of section 10 of P.L.1977, c.74 (C.58:10A-10). The provisions of this subsection with respect to penalties or fines shall not apply to a local agency contesting a penalty or fine.

l. Each permitted facility or municipal treatment works, other than one discharging only stormwater or non-contact cooling water, shall be inspected by the department at least once a year; except that each permitted facility discharging into the municipal treatment works of a delegated local agency, other than a facility discharging only stormwater or non-contact cooling water, shall be inspected by the delegated local agency at least once a year. Except as hereinafter provided, an inspection required under this subsection shall be conducted within six months following a permittee's submission of an application for a permit, permit renewal, or, in the case of a new facility or municipal treatment works, issuance of a permit therefor, except that if for any reason, a scheduled inspection cannot be made the inspection shall be rescheduled to be performed within 30 days of the originally scheduled inspection or, in the case of a temporary shutdown, of resumed operation. Exemption of stormwater facilities from the

provisions of this subsection shall not apply to any permitted facility or municipal treatment works discharging or receiving stormwater runoff having come into contact with a hazardous discharge site on the federal National Priorities List adopted by the United States Environmental Protection Agency pursuant to the "Comprehensive Environmental Response, Compensation, and Liability Act," Pub.L.96-510 (42 U.S.C.A.§9601 et seq.), or any other hazardous discharge site included by the department on the master list for hazardous discharge site cleanups adopted pursuant to section 2 of P.L.1982, c.202 (C.58:10-23.16). Inspections shall include:

(1) A representative sampling of the effluent for each permitted facility or municipal treatment works, except that in the case of facilities or works that are not major facilities or significant indirect users, sampling pursuant to this paragraph shall be conducted at least once every three years;

(2) An analysis of all collected samples by a State owned and operated laboratory, or a certified laboratory other than one that has been or is being used by the permittee, or that is directly or indirectly owned, operated or managed by the permittee;

(3) An evaluation of the maintenance record of the permittee's treatment equipment;

(4) An evaluation of the permittee's sampling techniques;

(5) A random check of written summaries of test results, prepared by the certified laboratory providing the test results, for the immediately preceding 12-month period, signed by a responsible official of the certified laboratory, certifying the accuracy of the test results; and

(6) An inspection of the permittee's sample storage facilities and techniques if the sampling is normally performed by the permittee.

The department may inspect a facility required to be inspected by a delegated local agency pursuant to this subsection. Nothing in this subsection shall require the department to conduct more than one inspection per year.

m. The facility or municipal treatment works of a permittee identified as a significant noncomplier shall be subject to an inspection by the department, or the delegated local agency, as the case may be, which inspection shall be in addition to the requirements of subsection l. of this section. The inspection shall be conducted within 60 days of receipt of the discharge monitoring report that initially results in the permittee being identified as a significant noncomplier. The inspection shall include a random check of written summaries of test results, prepared by the certified laboratory providing the test results, for the immediately

preceding 12-month period, signed by a responsible official of the certified laboratory, certifying the accuracy of the test results. A copy of each summary shall be maintained by the permittee. The inspection shall be for the purpose of determining compliance. The department or delegated local agency is required to conduct only one inspection per year pursuant to this subsection, and is not required to make an inspection hereunder if an inspection has been made pursuant to subsection l. of this section within six months of the period within which an inspection is required to be conducted under this subsection.

n. To assist the commissioner in assessing a municipal treatment works' NJPDES permit in accordance with paragraph (3) of subsection b. of section 7 of P.L.1977, c.74 (C.58:10A-7), a delegated local agency shall perform a complete analysis that includes a complete priority pollutant analysis of the discharge from, and inflow to, the municipal treatment works. The analysis shall be performed by a delegated local agency as often as the priority pollutant scan is required under the permit, but not less than once a year, and shall be based upon data acquired in the priority pollutant scan and from applicable sludge quality analysis reports. The results of the analysis shall be included in a report to be attached to the annual report required to be submitted to the commissioner by the delegated local agency.

o. Except as otherwise provided in section 3 of P.L.1963, c.73 (C.47:1A-3), any records, reports or other information obtained by the commissioner or a local agency pursuant to this section or section 5 of P.L.1972, c.42 (C.58:11-53), including any correspondence relating thereto, shall be available to the public; however, upon a showing satisfactory to the commissioner by any person that the making public of any record, report or information, or a part thereof, other than effluent data, would divulge methods or processes entitled to protection as trade secrets, the commissioner or local agency shall consider such record, report, or information, or part thereof, to be confidential, and access thereto shall be limited to authorized officers or employees of the department, the local agency, and the federal government.

p. The provisions of this section shall not apply to a discharge of petroleum to the surface waters of the State that occurs as a result of the process of recovering, containing, cleaning up or removing a discharge of petroleum in the surface waters of the State and that is undertaken in compliance with the instructions of a federal on-scene coordinator or of the commissioner or the commissioner's designee.

4. This act shall take effect immediately.

Approved January 25, 1995.

CHAPTER 17

AN ACT appropriating funds from the "Public Purpose Buildings and Community-Based Facilities Construction Fund" to the Department of Corrections for correctional housing in Middlesex County.

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

1. There is appropriated to the Department of Corrections from the "Public Purpose Buildings and Community-Based Facilities Construction Fund" created pursuant to the "Public Purpose Buildings and Community-Based Facilities Construction Bond Act of 1989," P.L.1989, c.184, the sum of $1,620,000 for the following purpose:

DEPARTMENT OF CORRECTIONS

County Financial Assistance Program - Construction of 26 State beds in Middlesex County	$1,620,000
Total Appropriation	$1,620,000

2. There is also appropriated from the "Public Purpose Buildings and Community-Based Facilities Construction Fund," such items as may be necessary to meet any expense incurred by the issuing officials under P.L.1989, c.184 for advertising, engraving, printing, clerical, legal or other services necessary to carry out the duties imposed upon them by the provisions of that act.

3. In order to provide flexibility in administering the provisions of this act, the Commissioner of the Department of Corrections may apply to the Director of the Division of Budget and Accounting in the Department of the Treasury for permission to transfer a part of any item to any other item within the respective department accounts in the "Public Purpose Buildings and Community-Based Facilities Construction Fund." The transfers shall be made in a manner consistent with section 29 of P.L.1989, c.184.

4. This act shall take effect immediately.

Approved January 25, 1995.

CHAPTER 18

AN ACT concerning the regulation and operation of casinos, amending various parts of the statutory law, and supplementing P.L.1977, c.110 (C.5:12-1 et seq.).

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

1. Section 1 of P.L.1977, c.110 (C.5:12-1) is amended to read as follows:

C.5:12-1 Short title; declaration of policy and legislative findings.

1. Short title; Declaration of Policy and Legislative Findings.

a. This act shall be known and may be cited as the "Casino Control Act."

b. The Legislature hereby finds and declares to be the public policy of this State, the following:

(1) The tourist, resort and convention industry of this State constitutes a critical component of its economic structure and, if properly developed, controlled and fostered, is capable of providing a substantial contribution to the general welfare, health and prosperity of the State and its inhabitants.

(2) By reason of its location, natural resources and worldwide prominence and reputation, the city of Atlantic City and its resort, tourist and convention industry represent a critically important and valuable asset in the continued viability and economic strength of the tourist, convention and resort industry of the State of New Jersey.

(3) The rehabilitation and redevelopment of existing tourist and convention facilities in Atlantic City, and the fostering and encouragement of new construction and the replacement of lost convention, tourist, entertainment and cultural centers in Atlantic City will offer a unique opportunity for the inhabitants of the entire State to make maximum use of the natural resources available in Atlantic City for the expansion and encouragement of New Jersey's hospitality industry, and to that end, the restoration of Atlantic City as the Playground of the World and the major hospitality center of the Eastern United States is found to be a program of critical concern and importance to the inhabitants of the State of New Jersey.

(4) Legalized casino gaming has been approved by the citizens of New Jersey as a unique tool of urban redevelopment for Atlantic City. In this regard, the introduction of a limited number of casino rooms in major hotel convention complexes, permitted as

an additional element in the hospitality industry of Atlantic City, will facilitate the redevelopment of existing blighted areas and the refurbishing and expansion of existing hotel, convention, tourist, and entertainment facilities; encourage the replacement of lost hospitality-oriented facilities; provide for judicious use of open space for leisure time and recreational activities; and attract new investment capital to New Jersey in general and to Atlantic City in particular.

(5) Restricting the issuance of casino licenses to major hotel and convention facilities is designed to assure that the existing nature and tone of the hospitality industry in New Jersey and in Atlantic City is preserved, and that the casino rooms licensed pursuant to the provisions of this act are always offered and maintained as an integral element of such hospitality facilities, rather than as the industry unto themselves that they have become in other jurisdictions.

(6) An integral and essential element of the regulation and control of such casino facilities by the State rests in the public confidence and trust in the credibility and integrity of the regulatory process and of casino operations. To further such public confidence and trust, the regulatory provisions of this act are designed to extend strict State regulation to all persons, locations, practices and associations related to the operation of licensed casino enterprises and all related service industries as herein provided. In addition, licensure of a limited number of casino establishments, with the comprehensive law enforcement supervision attendant thereto, is further designed to contribute to the public confidence and trust in the efficacy and integrity of the regulatory process.

(7) Legalized casino gaming in New Jersey can attain, maintain and retain integrity, public confidence and trust, and remain compatible with the general public interest only under such a system of control and regulation as insures, so far as practicable, the exclusion from participation therein of persons with known criminal records, habits or associations, and the exclusion or removal from any positions of authority or responsibility within casino gaming operations and establishments of any persons known to be so deficient in business probity, either generally or with specific reference to gaming, as to create or enhance the dangers of unsound, unfair or illegal practices, methods and activities in the conduct of gaming or the carrying on of the business and financial arrangements incident thereto.

(8) Since the public has a vital interest in casino operations in Atlantic City and has established an exception to the general policy of the State concerning gaming for private gain, participation in casino operations as a licensee or registrant under this act shall

be deemed a revocable privilege conditioned upon the proper and continued qualification of the individual licensee or registrant and upon the discharge of the affirmative responsibility of each such licensee or registrant to provide to the regulatory and investigatory authorities established by this act any assistance and information necessary to assure that the policies declared by this act are achieved. Consistent with this policy, it is the intent of this act to preclude the creation of any property right in any license, registration, certificate or reservation permitted by this act, the accrual of any value to the privilege of participation in gaming operations, or the transfer of any license, registration, certificate, or reservation, and to require that participation in gaming be solely conditioned upon the individual qualifications of the person seeking such privilege.

(9) Since casino operations are especially sensitive and in need of public control and supervision, and since it is vital to the interests of the State to prevent entry, directly or indirectly, into such operations or the ancillary industries regulated by this act of persons who have pursued economic gains in an occupational manner or context which are in violation of the criminal or civil public policies of this State, the regulatory and investigatory powers and duties shall be exercised to the fullest extent consistent with law to avoid entry of such persons into the casino operations or the ancillary industries regulated by this act.

(10) (Deleted by amendment, P.L.1995, c.18.)

(11) The facilities in which licensed casinos are to be located are of vital law enforcement interest to the State, and it is in the public interest that the regulatory and investigatory powers and duties conferred by this act include the power and duty to review architectural and site plans to assure that the proposal is suitable by law enforcement standards.

(12) Since the economic stability of casino operations is in the public interest and competition in the casino operations in Atlantic City is desirable and necessary to assure the residents of Atlantic City and of this State and other visitors to Atlantic City varied attractions and exceptional facilities, the regulatory and investigatory powers and duties conferred by this act shall include the power and duty to regulate, control and prevent economic concentration in the casino operations and the ancillary industries regulated by this act, and to encourage and preserve competition.

(13) It is in the public interest that the institution of licensed casino establishments in New Jersey be strictly regulated and controlled pursuant to the above findings and pursuant to the pro-

visions of this act, which provisions are designed to engender and maintain public confidence and trust in the regulation of the licensed enterprises, to provide an effective method of rebuilding and redeveloping existing facilities and of encouraging new capital investment in Atlantic City, and to provide a meaningful and permanent contribution to the economic viability of the resort, convention, and tourist industry of New Jersey.

(14) Confidence in casino gaming operations is eroded to the extent the State of New Jersey does not provide a regulatory framework for casino gaming that permits and promotes stability and continuity in casino gaming operations.

(15) Continuity and stability in casino gaming operations cannot be achieved at the risk of permitting persons with unacceptable backgrounds and records of behavior to control casino gaming operations contrary to the vital law enforcement interest of the State.

(16) The aims of continuity and stability and of law enforcement will best be served by a system in which continuous casino operation can be assured under certain circumstances wherein there has been a transfer of property or another interest relating to an operating casino and the transferee has not been fully licensed or qualified, as long as control of the operation under such circumstances may be placed in the possession of a person or persons in whom the public may feel a confidence and a trust.

(17) A system whereby the suspension or revocation of casino operations under certain appropriate circumstances causes the imposition of a conservatorship upon the suspended or revoked casino operation serves both the economic and law enforcement interests involved in casino gaming operations.

C.5:12-2.1 "Affiliate".

2. "Affiliate"--A person that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the affiliated person.

C.5:12-2.2 "Annuity jackpot trust".

3. "Annuity jackpot trust"--A trust that is formed by one or more casino licensees, in accordance with rules established by the commission, to assure that all payments that are due to the winner of a slot machine jackpot that is to be paid in installments at specified intervals in the future are actually paid when due.

C.5:12-4.1 "Attorney".

4. "Attorney"--Any attorney licensed to practice law in this State or any other jurisdiction, including an employee of a casino licensee.

5. Section 11 of P.L.1977, c.110 (C.5:12-11) is amended to read as follows:

C.5:12-11 "Casino security employee".

11. "Casino security employee" -- Any natural person employed by a casino licensee or its agent to provide physical security in a casino, simulcasting facility, or restricted casino area. "Casino security employee" shall not include any person who provides physical security solely in any other part of the casino hotel.

C.5:12-11.1 "Casino service employee".

6. "Casino service employee" -- Any natural person employed to perform services or duties in a casino, casino simulcasting facility, or restricted casino area but who is not included within the definition of casino employee, casino key employee, or casino security employee as stated in sections 7, 9, and 11, respectively, of P.L.1977, c.110 (C.5:12-7, 5:12-9, and 5:12-11).

7. Section 12 of P.L.1977, c.110 (C.5:12-12) is amended to read as follows:

C.5:12-12 "Casino Service Industry".

12. "Casino Service Industry" -- Any form of enterprise which provides casino applicants or licensees with goods or services regarding the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility on a regular or continuing basis, including, without limitation, junket enterprises, security businesses, gaming schools, manufacturers, distributors and servicers of gaming and casino simulcasting devices or equipment, in-State and out-of-State sending tracks as defined in section 2 of the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-192), garbage haulers, maintenance companies, food purveyors, and construction companies, or any other enterprise which purchases goods or services from or which does any other business with licensed casinos on a regular or continuing basis. Notwithstanding the foregoing, any form of enterprise engaged in the manufacture, sale, distribution, testing or repair of slot machines within New Jersey, other than antique slot machines as defined in N.J.S.2C:37-7, shall be considered a casino service

industry for the purposes of this act regardless of the nature of its business relationship, if any, with licensed casinos in this State.

For the purposes of this section, "casino applicant" includes any person required to hold a casino license pursuant to section 82 of P.L.1977, c.110 (C.5:12-82) who has applied to the commission for a casino license or any approval required under P.L.1977, c.110 (C.5:12-1 et seq.).

8. Section 4 of P.L.1983, c.41 (C.5:12-29.2) is amended to read as follows:

C.5:12-29.2 "Junket representative".

4. "Junket representative"--Any natural person who negotiates the terms of, or engages in the referral, procurement or selection of persons who may participate in, any junket to a licensed casino, regardless of whether or not those activities occur within the State of New Jersey.

9. Section 45 of P.L.1977, c.110 (C.5:12-45) is amended to read as follows:

C.5:12-45 "Slot machine".

45. "Slot machine"--Any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash or tokens to be exchanged for cash, or to receive merchandise or any thing of value whatsoever, whether the payoff is made automatically from the machine or in any other manner whatsoever, except that the cash equivalent value of any merchandise or other thing of value shall not be included in the total of all sums paid out as winnings to patrons for purposes of determining gross revenues as defined by section 24 of P.L.1977, c.110 (C.5:12-24) or be included in determining the payout percentage of any slot machine. The commission shall promulgate rules defining "cash equivalent value" in order to assure fairness, uniformity and comparability of valuation of slot machine payoffs.

10. Section 50 of P.L.1977, c.110 (C.5:12-50) is amended to read as follows:

C.5:12-50 Creation of Casino Control Commission; number of members.

50. Creation of Casino Control Commission; number of members. The New Jersey Casino Control Commission, consisting of

five members, is hereby created in but not of the Department of the Treasury. The commission shall be principally located in Atlantic City.

11. Section 55 of P.L.1977, c.110 (C.5:12-55) is amended to read as follows:

C.5:12-55 Division of gaming enforcement.

55. Division of gaming enforcement. There is hereby established in the Department of Law and Public Safety the Division of Gaming Enforcement. The division shall be under the immediate supervision of a director who shall also be sworn as an Assistant Attorney General and who shall administer the work of the division under the direction and supervision of the Attorney General. The director shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve during the term of office of the Governor, except that the first director shall be appointed for a term of 2 years. The director may be removed from office by the Attorney General for cause upon notice and opportunity to be heard.

The director and any employee or agent of the division shall be subject to the duty to appear and testify and to removal from his office, position or employment in accordance with the provisions of P.L.1970, c.72 (C.2A:81-17.2a et seq.). The Attorney General shall be responsible for the exercise of the duties and powers assigned to the division.

The division shall be principally located in Atlantic City.

12. Section 59 of P.L.1977, c.110 (C.5:12-59) is amended to read as follows:

C.5:12-59 Employment restrictions on commissioners, commission employees and division employees.

59. Employment Restrictions on Commissioners, Commission Employees and Division Employees.

a. The "New Jersey Conflicts of Interest Law," P.L.1971, c.182, (C.52:13D-12 et seq.) shall apply to members of the commission and to all employees of the commission and the division, except as herein specifically provided.

b. The commission shall, no later than January 1, 1981, promulgate a Code of Ethics that is modeled upon the Code of Judicial Conduct of the American Bar Association, as amended and adopted by the Supreme Court of New Jersey. This Code of Ethics shall include, but not be limited to, provisions that address the propriety

of relationships and dealings between the commission and its staff, and licensees and applicants for licensure under this act.

c. The division shall promulgate a Code of Ethics governing its specific needs.

d. The Codes of Ethics promulgated by the commission and the division shall not be in conflict with the laws of this State, except, however, that said Codes of Ethics may be more restrictive than any law of this State.

e. The Codes of Ethics promulgated by the commission and the division shall be submitted to the Executive Commission on Ethical Standards for approval. The Codes of Ethics shall include, but not be limited to provisions that:

(1) No commission member or employee or division employee or agent shall be permitted to gamble in any establishment licensed by the commission except in the course of his duties.

(2) No commission member or employee or division employee or agent shall solicit or accept employment from any person licensed by or registered with the commission or from any applicant for a period of four years after termination of service with the commission or division, except as otherwise provided in section 60 of this act.

(3) No commission member or employee or any division employee or agent shall act in his official capacity in any matter wherein he or his spouse, child, parent or sibling has a direct or indirect personal financial interest that might reasonably be expected to impair his objectivity or independence of judgment.

(4) No commission employee or any division employee or agent shall act in his official capacity in a matter concerning an applicant for licensure or a licensee who is the employer of a spouse, child, parent or sibling of said commission or division employee or agent when the fact of the employment of such spouse, child, parent or sibling might reasonably be expected to impair the objectivity and independence of judgment of said commission employee or division employee or agent.

(5) No spouse, child, parent or sibling of a commission member shall be employed in any capacity by an applicant for a casino license or a casino licensee nor by any holding, intermediary or subsidiary company thereof.

(6) No commission member shall meet with any person, except for any other member of the commission or employee of the commission, or discuss any issues involving any pending or proposed application or any matter whatsoever which may reasonably be expected to come before the commission, or any member thereof,

for determination unless the meeting or discussion takes place on the business premises of the commission, provided, however, that commission members may meet to consider matters requiring the physical inspection of equipment or premises at the location of the equipment or premises. All meetings or discussions subject to this paragraph shall be noted in a log maintained for this purpose and available for inspection pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.).

f. No commission member or employee or division employee or agent shall have any interest, direct or indirect, in any applicant or in any person licensed by or registered with the commission during his term of office or employment.

g. Each commission member and employee of the commission, including legal counsel, and each employee and agent of the division shall devote his entire time and attention to his duties and shall not pursue any other business or occupation or other gainful employment; provided, however, that secretarial and clerical personnel may engage in such other gainful employment as shall not interfere with their duties to the commission or division, unless otherwise directed; and provided further, however, that other employees of the commission and division and agents of the division may engage in such other gainful employment as shall not interfere or be in conflict with their duties to the commission or division, upon approval by the commission or the director of the division, as the case may be.

h. No member of the commission, employee of the commission, or employee or agent of the division shall:

(1) Use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

(2) Directly or indirectly coerce, attempt to coerce, command or advise any person to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes; or

(3) Take any active part in political campaigns or the management thereof; provided, however, that nothing herein shall prohibit a person from voting as he chooses or from expressing his personal opinions on political subjects and candidates.

i. For the purpose of applying the provisions of the "New Jersey Conflicts of Interest Law," any consultant or other person under contract for services to the commission and the division shall be deemed to be a special State employee, except that the restrictions of section 4 of P.L.1981, c.142 (C.52:13D-17.2) shall not apply to such person. Such person and any corporation, firm

or partnership in which he has an interest or by which he is employed shall not represent any person or party other than the commission or the division before the commission.

13. Section 60 of P.L.1977, c.110 (C.5:12-60) is amended to read as follows:

C.5:12-60 Post-employment restrictions.

60. Post-employment restrictions.

a. No member of the commission shall hold any direct or indirect interest in, or be employed by, any applicant or by any person licensed by or registered with the commission for a period of four years commencing on the date his membership on the commission terminates.

b. (1) No employee of the commission or employee or agent of the division may acquire any direct or indirect interest in, or accept employment with, any applicant or any person licensed by or registered with the commission, for a period of two years commencing at the termination of employment with the commission or division, except that a secretarial or clerical employee of the commission or the division may accept such employment at any time after the termination of employment with the commission or division. At the end of two years and for a period of two years thereafter, a former employee or agent who held a policy-making management position at any time during the five years prior to termination of employment may acquire an interest in, or accept employment with, any applicant or person licensed by or registered with the commission upon application to and the approval of the commission upon a finding that the interest to be acquired or the employment will not create the appearance of a conflict of interest and does not evidence a conflict of interest in fact.

(2) Notwithstanding the provisions of this subsection, if the employment of a commission employee or a division employee or agent, other than an employee or agent who held a policy-making management position at any time during the five years prior to termination of employment, is terminated as a result of a reduction in the workforce at the commission or division, the employee or agent may, at any time prior to the end of the two-year period, accept employment with any applicant or person licensed by or registered with the commission upon application to and the approval of the commission upon a finding that the employment will not create the appearance of a conflict of interest and does not evidence a conflict of interest in fact. The decision of the

commission shall be final, and the employee or agent shall not be subject to a determination by the Executive Commission on Ethical Standards under section 4 of P.L.1981, c.142 (C.52:13D-17.2).

c. No commission member or person employed by the commission or division shall represent any person or party other than the State before or against the commission for a period of two years from the termination of his office or employment with the commission or division.

d. No partnership, firm or corporation in which a former commission member or employee or former division employee or agent has an interest, nor any partner, officer or employee of any such partnership, firm or corporation shall make any appearance or representation which is prohibited to said former member, employee, or agent; provided, however, that nothing herein shall prohibit such partnership, firm or corporation from making such appearance or representation on behalf of a casino service industry licensed under subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92).

e. Notwithstanding any post-employment restriction imposed by this section, nothing herein shall prohibit a former commission member or employee or former division employee or agent, at any time after termination of such membership or employment, from acquiring an interest in, or soliciting or obtaining employment with, any person licensed as a casino service industry under subsection c. of section 92 of this act or any applicant for such licensure.

14. Section 63 of P.L.1977, c.110 (C.5:12-63) is amended to read as follows:

C.5:12-63 Duties of the commission.

63. Duties of the Commission. The Casino Control Commission shall have general responsibility for the implementation of this act, as hereinafter provided, including, without limitation, the responsibility:

a. To hear and decide promptly and in reasonable order all license, registration, certificate, and permit applications and causes affecting the granting, suspension, revocation, or renewal thereof;

b. To conduct all hearings pertaining to civil violations of this act or regulations promulgated hereunder;

c. To promulgate such regulations as in its judgment may be necessary to fulfill the policies of this act;

d. To collect all license and registration fees and taxes imposed by this act and the regulations issued pursuant hereto;

e. To levy and collect penalties for the violation of provisions of this act and the regulations promulgated hereunder;

f. To be present through its inspectors and agents at all times during the operation of any casino or simulcasting facility for the purpose of certifying the revenue thereof, receiving complaints from the public relating to the conduct of gaming and simulcast wagering operations, examining records of revenues and procedures, and conducting periodic reviews of operations and facilities for the purpose of evaluating current or suggested provisions of P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations promulgated thereunder;

g. To refer to the division for investigation and prosecution any evidence of a violation of P.L.1977, c.110 (C.5:12-1 et seq.) or the regulations promulgated thereunder;

h. To review and rule upon any complaint by a casino licensee regarding any investigative procedures of the division which are unnecessarily disruptive of casino or simulcasting facility operations. The need to inspect and investigate shall be presumed at all times. The disruption of a licensee's operations shall be proved by clear and convincing evidence, which evidence shall establish that: (1) the procedures had no reasonable law enforcement purpose, and (2) the procedures were so disruptive as to inhibit unreasonably casino or simulcasting facility operations; and

i. To ensure that there is no duplication of duties and responsibilities between it and the division.

15. Section 66 of P.L.1977, c.110 (C.5:12-66) is amended to read as follows:

C.5:12-66 Investigative hearings.

66. Investigative hearings. The commission shall have the authority to conduct investigative hearings concerning the conduct of gaming and gaming operations as well as the enforcement of the provisions of P.L.1977, c.110 (C.5:12-1 et seq.), as amended and supplemented.

16. Section 69 of P.L.1977, c.110 (C.5:12-69) is amended to read as follows:

C.5:12-69 Regulations.

69. Regulations.

a. The commission shall be authorized to adopt, amend, or repeal such regulations, consistent with the policy and objectives of this act, as amended, as it may deem necessary to protect the public interest in carrying out the provisions of this act.

b. Such regulations shall be adopted, amended, and repealed in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. Any interested person may, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), file a petition with the commission requesting the adoption, amendment or repeal of a regulation.

d. The commission may, in emergency circumstances, summarily adopt, amend or repeal any regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. Notwithstanding any other provision of this act or the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commission may, after notice provided in accordance with this subsection, authorize the temporary adoption, amendment or repeal of any rule concerning the conduct of gaming or simulcast wagering, or the use or design of gaming or simulcast wagering equipment, or the internal procedures and administrative and accounting controls required by section 99 of P.L.1977, c.110 (C.5:12-99) for a period not to exceed 270 days for the purpose of determining whether such rules should be adopted on a permanent basis in accordance with the requirements of this section. Any temporary rulemaking authorized by this subsection shall be subject to such terms and conditions as the commission may deem appropriate. Notice of any temporary rulemaking action taken by the commission pursuant to this subsection shall be published in the New Jersey Register, and provided to the newspapers designated by the commission pursuant to subsection d. of section 3 of P.L.1975, c.231 (C.10:4-8), at least seven days prior to the implementation of the temporary rules. Nothing herein shall be deemed to require the publication of the text of any temporary rule adopted by the commission or notice of any modification of any temporary rulemaking initiated in accordance with this subsection. The text of any temporary rule adopted by the commission shall be posted in each casino or simulcasting facility participating in the temporary rulemaking and shall be available upon request from the commission.

17. Section 70 of P.L.1977, c.110 (C.5:12-70) is amended to read as follows:

C.5:12-70 Required regulations.

70. Required Regulations. The commission shall, without limitation on the powers conferred in the preceding section, include

within its regulations the following specific provisions in accordance with the provisions of this act:

a. Prescribing the methods and forms of application which any applicant shall follow and complete prior to consideration of his application by the commission;

b. Prescribing the methods, procedures and form for delivery of information concerning any person's family, habits, character, associates, criminal record, business activities and financial affairs;

c. Prescribing procedures for the fingerprinting of an applicant, employee of a licensee, or registrant, or other methods of identification which may be necessary in the judgment of the commission to accomplish effective enforcement of restrictions on access to the casino floor, the simulcasting facility, and other restricted areas of the casino hotel complex;

d. Prescribing the manner and procedure of all hearings conducted by the commission or any hearing examiner, including special rules of evidence applicable thereto and notices thereof;

e. Prescribing the manner and method of collection of payments of taxes, fees, and penalties;

f. Defining and limiting the areas of operation, the rules of authorized games, odds, and devices permitted, and the method of operation of such games and devices;

g. Regulating the practice and procedures for negotiable transactions involving patrons, including limitations on the circumstances and amounts of such transactions, and the establishment of forms and procedures for negotiable instrument transactions, redemptions, and consolidations;

h. Prescribing grounds and procedures for the revocation or suspension of operating certificates and licenses;

i. Governing the manufacture, distribution, sale, and servicing of gaming devices and equipment;

j. Prescribing for gaming operations the procedures, forms and methods of management controls, including employee and supervisory tables of organization and responsibility, and minimum security standards, including security personnel structure, alarm and other electrical or visual security measures;

k. Prescribing the qualifications of, and the conditions pursuant to which, engineers, accountants, and others shall be permitted to practice before the commission or to submit materials on behalf of any applicant or licensee; provided, however, that no member of the Legislature, nor any firm with which said member is associated, shall be permitted to appear or practice or act in

any capacity whatsoever before the commission or division regarding any matter whatsoever, nor shall any member of the family of the Governor or of a member of the Legislature be permitted to so practice or appear in any capacity whatsoever before the commission or division regarding any matter whatsoever;

l. Prescribing minimum procedures for the exercise of effective control over the internal fiscal affairs of a licensee, including provisions for the safeguarding of assets and revenues, the recording of cash and evidence of indebtedness, and the maintenance of reliable records, accounts, and reports of transactions, operations and events, including reports to the commission;

m. Providing for a minimum uniform standard of accountancy methods, procedures and forms; a uniform code of accounts and accounting classifications; and such other standard operating procedures, including those controls listed in section 99a. hereof, as may be necessary to assure consistency, comparability, and effective disclosure of all financial information, including calculations of percentages of profit by games, tables, gaming devices and slot machines;

n. Requiring quarterly financial reports and the form thereof, and an annual audit prepared by a certified public accountant licensed to do business in this State, attesting to the financial condition of a licensee and disclosing whether the accounts, records and control procedures examined are maintained by the licensee as required by this act and the regulations promulgated hereunder;

o. Governing the gaming-related advertising of casino licensees, their employees and agents, with the view toward assuring that such advertisements are in no way deceptive; provided, however, that such regulations: (1) shall not prohibit the advertisement of casino location, hours of operation, or types of games and other amenities offered; (2) shall prohibit the advertisement of information about odds, the number of games, and the size of the casino or simulcasting facility; and (3) shall require the words "Bet with your head, not over it," or some comparable language approved by the commission, to appear on all billboards, signs, and other on-site advertising of a casino operation and shall require the words "If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER," or some comparable language approved by the commission, which language shall include the words "gambling problem" and "call 1-800 GAMBLER," to appear legibly on all print, billboard, and sign advertising of a casino operation; and

p. (Deleted by amendment, P.L.1991, c.182).

q. Concerning the distribution and consumption of alcoholic beverages on the premises of the licensee, which regulations shall be insofar as possible consistent with Title 33 of the Revised Statutes, and shall deviate only insofar as necessary because of the unique character of the hotel casino premises and operations;

r. (Deleted by amendment, P.L.1991, c.182).

18. Section 40 of P.L.1993, c.292 (C.5:12-71.1) is amended to read as follows:

C.5:12-71.1 Exclusion, ejection of certain persons.

40. A casino licensee may exclude or eject from its casino hotel any person who is known to it to have been convicted of a crime, disorderly persons offense, or petty disorderly persons offense committed in or on the premises of any casino hotel. Nothing in this section or in any other law of this State shall limit the right of a casino licensee to exercise its common law right to exclude or eject permanently from its casino hotel any person who disrupts the operations of its premises, threatens the security of its premises or its occupants, or is disorderly or intoxicated.

19. Section 72 of P.L.1977, c.110 (C.5:12-72) is amended to read as follows:

C.5:12-72 Commission reports and recommendations.

72. Commission reports and recommendations. The commission shall carry on a continuous study of the operation and administration of casino control laws which may be in effect in other jurisdictions, literature on this subject which may from time to time become available, federal laws which may affect the operation of casino gaming in this State, and the reaction of New Jersey citizens to existing and potential features of casino gaming under this act. It shall be responsible for ascertaining any defects in this act or in the rules and regulations issued thereunder, formulating recommendations for changes in this act to prevent abuses thereof, guarding against the use of this act as a cloak for the carrying on of illegal gambling or other criminal activities, and insuring that this act and the rules and regulations shall be in such form and be so administered as to serve the true purposes of this act. The commission shall make to the Governor and the Legislature an annual report of all revenues, expenses and disbursements, and shall include therein such recommendations for changes in this act as the commission deems necessary or

desirable. The commission shall also report recommendations that promote more efficient operations of the commission. The commission shall report immediately to the Governor and the Legislature any matters which in its judgment require immediate changes in the laws of this State in order to prevent abuses and evasions of this act or of rules and regulations promulgated hereunder, or to rectify undesirable conditions in connection with the operation and regulation of casino gaming.

20. Section 76 of P.L.1977, c.110 (C.5:12-76) is amended to read as follows:

C.5:12-76 General duties and powers.

76. General Duties and Powers.

a. The Division of Gaming Enforcement shall:

(1) promptly and in reasonable order investigate all applications, enforce the provisions of this act and any regulations promulgated hereunder, and prosecute before the commission all proceedings for violations of this act or any regulations promulgated hereunder;

(2) provide the commission with all information necessary for all action under Article 6 of this act and for all proceedings involving enforcement of the provisions of this act or any regulations promulgated hereunder; and

(3) ensure that there is no duplication of duties and responsibilities between it and the commission.

b. The division shall:

(1) Investigate the qualifications of each applicant before any license, certificate, or permit is issued pursuant to the provisions of this act;

(2) Investigate the circumstances surrounding any act or transaction for which commission approval is required;

(3) Investigate violations of this act and regulations promulgated hereunder;

(4) Initiate, prosecute and defend such proceedings before the commission, or appeals therefrom, as the division may deem appropriate;

(5) Provide assistance upon request by the commission in the consideration and promulgation of rules and regulations;

(6) Conduct continuing reviews of casino operations through on-site observation and other reasonable means to assure compliance with this act and regulations promulgated hereunder, subject to subsection h. of section 63 of this act;

(7) Receive and take appropriate action on any referral from the commission relating to any evidence of a violation of P.L.1977, c.110 (C.5:12-1 et seq.) or the regulations promulgated thereunder;

(8) Exchange fingerprint data with, and receive criminal history record information from, the Federal Bureau of Investigation for use in considering applicants for any license or registration issued pursuant to the provisions of P.L.1977, c.110 (C.5:12-1 et seq.);

(9) Conduct audits of casino operations at such times, under such circumstances, and to such extent as the director shall determine, including reviews of accounting, administrative and financial records, and management control systems, procedures and records utilized by a casino licensee;

(10) Be entitled to request and receive information, materials and any other data from any licensee or registrant, or applicant for a license or registration under this act; and

(11) Report to the Attorney General recommendations that promote more efficient operations of the division.

21. Section 80 of P.L.1977, c.110 (C.5:12-80) is amended to read as follows:

C.5:12-80 General provisions.

80. General Provisions. a. It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence his individual qualifications, and for a casino license the qualifications of each person who is required to be qualified under this act as well as the qualifications of the facility in which the casino is to be located.

b. Any applicant, licensee, registrant, or any other person who must be qualified pursuant to this act shall provide all information required by this act and satisfy all requests for information pertaining to qualification and in the form specified by the commission. All applicants, registrants, and licensees shall waive liability as to the State of New Jersey, and its instrumentalities and agents, for any damages resulting from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any material or information acquired during inquiries, investigations or hearings.

c. All applicants, licensees, registrants, intermediary companies, and holding companies shall consent to inspections, searches and seizures and the supplying of handwriting exemplars as authorized by this act and regulations promulgated hereunder.

d. All applicants, licensees, registrants, and any other person who shall be qualified pursuant to this act shall have the continuing duty to provide any assistance or information required by the commission or division, and to cooperate in any inquiry or investigation conducted by the division and any inquiry, investigation, or hearing conducted by the commission. If, upon issuance of a formal request to answer or produce information, evidence or testimony, any applicant, licensee, registrant, or any other person who shall be qualified pursuant to this act refuses to comply, the application, license, registration or qualification of such person may be denied or revoked by the commission.

e. No applicant or licensee shall give or provide, offer to give or provide, directly or indirectly, any compensation or reward or any percentage or share of the money or property played or received through gaming or simulcast wagering activities, except as authorized by this act, in consideration for obtaining any license, authorization, permission or privilege to participate in any way in gaming or simulcast wagering operations.

f. Each applicant or person who must be qualified under this act shall be photographed and fingerprinted for identification and investigation purposes in accordance with procedures established by the commission.

g. All licensees, all registrants, all persons required to be qualified under this act, and all persons employed by a casino service industry licensed pursuant to this act, shall have a duty to inform the commission or division of any action which they believe would constitute a violation of this act. No person who so informs the commission or the division shall be discriminated against by an applicant, licensee or registrant because of the supplying of such information.

h. (Deleted by amendment, P.L.1995, c.18.)

22. Section 81 of P.L.1977, c.110 (C.5:12-81) is amended to read as follows:

C.5:12-81 Statement of compliance.

81. Statement of compliance. a. (1) The commission may, in its discretion, issue a statement of compliance to an applicant for any license or for qualification status under this act at any time the commission is satisfied that the applicant has established by clear and convincing evidence that one or more particular eligibility criteria have been satisfied by an applicant. A request for the issu-

ance of a statement of compliance pursuant to this paragraph shall be initiated by the applicant filing a petition with the commission. Before the commission refers any such petition to the division for investigation, the commission may require the applicant to establish to the satisfaction of the commission that the applicant actually intends, if found qualified, to engage in the business or activity that would require the issuance of the license or the determination of qualification status.

(2) Any person who must be qualified pursuant to the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.) in order to hold the securities of a casino licensee or any holding or intermediary company of a casino licensee may, prior to the acquisition of any such securities, request the issuance of a statement of compliance by the commission that the person is qualified to hold such securities. Any request for the issuance of a statement of compliance pursuant to this paragraph shall be initiated by the person filing a petition with the commission in which the person shall be required to establish that there is a reasonable likelihood that, if qualified, the person will obtain and hold the securities of a casino licensee or any holding or intermediary company thereof to such extent as to require the qualification of the person. If the commission finds that this reasonable likelihood exists, and if the commission is satisfied, after an investigation by the division, that the qualifications of the person have been established by clear and convincing evidence, the commission may, in its discretion, issue a statement of compliance that the person is qualified to hold such securities. Any person who requests a statement of compliance pursuant to this paragraph shall be subject to the provisions of section 80 of P.L.1977, c.110 (C.5:12-80) and shall pay for the costs of all investigations and proceedings in relation to the request unless the person provides to the commission an agreement with one or more casino licensees which states that the licensee or licensees will pay those costs.

b. Any statement of compliance issued under P.L.1977, c.110 (C.5:12-1 et seq.) shall specify:

(1) the particular eligibility criterion satisfied by the applicant or person;

(2) the date as of which such satisfaction was determined by the commission;

(3) the continuing obligation of the applicant or person to file any information required by the commission or division as part of any application for a license or qualification status, including

information related to the eligibility criterion for which the statement of compliance was issued; and

(4) the obligation of the applicant or person to reestablish its satisfaction of the eligibility criterion should there be a change in any material fact or circumstance that is relevant to the eligibility criterion for which the statement of compliance was issued.

c. A statement of compliance certifying satisfaction of all of the requirements of subsection e. of section 84 of this act with respect to a specific casino hotel proposal submitted by an eligible applicant may be accompanied by a written commitment from the commission that a casino license shall be reserved for a period not to exceed 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish and shall be issued to such eligible applicant with respect to such proposal provided that such applicant (1) complies in all respects with the provisions of this act, (2) qualifies for a casino license within a period not to exceed 30 months of the date of such commitment or within such additional time period as the commission may, upon a showing of good cause therefor, establish, and (3) complies with such other conditions as the commission shall impose. The commission may revoke such reservation at any time it finds that the applicant is disqualified from receiving or holding a casino license or has failed to comply with any conditions imposed by the commission. Such reservation shall be automatically revoked if the applicant does not qualify for a casino license within the period of such commitment. No license other than a casino license shall be reserved by the commission.

d. Any statement of compliance issued pursuant to this section shall be withdrawn by the commission if:

(1) the applicant or person otherwise fails to satisfy the standards for licensure or qualification;

(2) the applicant or person fails to comply with any condition imposed by the commission; or

(3) the commission finds cause to revoke the statement of compliance for any other reason.

23. Section 82 of P.L.1977, c.110 (C.5:12-82) is amended to read as follows:

C.5:12-82 Casino license--applicant eligibility.

82. Casino License--Applicant Eligibility. a. No casino shall operate unless all necessary licenses and approvals therefor have been obtained in accordance with law.

b. Only the following persons shall be eligible to hold a casino license; and, unless otherwise determined by the commission with the concurrence of the Attorney General which may not be unreasonably withheld in accordance with subsection c. of this section, each of the following persons shall be required to hold a casino license prior to the operation of a casino in the hotel with respect to which the casino license has been applied for:

(1) Any person who either owns an approved hotel building or owns or has a contract to purchase or construct a hotel which in the judgment of the commission can become an approved hotel building within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;

(2) Any person who, whether as lessor or lessee, either leases an approved hotel building or leases or has an agreement to lease a hotel which in the judgment of the commission can become an approved hotel building within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;

(3) Any person who has a written agreement with a casino licensee or with an eligible applicant for a casino license for the complete management of a casino; and

(4) Any other person who has control over either an approved hotel building or the land thereunder or the operation of a casino.

c. Prior to the operation of the casino, every agreement to lease an approved hotel building or the land thereunder and every agreement for the management of the casino shall be in writing and filed with the commission. No such agreement shall be effective unless expressly approved by the commission. The commission may require that any such agreement include within its terms any provision reasonably necessary to best accomplish the policies of this act. Consistent with the policies of this act:

(1) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any person who does not have the ability to exercise any significant control over either the approved hotel building or the operation of the casino contained therein shall not be eligible to hold or required to hold a casino license;

(2) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any owner, lessor or lessee of an approved hotel building or the land there-

under who does not own or lease the entire approved hotel building shall not be eligible to hold or required to hold a casino license;

(3) The commission shall require that any person or persons eligible to apply for a casino license organize itself or themselves into such form or forms of business association as the commission shall deem necessary or desirable in the circumstances to carry out the policies of this act;

(4) The commission may issue separate casino licenses to any persons eligible to apply therefor;

(5) As to agreements to lease an approved hotel building or the land thereunder, unless it expressly and by formal vote for good cause determines otherwise, the commission shall require that each party thereto hold either a casino license or casino service industry license and that such an agreement be for a durational term exceeding 30 years, concern 100% of the entire approved hotel building or of the land upon which same is located, and include within its terms a buy-out provision conferring upon the casino licensee-lessee who controls the operation of the approved hotel the absolute right to purchase for an expressly set forth fixed sum the entire interest of the lessor or any person associated with the lessor in the approved hotel building or the land thereunder in the event that said lessor or said person associated with the lessor is found by the commission to be unsuitable to be associated with a casino enterprise;

(6) The commission shall not permit an agreement for the leasing of an approved hotel building or the land thereunder to provide for the payment of an interest, percentage or share of money gambled at the casino or derived from casino gaming activity or of revenues or profits of the casino unless the party receiving payment of such interest, percentage or share is a party to the approved lease agreement; unless each party to the lease agreement holds either a casino license or casino service industry license and unless the agreement is for a durational term exceeding 30 years, concerns a significant portion of the entire approved hotel building or of the land upon which same is located, and includes within its terms a buy-out provision conforming to that described in paragraph (5) above;

(7) As to agreements for the management of a casino, the commission shall require that each party thereto hold a casino license, that the party thereto who is to manage the casino own at least 10% of all outstanding equity securities of any casino licensee or of any eligible applicant for a casino license if the said licensee or applicant is a corporation and the ownership of an equivalent

interest in any casino licensee or in any eligible applicant for a casino license if same is not a corporation, and that such an agreement be for the complete management of the casino, provide for the sole and unrestricted power to direct the casino operations of the casino which is the subject of the agreement, and be for such a durational term as to assure reasonable continuity, stability and independence in the management of the casino;

(8) The commission may permit an agreement for the management of a casino to provide for the payment to the managing party of an interest, percentage or share of money gambled at the casino or derived from casino gaming activity or of revenues or profits of the casino;

(9) The commission may permit an agreement between a casino licensee and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) for the conduct of casino simulcasting in a simulcasting facility to provide for the payment to the casino service industry of an interest, percentage or share of the money derived from the casino licensee's share of proceeds from simulcast wagering activity; and

(10) As to agreements to lease an approved hotel building or the land thereunder, agreements to jointly own an approved hotel building or the land thereunder and agreements for the management of a casino or for the conduct of casino simulcasting in a simulcasting facility, the commission shall require that each party thereto, except for a banking or other chartered or licensed lending institution or any subsidiary thereof, or any chartered or licensed life insurance company or property and casualty insurance company, or the State of New Jersey or any political subdivision thereof or any agency or instrumentality of the State or any political subdivision thereof, shall be jointly and severally liable for all acts, omissions and violations of this act by any party thereto regardless of actual knowledge of such act, omission or violation and notwithstanding any provision in such agreement to the contrary.

d. No corporation shall be eligible to apply for a casino license unless:

(1) The corporation shall be incorporated in the State of New Jersey, although such corporation may be a wholly or partially owned subsidiary of a corporation which is organized pursuant to the laws of another state of the United States or of a foreign country;

(2) The corporation shall maintain an office of the corporation in the premises licensed or to be licensed;

(3) The corporation shall comply with all the requirements of the laws of the State of New Jersey pertaining to corporations;

(4) The corporation shall maintain a ledger in the principal office of the corporation in New Jersey which shall at all times reflect the current ownership of every class of security issued by the corporation and shall be available for inspection by the commission or the division and authorized agents of the commission and the division at all reasonable times without notice;

(5) The corporation shall maintain all operating accounts required by the commission in a bank in New Jersey, except that a casino licensee may establish deposit-only accounts in any jurisdiction in order to obtain payment of any check described in section 101 of P.L.1977, c.110 (C.5:12-101);

(6) The corporation shall include among the purposes stated in its certificate of incorporation the conduct of casino gaming and provide that the certificate of incorporation includes all provisions required by this act;

(7) The corporation, if it is not a publicly traded corporation, shall file with the commission such adopted corporate charter provisions as may be necessary to establish the right of prior approval by the commission with regard to transfers of securities, shares, and other interests in the applicant corporation; and, if it is a publicly traded corporation, provide in its corporate charter that any securities of such corporation are held subject to the condition that if a holder thereof is found to be disqualified by the commission pursuant to the provisions of this act, such holder shall dispose of his interest in the corporation; provided, however, that, notwithstanding the provisions of N.J.S.14A:7-12 and N.J.S.12A:8-101 et seq., nothing herein shall be deemed to require that any security of such corporation bear any legend to this effect;

(8) The corporation, if it is not a publicly traded corporation, shall establish to the satisfaction of the commission that appropriate charter provisions create the absolute right of such non-publicly traded corporations and companies to repurchase at the market price or the purchase price, whichever is the lesser, any security, share or other interest in the corporation in the event that the commission disapproves a transfer in accordance with the provisions of this act;

(9) Any publicly traded holding, intermediary, or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall contain in its corporate charter the same provisions required under paragraph (7) for a publicly traded corporation to be eligible to apply for a casino license; and

(10) Any non-publicly traded holding, intermediary or subsidiary company of the corporation, whether the corporation is

publicly traded or not, shall establish to the satisfaction of the commission that its charter provisions are the same as those required under paragraphs (7) and (8) for a non-publicly traded corporation to be eligible to apply for a casino license.

Notwithstanding the foregoing, any corporation or company which had bylaw provisions approved by the commission prior to the effective date of this 1987 amendatory act shall have one year from the effective date of this 1987 amendatory act to adopt appropriate charter provisions in accordance with the requirements of this subsection.

The provisions of this subsection shall apply with the same force and effect with regard to casino license applicants and casino licensees which have a legal existence that is other than corporate to the extent which is appropriate.

e. No person shall be issued or be the holder of a casino license if the issuance or the holding results in undue economic concentration in Atlantic City casino operations by that person. The commission shall, after conducting public hearings thereon, promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) defining the criteria the commission will use in determining what constitutes undue economic concentration. For the purpose of this subsection a person shall be considered the holder of a casino license if such license is issued to such person or if such license is held by any holding, intermediary or subsidiary company thereof, or by any officer, director, casino key employee or principal employee of such person, or of any holding, intermediary or subsidiary company thereof.

24. Section 83 of P.L.1977, c.110 (C.5:12-83) is amended to read as follows:

C.5:12-83 Approved hotel.

83. Approved Hotel. a. An approved hotel for purposes of this act shall be a hotel providing facilities in accordance with this section. Nothing in this section shall be construed to limit the authority of the commission to determine the suitability of facilities as provided in this act, and nothing in this section shall be construed to require a casino to be smaller than the maximum size herein provided.

b. (1) In the case of a casino hotel in operation on June 29, 1991, an approved hotel shall:

(a) contain at least the number of qualifying sleeping units, as defined in section 27 of P.L.1977, c.110 (C.5:12-27), which it had

on that date, except that those units may be consolidated and reconfigured in order to form suites so long as there remain at least 500 qualifying sleeping units; and

(b) contain a casino of not more than the amount of casino space authorized on the basis of the provisions of this section which were in effect on June 28, 1991 and applicable to that casino at that time, unless the number of qualifying sleeping units under subparagraph (a) of this paragraph and the number of any qualifying sleeping units added after June 29, 1991 permit an increase on the following basis: 60,000 square feet for the first 500 qualifying sleeping units and 10,000 square feet for each additional 100 qualifying sleeping units above 500, up to a maximum of 200,000 square feet. No casino hotel in operation on June 29, 1991 shall be required to reduce the amount of its casino space below the amount authorized as of June 28, 1991 unless the number of qualifying sleeping units is reduced below the number required in subparagraph (a) of this paragraph.

For the purpose of increasing casino space, an agreement approved by the commission for the addition of qualifying sleeping units within two years after the commencement of gaming operations in the additional casino space shall be deemed an addition of those rooms, but if the agreement is not fulfilled due to conditions within the control of the casino licensee, the casino licensee shall close the additional casino space or any portion thereof as directed by the commission.

The calculation of the number of qualifying sleeping units added with respect to any such casino hotel shall not include any qualifying sleeping unit or other hotel or motel room in existence in Atlantic City on June 29, 1991, whether or not that unit or room was offered or usable for occupancy on that date, or any replacement for such a unit or room which results from construction or renovation after that date, except that any hotel room in existence in Atlantic City on June 29, 1991 which was not used or available for use on that date and for at least 10 years prior to that date and which is reconstructed or replaced after the effective date of this amendatory and supplementary act, P.L.1993, c.159, and meets the specifications of a sleeping unit prescribed in section 27 of P.L.1977, c.110 (C.5:12-27) may be included in such calculation; any hotel room in existence in Atlantic City on June 29, 1991 which, for at least 10 years prior thereto, had been used as part of an annexed facility of a casino hotel, which facility was determined by the commission to be part of an approved hotel

subsequent thereto and prior to the effective date of this amendatory and supplementary act, P.L.1995, c.18 (C.5:12-2.1 et al.), and meets, or was or is reconstructed or replaced to meet, the specifications of a sleeping unit prescribed in section 27 of P.L.1977, c.110 (C.5:12-27), may be included in such calculation; and any replacement which, in the judgment of the commission, is an integral element of a program of neighborhood rehabilitation undertaken by the casino licensee with the approval of the city of Atlantic City may also be included in such calculation.

(2) In the case of a hotel in operation on June 29, 1991 in which a licensed casino was located and operated prior to, but not as of, that date, and in which a casino is reestablished after that date, an approved hotel shall:

(a) contain at least the number of qualifying sleeping units, as defined in section 27 of P.L.1977, c.110 (C.5:12-27), which it had on the date the casino ceased operations prior to June 29, 1991, except that those units may be consolidated and reconfigured in order to form suites so long as there remain at least 500 qualifying sleeping units; and

(b) contain a casino of not more than the amount of casino space the casino had on the date it ceased operations prior to June 29, 1991 unless the number of qualifying sleeping units under subparagraph (a) of this paragraph and the number of any qualifying sleeping units added after that date permit an increase on the following basis: 60,000 square feet for the first 500 qualifying sleeping units and 10,000 square feet for each additional 100 qualifying sleeping units above 500, up to a maximum of 200,000 square feet. No casino hotel which operates pursuant to this paragraph shall be required to reduce the amount of its casino space below the amount it had on the date it ceased operations unless the number of qualifying sleeping units is reduced below the number required in subparagraph (a) of this paragraph.

For the purpose of increasing casino space, an agreement approved by the commission for the addition of qualifying sleeping units within two years after the commencement of gaming operations in the additional casino space shall be deemed an addition of those rooms, but if the agreement is not fulfilled due to conditions within the control of the casino licensee, the casino licensee shall close the additional casino space or any portion thereof as directed by the commission.

The calculation of the number of qualifying sleeping units added with respect to any such hotel shall not include any quali-

fying sleeping unit or other hotel or motel room in existence in Atlantic City on June 29, 1991, whether or not that unit or room was offered or usable for occupancy on the effective date, or any replacement for such a unit or room which results from construction or renovation after that date, except that any hotel room in existence in Atlantic City on June 29, 1991 which was not used or available for use on that date and for at least 10 years prior to that date and which is reconstructed or replaced after the effective date of this amendatory and supplementary act, P.L.1993, c.159, and meets the specifications of a sleeping unit prescribed in section 27 of P.L.1977, c.110 (C.5:12-27) may be included in such calculation, and any replacement which, in the judgment of the commission, is an integral element of a program of neighborhood rehabilitation undertaken by the casino licensee with the approval of the city of Atlantic City may also be included in such calculation.

c. In the case of a casino hotel not in operation prior to or on June 29, 1991, an approved hotel shall contain at least 500 qualifying sleeping units, as defined in section 27 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-27), and a single casino room of not more than 60,000 square feet, except that for each additional 100 qualifying sleeping units above 500, the maximum size of the casino room may be increased by 10,000 square feet, up to a maximum of 200,000 square feet. The calculation of the number of qualifying sleeping units with respect to any such casino hotel shall not include any qualifying sleeping unit or other hotel or motel room in existence in Atlantic City on June 29, 1991, whether or not that unit or room was offered or usable for occupancy on that date, or any replacement for such a unit or room which results from construction or renovation after that date, except that any hotel room in existence in Atlantic City on June 29, 1991 which was not used or available for use on that date and for at least 10 years prior to that date and which is reconstructed or replaced after the effective date of this amendatory and supplementary act, P.L.1993, c.159, and meets the specifications of a sleeping unit prescribed in section 27 of P.L.1977, c.110 (C.5:12-27) may be included in such calculation, and any replacement which, in the judgment of the commission, is an integral element of a program of neighborhood rehabilitation undertaken by the casino licensee with the approval of the city of Atlantic City may also be included in such calculation.

d. Once a hotel is initially approved, the commission shall thereafter rely on the certification of the casino licensee with

regard to the number of rooms and shall permit rehabilitation, renovation and alteration of any part of the approved hotel even if the rehabilitation, renovation, or alteration will mean that the casino licensee does not temporarily meet the requirements of subsection c. so long as the licensee certifies that the rehabilitation, renovation, or alteration shall be completed within one year.

e. (Deleted by amendment, P.L.1987, c.352).

f. (Deleted by amendment, P.L.1991, c.182).

g. (Deleted by amendment, P.L.1991, c.182).

h. (Deleted by amendment, P.L.1991, c.182).

i. The commission shall not impose any criteria or requirements regarding the contents of the hotel in addition to the criteria and requirements expressly specified in the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.); provided, however, that the commission shall be authorized to require each casino licensee to establish and maintain an approved hotel which is in all respects a superior, first-class facility of exceptional quality which will help restore Atlantic City as a resort, tourist and convention destination.

25. Section 84 of P.L.1977, c.110 (C.5:12-84) is amended to read as follows:

C.5:12-84 Casino license--applicant requirements.

84. Casino License--Applicant Requirements. Any applicant for a casino license must produce information, documentation and assurances concerning the following qualification criteria:

a. Each applicant shall produce such information, documentation and assurances concerning financial background and resources as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or the division.

b. Each applicant shall produce such information, documentation and assurances as may be necessary to establish by clear and convincing evidence the integrity of all financial backers, investors, mortgagees, bondholders, and holders of indentures, notes or other evidences of indebtedness, either in effect or proposed, which bears any relation to the casino proposal submitted by the

applicant or applicants; provided, however, that this section shall not apply to banking or other licensed lending institutions exempted from the qualification requirements of subsections c. and d. of section 85 of P.L.1977, c.110 (C.5:12-85) and institutional investors waived from the qualification requirements of those subsections pursuant to the provisions of subsection f. of section 85 of P.L.1977, c.110 (C.5:12-85). Any such banking or licensed lending institution or institutional investor shall, however, produce for the commission or the division upon request any document or information which bears any relation to the casino proposal submitted by the applicant or applicants. The integrity of financial sources shall be judged upon the same standards as the applicant. In addition, the applicant shall produce whatever information, documentation or assurances as may be required to establish by clear and convincing evidence the adequacy of financial resources both as to the completion of the casino proposal and the operation of the casino.

c. Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity. Such information shall include, without limitation, information pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application. Each applicant shall notify the commission of any civil judgments obtained against any such applicant pertaining to antitrust or security regulation laws of the federal government, of this State or of any other state, jurisdiction, province or country. In addition, each applicant shall produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what the information is. If the applicant has conducted gaming operations in a jurisdiction which permits such activity, the applicant shall produce letters of reference from the gaming or casino enforcement or control agency which shall specify the experiences of such agency with the applicant, his associates, and his gaming operation; provided, however, that if no such letters are received within 60 days of request therefor, the applicant may submit a statement under oath that he is or was dur-

ing the period such activities were conducted in good standing with such gaming or casino enforcement or control agency.

d. Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and casino experience as to establish the likelihood of creation and maintenance of a successful, efficient casino operation. The applicant shall produce the names of all proposed casino key employees as they become known and a description of their respective or proposed responsibilities, and a full description of security systems and management controls proposed for the casino and related facilities.

e. Each applicant shall produce such information, documentation and assurances to establish to the satisfaction of the commission the suitability of the casino and related facilities subject to subsection i. of section 83 of P.L.1977, c.110 (C.5:12-83) and its proposed location will not adversely affect casino operations. Each applicant shall submit an impact statement which shall include, without limitation, architectural and site plans which establish that the proposed facilities comply in all respects with the requirements of this act and the requirements of the master plan and zoning and planning ordinances of Atlantic City, without any use variance from the provisions thereof; a market impact study which analyzes the adequacy of the patron market and the effect of the proposal on such market and on the existing casino facilities licensed under this act; and an analysis of the effect of the proposal on the overall economic and competitive conditions of Atlantic City and the State of New Jersey.

26. Section 88 of P.L.1977, c.110 (C.5:12-88) is amended to read as follows:

C.5:12-88 Renewal of casino licenses.

88. Renewal of Casino Licenses. a. Subject to the power of the commission to deny, revoke, or suspend licenses, any casino license in force shall be renewed by the commission for the next succeeding license period upon proper application for renewal and payment of license fees and taxes as required by law and the regulations of the commission. The license period for a renewed casino license shall be up to one year for each of the first two renewal periods succeeding the initial issuance of a casino license pursuant to section 87 of P.L.1977, c.110 (C.5:12-87). Thereafter, the renewal periods shall be up to four years each, but the commis-

sion may reopen licensing hearings at any time. In addition, the commission shall reopen licensing hearings at any time at the request of the division. Notwithstanding the foregoing, the commission may, for the purpose of facilitating its administration of this act, renew the casino license of the holders of licenses initially opening after January 1, 1981 for a period of one year; provided, however, the renewal period for those particular casino licenses may not be adjusted more than once pursuant to this provision. The commission shall act upon any such application prior to the date of expiration of the current license.

b. Application for renewal shall be filed with the commission no later than 90 days prior to the expiration of the current license, and all license fees and taxes as required by law shall be paid to the commission on or before the date of expiration of the current license.

c. Upon renewal of any license the commission shall issue an appropriate renewal certificate or validating device or sticker which shall be attached to each casino license.

27. Section 89 of P.L.1977, c.110 (C.5:12-89) is amended to read as follows:

C.5:12-89 Licensing of casino key employees.

89. Licensing of Casino Key Employees. a. No person may be employed as a casino key employee unless he is the holder of a valid casino key employee license issued by the commission.

b. Each applicant must, prior to the issuance of any casino key employee license, produce information, documentation and assurances concerning the following qualification criteria:

(1) Each applicant for a casino key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursements schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or the division.

(2) Each applicant for a casino key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the appli-

cant's good character, honesty and integrity. Such information shall include, without limitation, data pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application. Each applicant shall notify the commission of any civil judgments obtained against such applicant pertaining to antitrust or security regulation laws of the federal government, of this State or of any other state, jurisdiction, province or country. In addition, each applicant shall, upon request of the commission or the division, produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what that information is. If the applicant has been associated with gaming or casino operations in any capacity, position or employment in a jurisdiction which permits such activity, the applicant shall, upon request of the commission or division, produce letters of reference from the gaming or casino enforcement or control agency, which shall specify the experience of such agency with the applicant, his associates and his participation in the gaming operations of that jurisdiction; provided, however, that if no such letters are received from the appropriate law enforcement agencies within 60 days of the applicant's request therefor, the applicant may submit a statement under oath that he is or was during the period such activities were conducted in good standing with such gaming or casino enforcement or control agency.

(3) (Deleted by amendment, P.L.1995, c.18.)

(4) Each applicant shall be a resident of the State of New Jersey prior to the issuance of a casino key employee license; provided, however, that upon petition by the holder of a casino license, the commission may waive this residency requirement for any applicant whose particular position will require him to be employed outside the State.

The commission may also, by regulation, require that all applicants for casino key employee licenses be residents of this State for a period not to exceed six months immediately prior to the issuance of such license, but application may be made prior to the expiration of the required period of residency. The commission

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shall, by resolution, waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

c. (Deleted by amendment, P.L.1995, c.18.)

d. The commission shall deny a casino key employee license to any applicant who is disqualified on the basis of the criteria contained in section 86 of this act.

e. Upon petition by the holder of a casino license, the commission may issue a temporary license to an applicant for a casino key employee license, provided that:

(1) The applicant for the casino key employee license has filed a complete application as required by the commission;

(2) The division either certifies to the commission that the completed casino key employee license application as specified in paragraph (1) of this subsection has been in the possession of the division for at least 15 days or agrees to allow the commission to consider the application in some lesser time;

(3) (Deleted by amendment, P.L.1995, c.18.)

(4) The petition for a temporary casino key employee license certifies, and the commission finds, that an existing casino key employee position of the petitioner is vacant or will become vacant within 60 days of the date of the petition and that the issuance of a temporary key employee license is necessary to fill the said vacancy on an emergency basis to continue the efficient operation of the casino, and that such circumstances are extraordinary and not designed to circumvent the normal licensing procedures of this act;

(5) The division does not object to the issuance of the temporary casino key employee license.

In the event that an applicant for a casino key employee license is the holder of a valid casino employee license issued pursuant to section 90 of this act, and if the provisions of paragraphs (1), (2), and (5) of this subsection are satisfied, the commission may issue a temporary casino key employee license upon petition by the holder of a casino license, if the commission finds the issuance of a casino key employee license will be delayed by necessary investigations and the said temporary casino key employee license is necessary for the operation of the casino.

Unless otherwise terminated pursuant to this act, any temporary casino key employee license issued pursuant to this subsection shall expire nine months from the date of its issuance.

28. Section 90 of P.L.1977, c.110 (C.5:12-90) is amended to read as follows:

C.5:12-90 Licensing of casino employees.

90. Licensing of Casino Employees. a. No person may commence employment as a casino employee unless he is the holder of a valid casino employee license.

b. Any applicant for a casino employee license must, prior to the issuance of any such license, produce sufficient information, documentation and assurances to meet the qualification criteria, including New Jersey residency, contained in subsection b. of section 89 of this act and any additional residency requirement imposed under subsection c. of this section.

c. The commission may, by regulation, require that all applicants for casino employee licenses be residents of this State for a period not to exceed six months immediately prior to the issuance of such license, but application may be made prior to the expiration of the required period of residency. The commission shall, by resolution, waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

d. (Deleted by amendment, P.L.1995, c.18.)

e. The commission shall deny a casino employee license to any applicant who is disqualified on the basis of the criteria contained in section 86 of this act.

f. For the purposes of this section, casino security employees shall be considered casino employees and must, in addition to any requirements under other laws, be licensed in accordance with the provisions of this act.

g. Upon petition by the holder of a casino license, a temporary license may be issued by the commission to an applicant for a casino employee license provided that:

(1) the applicant for the casino employee license has filed a complete application as required by the commission;

(2) the division either certifies to the commission that the completed casino employee license application as specified in paragraph (1) of this subsection has been in the possession of the division for at least 15 days or agrees to allow the commission to consider the application in some lesser time;

(3) the petition for a temporary casino employee license certifies, and the commission finds, that the issuance of a plenary

license will be restricted by necessary investigations, and the temporary licensing of the applicant is necessary for the operation of the casino and is not designed to circumvent the normal licensing procedures of the "Casino Control Act"; and

(4) the division does not object to the issuance of the temporary casino employee license.

Unless otherwise terminated pursuant to this act, a temporary license issued pursuant to this subsection shall expire six months from the date of its issuance and be renewable, at the discretion of the commission, for one additional six-month period.

h. Notwithstanding the provisions of subsection e. of this section, no applicant shall be denied a casino employee license on the basis of a conviction of any of the offenses enumerated in this act as disqualification criteria or the commission of any act or acts which would constitute any offense under subsection c. of section 86 of P.L.1977, c.110 (C.5:12-86), as specified in subsection g. of that section; provided that the applicant has affirmatively demonstrated his rehabilitation. In determining whether the applicant has affirmatively demonstrated his rehabilitation the commission shall consider the following factors:

(1) The nature and duties of the position applied for;

(2) The nature and seriousness of the offense or conduct;

(3) The circumstances under which the offense or conduct occurred;

(4) The date of the offense or conduct;

(5) The age of the applicant when the offense or conduct was committed;

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

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

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

29. Section 91 of P.L.1977, c.110 (C.5:12-91) is amended to read as follows:

C.5:12-91 Registration of casino service employees.

91. Registration of Casino Service Employees. a. No person may commence employment as a casino service employee unless the person has been registered with the commission, which registration shall be in accordance with subsection f. of this section.

b. Any applicant for casino service employee registration shall produce such information as the commission may require. Subsequent to the registration of a casino service employee, the commission may revoke, suspend, limit, or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of the criteria contained in section 86 of P.L.1977, c.110 (C.5:12-86).

c. The commission may, by regulation, require that all applicants for casino service employee registration be residents of this State for a period not to exceed three months immediately prior to such registration, but application may be made prior to the expiration of the required period of residency. The commission shall waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

d. Notwithstanding the provisions of subsection b. of this section, no casino service employee registration shall be revoked on the basis of a conviction of any of the offenses enumerated in this act as disqualification criteria or the commission of any act or acts which would constitute any offense under subsection c. of section 86 of P.L.1977, c.110 (C.5:12-86), as specified in subsection g. of that section, provided that the registrant has affirmatively demonstrated the registrant's rehabilitation. In determining whether the registrant has affirmatively demonstrated the registrant's rehabilitation the commission shall consider the following factors:

(1) The nature and duties of the registrant's position;

(2) The nature and seriousness of the offense or conduct;

(3) The circumstances under which the offense or conduct occurred;

(4) The date of the offense or conduct;

(5) The age of the registrant when the offense or conduct was committed;

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

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

(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational school-

ing, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the registrant under their supervision.

e. The commission may waive any disqualification criterion for a casino service employee consistent with the public policy of this act and upon a finding that the interests of justice so require.

f. Upon petition by the holder of a casino license, casino service employee registration shall be granted to each applicant for such registration named therein, provided that the petition certifies that each such applicant has filed a completed application for casino service employee registration as required by the commission.

Any person who, on the effective date of P.L.1995, c.18 (C.5:12-2.1 et al.), possesses a current and valid casino hotel employee registration shall be considered registered in accordance with the provisions of this section.

30. Section 92 of P.L.1977, c.110 (C.5:12-92) is amended to read as follows:

C.5:12-92 Licensing and registration of casino service industries.

92. Licensing and Registration of Casino Service Industries.

a. (1) All casino service industries offering goods or services which directly relate to casino or gaming activity, including gaming equipment and simulcast wagering equipment manufacturers, suppliers, repairers and independent testing laboratories, schools teaching gaming and either playing or dealing techniques, and casino security services, shall be licensed in accordance with the provisions of this act prior to conducting any business whatsoever with a casino applicant or licensee, its employees or agents, and in the case of a school, prior to enrollment of any students or offering of any courses to the public whether for compensation or not; provided, however, that upon a showing of good cause by a casino applicant or licensee for each business transaction, the commission may permit an applicant for a casino service industry license to conduct business transactions with such casino applicant or licensee prior to the licensure of that service industry applicant under this subsection.

(2) In addition to the requirements of paragraph (1) of this subsection, any casino service industry intending to manufacture, sell, distribute, test or repair slot machines within New Jersey, other than antique slot machines as defined in N.J.S.2C:37-7, shall be licensed in accordance with the provisions of this act

prior to engaging in any such activities; provided, however, that upon a showing of good cause by a casino applicant or licensee for each business transaction, the commission may permit an applicant for a casino service industry license to conduct business transactions with the casino applicant or licensee prior to the licensure of that service industry applicant under this subsection; and provided further, however, that upon a showing of good cause by an applicant required to be licensed as a casino service industry pursuant to this paragraph, the commission may permit the service industry applicant to initiate the manufacture of slot machines or engage in the sale, distribution, testing or repair of slot machines with any person other than a casino applicant or licensee, its employees or agents, prior to the licensure of that service industry applicant under this subsection.

b. Each casino service industry in subsection a. of this section, as well as its owners; management and supervisory personnel; and principal employees if such principal employees have responsibility for services to a casino licensee, must qualify under the standards, except residency, established for qualification of a casino key employee under this act.

c. All casino service industries not included in subsection a. of this section shall be licensed in accordance with rules of the commission prior to commencement or continuation of any business with a casino applicant or licensee or its employees or agents. Such casino service industries, whether or not directly related to gaming operations, shall include junket enterprises; suppliers of alcoholic beverages, food and nonalcoholic beverages; in-State and out-of-State sending tracks as defined in section 2 of the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-192); garbage handlers; vending machine providers; linen suppliers; maintenance companies; shopkeepers located within the approved hotels; limousine services; and construction companies contracting with casino applicants or licensees or their employees or agents. The commission may exempt any person or field of commerce from the licensing requirements of this subsection if the person or field of commerce demonstrates (1) that it is regulated by a public agency or that it will provide goods or services in insubstantial or insignificant amounts or quantities, and (2) that licensing is not deemed necessary in order to protect the public interest or to accomplish the policies established by this act.

Upon granting an exemption or at any time thereafter, the commission may limit or place such restrictions thereupon as it may

deem necessary in the public interest, and shall require the exempted person to cooperate with the commission and the division and, upon request, to provide information in the same manner as required of a casino service industry licensed pursuant to this subsection; provided, however, that no exemption be granted unless the casino service industry complies with the requirements of sections 134 and 135 of this act.

d. Licensure pursuant to subsection c. of this section of any casino service industry may be denied to any applicant disqualified in accordance with the criteria contained in section 86 of this act.

31. Section 93 of P.L.1977, c.110 (C.5:12-93) is amended to read as follows:

C.5:12-93 Registration of labor organizations.

93. Registration of Labor Organizations. a. Each labor organization, union or affiliate seeking to represent employees who are employed in a casino hotel, casino or casino simulcasting facility by a casino licensee shall register with the commission annually, and shall disclose such information to the commission as the commission may require, including the names of all affiliated organizations, pension and welfare systems and all officers and agents of such organizations and systems; provided, however, that no labor organization, union, or affiliate shall be required to furnish such information to the extent such information is included in a report filed by any labor organization, union, or affiliate with the Secretary of Labor pursuant to 29 U.S.C. § 431 et seq. or § 1001 et seq. if a copy of such report, or of the portion thereof containing such information, is furnished to the commission pursuant to the aforesaid federal provisions. The commission may in its discretion exempt any labor organization, union, or affiliate from the registration requirements of this subsection where the commission finds that such organization, union or affiliate is not the certified bargaining representative of any employee who is employed in a casino hotel, casino or casino simulcasting facility by a casino licensee, is not involved actively, directly or substantially in the control or direction of the representation of any such employee, and is not seeking to do so.

b. No person may act as an officer, agent or principal employee of a labor organization, union or affiliate registered or required to be registered pursuant to this section if the person has been found disqualified by the commission in accordance with the

criteria contained in section 86 of that act. The commission may, for purposes of this subsection, waive any disqualification criterion consistent with the public policy of this act and upon a finding that the interests of justice so require.

c. Neither a labor organization, union or affiliate nor its officers and agents not otherwise individually licensed or registered under this act and employed by a casino licensee may hold any financial interest whatsoever in the casino hotel, casino, casino simulcasting facility or casino licensee whose employees they represent.

d. Any person, including any labor organization, union or affiliate, who shall violate, aid and abet the violation, or conspire or attempt to violate this section is guilty of a crime of the fourth degree.

e. The commission or the division may maintain a civil action and proceed in a summary manner, without posting bond, against any person, including any labor organization, union or affiliate, to compel compliance with this section, or to prevent any violations, the aiding and abetting thereof, or any attempt or conspiracy to violate this section.

f. In addition to any other remedies provided in this section, a labor organization, union or affiliate registered or required to be registered pursuant to this section may be prohibited by the commission from receiving any dues from any employee licensed or registered under that act and employed by a casino licensee or its agent, if any officer, agent or principal employee of the labor organization, union or affiliate has been found disqualified and if such disqualification has not been waived by the commission in accordance with subsection b. of this section. The commission or the division may proceed in the manner provided by subsection e. of this section to enforce an order of the commission prohibiting the receipt of dues.

g. Nothing contained in this section shall limit the power of the commission to proceed in accordance with subsection c. of section 107 of P.L.1977, c.110 (C.5:12-107).

32. Section 94 of P.L.1977, c.110 (C.5:12-94) is amended to read as follows:

C.5:12-94 Approval and denial of registrations and licenses other than casino licenses.

94. Approval and Denial of Registrations and Licenses Other Than Casino Licenses. a. Upon the filing of an application for any license or registration required by this act, other than a casino license, and after submission of such supplemental information as the commission may require, the commission shall request the divi-

sion to conduct such investigation into the qualification of the applicant, and the commission shall conduct such hearings concerning the qualification of the applicant, in accordance with its regulations, as may be necessary to determine qualification for such license or registration.

b. After such investigation, the commission may either deny the application or grant a license to or accept the registration of an applicant whom it determines to be qualified to hold such license or registration.

c. The commission shall have the authority to deny any application pursuant to the provisions of this act. When an application is denied, the commission shall prepare and file its order denying such application with the general reasons therefor, and if requested by the applicant, shall further prepare and file a statement of the reasons for the denial, including the specific findings of fact.

d. When the commission grants an application, the commission may limit or place such restrictions thereupon as it may deem necessary in the public interest. Casino service employee registration shall, upon issuance, remain in effect unless revoked, suspended, limited, or otherwise restricted by the commission. Licenses may be granted and renewed as follows:

(1) All casino employee licenses, casino service industry licenses issued pursuant to subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92), and junket representative and junket enterprise licenses issued pursuant to section 102 of P.L.1977, c.110 (C.5:12-102) shall be issued for an initial term of three years, and may be renewed for subsequent terms of four years each; and

(2) All casino key employee licenses and casino service industry licenses required pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) shall be issued for an initial term of two years, and may be renewed for subsequent terms of four years each.

Notwithstanding the foregoing, the commission shall reconsider the granting of any license or the approval of any registration at any time at the request of the division.

e. After an application is submitted to the commission, final action of the commission shall be taken within 90 days after completion of all hearings and investigations and the receipt of all information required by the commission.

33. Section 4 of P.L.1987, c.409 (C.5:12-95.13) is amended to read as follows:

C.5:12-95.13 Commission consideration of request for interim casino authorization.

4. Commission Consideration of Request for Interim Casino Authorization. a. The commission may grant interim authorization where it finds by clear and convincing evidence (1) that statements of compliance have been issued pursuant to sections 81, 82c., 82d., 82e., 84e., and 134 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-81, 5:12-82, 5:12-84, and 5:12-134); (2) that the casino hotel facility is an approved hotel in accordance with the requirements of section 83 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-83); (3) that the trustee or trustees required by section 5 of this 1987 amendatory and supplementary act have satisfied the qualification criteria applicable to a casino key employee, except for residency; and (4) that interim operation will best serve the interests of the public with particular reference to the policies and purposes enumerated in section 1 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1).

b. The commission's consideration of a request for interim authorization shall include, but not be limited to, consideration of such relevant information as may be presented to it by the division. In responding to the request and in determining whether to concur, the division shall not be required to disclose any information the disclosure of which, in its judgment, may prejudice or otherwise compromise any continuing investigation.

34. Section 96 of P.L.1977, c.110 (C.5:12-96) is amended to read as follows:

C.5:12-96 Operation certificate.

96. Operation Certificate. a. Notwithstanding the issuance of a license therefor, no casino or simulcasting facility may be opened or remain open to the public, and no gaming or simulcast wagering activity, except for test purposes, may be conducted therein, unless and until a valid operation certificate has been issued to the casino licensee by the commission. Such certificate shall be issued by the commission upon a finding that a casino and, if applicable, a simulcasting facility each complies in all respects with the requirements of this act and regulations promulgated hereunder, that the casino licensee has implemented necessary management controls and security precautions for the efficient operation of the casino and, if applicable, the simulcasting facility, that casino and simulcasting facility personnel are licensed for the performance of their respective responsibilities, and that

the casino and any applicable simulcasting facility are prepared in all respects to receive and entertain the public.

b. The operation certificate shall include an itemized list by category and number of the authorized games permitted in the particular casino establishment and any applicable simulcasting facility.

c. A casino licensee shall, in accordance with regulations promulgated by the commission, file any changes in the number of authorized games to be played in its casino or simulcasting facility, and any changes in the configuration of the casino or simulcasting facility, with the commission and the division, which shall review the changes for compliance with the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.) or regulations promulgated thereunder.

d. An operation certificate shall remain in force and effect unless altered in accordance with subsection c. of this section, or revoked, suspended, limited, or otherwise altered by the commission in accordance with this act.

e. It shall be an express condition of continued operation under this act that a casino licensee shall maintain all books, records, and documents pertaining to the licensee's operations, including casino simulcasting, and approved hotel in a manner and location within this State approved by the commission. All such books, records and documents shall be immediately available for inspection during all hours of operation in accordance with the rules of the commission and shall be maintained for such period of time as the commission shall require.

35. Section 98 of P.L.1977, c.110 (C.5:12-98) is amended to read as follows:

C.5:12-98 Casino facility requirements.

98. Casino Facility Requirements. a. Each casino licensee shall arrange the facilities of its casino and, if appropriate, its simulcasting facility in such a manner as to promote optimum security for the casino and simulcasting facility operations, and shall comply in all respects with regulations of the commission pertaining thereto.

b. Each casino licensee shall:

(1) Install a closed circuit television system according to specifications approved by the commission, and provide access on the licensed premises to the system or its signal by the commission or the division, in accordance with regulations pertaining thereto;

(2) Establish a single room as its casino; and

(3) Provide that visibility between any two areas, whether or not contiguous, in the casino or in the simulcasting facility may not be obstructed by partitions of any kind which interfere with the ability of the commission or the division to supervise casino or simulcasting facility operations; provided, however, that multi-level casinos otherwise complying with this subsection shall be permitted.

36. Section 99 of P.L.1977, c.110 (C.5:12-99) is amended to read as follows:

C.5:12-99 Internal controls.

99. Internal Controls. a. Each casino licensee shall submit to the commission a description of its system of internal procedures and administrative and accounting controls for gaming and simulcast wagering operations and a description of any changes thereof. Such submission shall be made at least 30 days before such operations are to commence or at least 30 days before any change in those procedures or controls is to take effect, unless otherwise directed by the commission. Notwithstanding the foregoing, the internal controls described in paragraph (3) of this subsection may be implemented by a casino licensee upon the filing of such internal controls with the commission. Each internal control submission shall contain both narrative and diagrammatic representations of the internal control system to be utilized by the casino, including, but not limited to:

(1) Accounting controls, including the standardization of forms and definition of terms to be utilized in the gaming and simulcast wagering operations;

(2) Procedures, forms, and, where appropriate, formulas covering the calculation of hold percentages; revenue drop; expense and overhead schedules; complimentary services, except as provided in paragraph (3) of subsection m. of section 102 of P.L.1977, c.110 (C.5:12-102); junkets; and cash equivalent transactions;

(3) Job descriptions and the system of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in casino or simulcasting facility operations and identifying primary and secondary supervisory positions for areas of responsibility, which areas shall not be so extensive as to be impractical for an individual to monitor; salary structure; and personnel practices;

(4) Procedures within the cashier's cage and simulcast facility for the receipt, storage and disbursal of chips, cash, and other

cash equivalents used in gaming and simulcast wagering; the cashing of checks; the redemption of chips and other cash equivalents used in gaming and simulcast wagering; the pay-off of jackpots and simulcast wagers; and the recording of transactions pertaining to gaming and simulcast wagering operations;

(5) Procedures for the collection and security of moneys at the gaming tables and in the simulcasting facility;

(6) Procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage and the transfer and recordation of moneys within the simulcasting facility;

(7) Procedures for the transfer of moneys from the gaming tables to the counting process and the transfer of moneys within the simulcasting facility for the counting process;

(8) Procedures and security for the counting and recordation of revenue;

(9) Procedures for the security, storage and recordation of cash, chips and other cash equivalents utilized in the gaming and simulcast wagering operations;

(10) Procedures for the transfer of moneys or chips from and to the slot machines;

(11) Procedures and standards for the opening and security of slot machines;

(12) Procedures for the payment and recordation of slot machine jackpots;

(13) Procedures for the cashing and recordation of checks exchanged by casino and simulcasting facility patrons;

(14) Procedures governing the utilization of the private security force within the casino and simulcasting facility;

(15) Procedures and security standards for the handling and storage of gaming apparatus including cards, dice, machines, wheels and all other gaming equipment;

(16) Procedures and rules governing the conduct of particular games and simulcast wagering and the responsibility of casino personnel in respect thereto; and

(17) Procedures for separately recording all transactions pursuant to section 101 of this act involving the Governor, any State officer or employee, or any special State officer or employee, any member of the Judiciary, any member of the Legislature, any officer of a municipality or county in which casino gaming is authorized, or any gaming related casino employee, and for the quarterly filing with the Attorney General of a list reporting all such transactions.

If required by regulation of the commission, each casino licensee shall also submit a description of its system of internal procedures and administrative and accounting controls for nongaming operations and a description of any changes thereto no later than five days after those operations commence or after any change in those procedures or controls takes effect.

b. The commission shall review each submission required by subsection a. hereof, and shall determine whether it conforms to the requirements of this act and to the regulations promulgated thereunder and whether the system submitted provides adequate and effective controls for the operations of the particular casino hotel submitting it. If the commission finds any insufficiencies, it shall specify same in writing to the casino licensee, who shall make appropriate alterations. When the commission determines a submission to be adequate in all respects, it shall notify the casino licensee of same. Except as otherwise provided in subsection a. of this section, no casino licensee shall commence or alter gaming operations unless and until such system of controls is approved by the commission.

37. Section 100 of P.L.1977, c.110 (C.5:12-100) is amended to read as follows:

C.5:12-100 Games and gaming equipment.

100. Games and Gaming Equipment. a. This act shall not be construed to permit any gaming except the conduct of authorized games in a casino room in accordance with this act and the regulations promulgated hereunder and in a simulcasting facility to the extent provided by the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et al.).

b. Gaming equipment shall not be possessed, maintained or exhibited by any person on the premises of a casino hotel complex except in the casino room, in the simulcasting facility, or in restricted casino areas used for the inspection, repair or storage of such equipment and specifically designated for that purpose by the casino licensee with the approval of the commission. Gaming equipment which supports the conduct of gaming in the casino or simulcasting facility but does not permit or require patron access, such as computers, may be possessed and maintained by a casino licensee in restricted casino areas specifically designated for that purpose by the casino licensee with the approval of the commission. No gaming equipment shall be possessed, maintained, exhibited, brought into or removed from a casino room or simul-

casting facility by any person unless such equipment is necessary to the conduct of an authorized game, has permanently affixed, imprinted, impressed or engraved thereon an identification number or symbol authorized by the commission, is under the exclusive control of a casino licensee or his employees, and is brought into or removed from the casino room or simulcasting facility following 24-hour prior notice given to an authorized agent of the commission.

Notwithstanding the foregoing, a person may, with the prior approval of the commission and under such terms and conditions as may be required by the commission, possess, maintain or exhibit gaming equipment in any other area of the casino hotel complex; provided such equipment is used for nongaming purposes.

c. Each casino hotel shall contain a count room and such other secure facilities as may be required by the commission for the counting and storage of cash, coins, tokens and checks received in the conduct of gaming and for the inspection, counting and storage of dice, cards, chips and other representatives of value. All drop boxes and other devices wherein cash, coins, or tokens are deposited at the gaming tables or in slot machines, and all areas wherein such boxes and devices are kept while in use, shall be equipped with two locking devices, one key to which shall be under the exclusive control of the commission and the other under the exclusive control of the casino licensee, and said drop boxes and other devices shall not be brought into or removed from the casino room or simulcasting facility, or locked or unlocked, except at such times, in such places, and according to such procedures as the commission may require.

d. All chips used in gaming shall be of such size and uniform color by denomination as the commission shall require by regulation.

e. All gaming shall be conducted according to rules promulgated by the commission. All wagers and pay-offs of winning wagers shall be made according to rules promulgated by the commission, which shall establish such limitations as may be necessary to assure the vitality of casino operations and fair odds to patrons. Each slot machine shall have a minimum payout of 83%.

f. Each casino licensee shall make available in printed form to any patron upon request the complete text of the rules of the commission regarding games and the conduct of gaming, pay-offs of winning wagers, an approximation of the odds of winning for each wager, and such other advice to the player as the commission shall require. Each casino licensee shall prominently post within the casino room and simulcasting facility, as appropriate,

according to regulations of the commission such information about gaming rules, pay-offs of winning wagers, the odds of winning for each wager, and such other advice to the player as the commission shall require.

g. Each gaming table shall be equipped with a sign indicating the permissible minimum and maximum wagers pertaining thereto. It shall be unlawful for a casino licensee to require any wager to be greater than the stated minimum or less than the stated maximum; provided, however, that any wager actually made by a patron and not rejected by a casino licensee prior to the commencement of play shall be treated as a valid wager.

h. (1) No slot machine shall be used to conduct gaming unless it is identical in all electrical, mechanical and other aspects to a model thereof which has been specifically tested by the division and licensed for use by the commission. The division may, in its discretion, and for the purpose of expediting the approval process, refer testing to any testing laboratory with a plenary license as a casino service industry pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92). The division shall give priority to the testing of slot machines which a casino licensee has certified it will use in its casino in this State. The commission shall, by regulation, establish such technical standards for licensure of slot machines, including mechanical and electrical reliability, security against tampering, the comprehensibility of wagering, and noise and light levels, as it may deem necessary to protect the player from fraud or deception and to insure the integrity of gaming. The denominations of such machines shall be set by the licensee; the licensee shall simultaneously notify the commission of the settings.

(2) The commission shall, by regulation, determine the permissible number and density of slot machines in a licensed casino so as to:

(a) promote optimum security for casino operations;

(b) avoid deception or frequent distraction to players at gaming tables;

(c) promote the comfort of patrons;

(d) create and maintain a gracious playing environment in the casino; and

(e) encourage and preserve competition in casino operations by assuring that a variety of gaming opportunities is offered to the public.

Any such regulation promulgated by the commission which determines the permissible number and density of slot machines in a licensed casino shall provide that all casino floor space and all space within a casino licensee's casino simulcasting facility

shall be included in any calculation of the permissible number and density of slot machines in a licensed casino.

i. (Deleted by amendment, P.L.1991, c.182).

j. (Deleted by amendment, P.L.1991, c.182).

k. It shall be unlawful for any person to exchange or redeem chips for anything whatsoever, except for currency, negotiable personal checks, negotiable counter checks, other chips, coupons or complimentary vouchers distributed by the casino licensee, or, if authorized by regulation of the commission, a valid charge to a credit or debit card account. A casino licensee shall, upon the request of any person, redeem that licensee's gaming chips surrendered by that person in any amount over $100 with a check drawn upon the licensee's account at any banking institution in this State and made payable to that person.

l. It shall be unlawful for any casino licensee or its agents or employees to employ, contract with, or use any shill or barker to induce any person to enter a casino or simulcasting facility or play at any game or for any purpose whatsoever.

m. It shall be unlawful for a dealer in any authorized game in which cards are dealt to deal cards by hand or other than from a device specifically designed for that purpose, unless otherwise permitted by the rules of the commission.

n. It shall be unlawful for any casino key employee or any person who is required to hold a casino key employee license as a condition of employment or qualification to wager in any casino or simulcasting facility in this State, or any casino employee, other than a junket representative, bartender, waiter, waitress, or other casino employee who, in the judgment of the commission, is not directly involved with the conduct of gaming operations, to wager in the casino or simulcasting facility in the casino hotel in which the employee is employed or in any other casino or simulcasting facility in this State which is owned or operated by the same casino licensee. Any casino employee, other than a junket representative, bartender, waiter, waitress, or other casino employee who, in the judgment of the commission, is not directly involved with the conduct of gaming operations, must wait at least 30 days following the date that the employee either leaves employment with a casino licensee or is terminated from employment with a casino licensee before the employee may gamble in the casino or simulcasting facility in the casino hotel in which the employee was formerly employed or in any other casino or simul-

casting facility in this State which is owned or operated by the same casino licensee.

o. (1) It shall be unlawful for any casino key employee or boxman, floorman, or any other casino employee who shall serve in a supervisory position to solicit or accept, and for any other casino employee to solicit, any tip or gratuity from any player or patron at the casino or simulcasting facility where he is employed.

(2) A dealer may accept tips or gratuities from a patron at the table at which such dealer is conducting play, subject to the provisions of this subsection. All such tips or gratuities shall be immediately deposited in a lockbox reserved for that purpose, accounted for, and placed in a pool for distribution pro rata among the dealers, with the distribution based upon the number of hours each dealer has worked.

38. Section 101 of P.L.1977, c.110 (C.5:12-101) is amended to read as follows:

C.5:12-101 Credit.

101. Credit. a. Except as otherwise provided in this section, no casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall:

(1) Cash any check, make any loan, or otherwise provide or allow to any person any credit or advance of anything of value or which represents value to enable any person to take part in gaming or simulcast wagering activity as a player; or

(2) Release or discharge any debt, either in whole or in part, or make any loan which represents any losses incurred by any player in gaming or simulcast wagering activity, without maintaining a written record thereof in accordance with the rules of the commission.

b. No casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, may accept a check, other than a recognized traveler's check or other cash equivalent from any person to enable such person to take part in gaming or simulcast wagering activity as a player, or may give cash or cash equivalents in exchange for such check unless:

(1) The check is made payable to the casino licensee;

(2) The check is dated, but not postdated;

(3) The check is presented to the cashier or the cashier's representative at a location in the casino approved by the commission and is exchanged for cash or slot tokens which total an amount equal to the amount for which the check is drawn, or the check is presented to the cashier's representative at a gaming table in exchange for chips which total an amount equal to the amount for which the check is drawn; and

(4) The regulations concerning check cashing procedures are observed by the casino licensee and its employees and agents.

Nothing in this subsection shall be deemed to preclude the establishment of an account by any person with a casino licensee by a deposit of cash, recognized traveler's check or other cash equivalent, or a check which meets the requirements of subsection g. of this section, or to preclude the withdrawal, either in whole or in part, of any amount contained in such account.

c. When a casino licensee or other person licensed under this act, or any person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, cashes a check in conformity with the requirements of subsection b. of this section, the casino licensee shall cause the deposit of such check in a bank for collection or payment, or shall require an attorney or casino key employee with no incompatible functions to present such check to the drawer's bank for payment, within (1) seven calendar days of the date of the transaction for a check in an amount of $1,000.00 or less; (2) 14 calendar days of the date of the transaction for a check in an amount greater than $1,000.00 but less than or equal to $5,000.00; or (3) 45 calendar days of the date of the transaction for a check in an amount greater than $5,000.00. Notwithstanding the foregoing, the drawer of the check may redeem the check by exchanging cash, cash equivalents, chips, or a check which meets the requirements of subsection g. of this section in an amount equal to the amount for which the check is drawn; or he may redeem the check in part by exchanging cash, cash equivalents, chips, or a check which meets the requirements of subsection g. of this section and another check which meets the requirements of subsection b. of this section for the difference between the original check and the cash, cash equivalents, chips, or check tendered; or he may issue one check which meets the requirements of subsection b. of this section in an amount sufficient to redeem two or more checks drawn to the order of the casino licensee. If there has been a partial redemption or a consolidation in conformity with the provisions

of this subsection, the newly issued check shall be delivered to a bank for collection or payment or presented to the drawer's bank for payment by an attorney or casino key employee with no incompatible functions within the period herein specified. No casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall accept any check or series of checks in redemption or consolidation of another check or checks in accordance with this subsection for the purpose of avoiding or delaying the deposit of a check in a bank for collection or payment or the presentment of the check to the drawer's bank within the time period prescribed by this subsection.

In computing a time period prescribed by this subsection, the last day of the period shall be included unless it is a Saturday, Sunday, or a State or federal holiday, in which event the time period shall run until the next business day.

d. No casino licensee or any other person licensed under this act, or any other person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall transfer, convey, or give, with or without consideration, a check cashed in conformity with the requirements of this section to any person other than:

(1) The drawer of the check upon redemption or consolidation in accordance with subsection c. of this section;

(2) A bank for collection or payment of the check;

(3) A purchaser of the casino license as approved by the commission; or

(4) An attorney or casino key employee with no incompatible functions for presentment to the drawer's bank.

The limitation on transferability of checks imposed herein shall apply to checks returned by any bank to the casino licensee without full and final payment.

e. No person other than one licensed as a casino key employee or as a casino employee may engage in efforts to collect upon checks that have been returned by banks without full and final payment, except that an attorney-at-law representing a casino licensee may bring action for such collection.

f. Notwithstanding the provisions of any law to the contrary, checks cashed in conformity with the requirements of this act shall be valid instruments, enforceable at law in the courts of this State. Any check cashed, transferred, conveyed or given in violation of this act shall be invalid and unenforceable for the purposes

of collection but shall be included in the calculation of gross revenue pursuant to section 24 of P.L.1977, c.110 (C.5:12-24).

g. Notwithstanding the provisions of subsection b. of this section to the contrary, a casino licensee may accept a check from a person to enable the person to take part in gaming or simulcast wagering activity as a player, may give cash or cash equivalents in exchange for such a check, or may accept a check in redemption or partial redemption of a check issued in accordance with subsection b., provided that:

(1) (a) The check is drawn by a casino licensee pursuant to the provisions of subsection k. of section 100 of P.L.1977, c.110 (C.5:12-100) or upon a withdrawal of funds from an account established in accordance with the provisions of subsection b. of this section or is drawn by a casino licensee as payment for winnings from an authorized game or simulcast wagers;

(b) The check is issued by a banking institution which is chartered in a country other than the United States on its account at a federally chartered or state-chartered bank and is made payable to "cash," "bearer," a casino licensee, or the person presenting the check;

(c) The check is issued by a banking institution which is chartered in the United States on its account at another federally chartered or state-chartered bank and is made payable to "cash," "bearer," a casino licensee, or the person presenting the check;

(d) The check is issued by an annuity jackpot trust as payment for winnings from an annuity jackpot; or

(e) The check is issued by an affiliate of a casino licensee that holds a gaming license in any jurisdiction;

(2) The check is identifiable in a manner approved by the commission as a check issued for a purpose listed in paragraph (1) of this subsection;

(3) The check is dated, but not postdated;

(4) The check is presented to the cashier or the cashier's representative by the original payee and its validity is verified by the drawer in the case of a check drawn pursuant to subparagraph (a) of paragraph (1) of this subsection, or the check is verified in accordance with regulations promulgated by the commission in the case of a check issued pursuant to subparagraph (b), (c), (d) or (e) of paragraph (1) of this subsection; and

(5) The regulations concerning check cashing procedures are observed by the casino licensee and its employees and agents.

No casino licensee shall issue a check for the purpose of making a loan or otherwise providing or allowing any advance or

credit to a person to enable the person to take part in gaming or simulcast wagering activity as a player.

h. (1) Notwithstanding the provisions of subsection b. and subsection c. of this section to the contrary, a casino licensee may, at a location outside the casino, accept a personal check or checks from a person for up to $1,500 in exchange for cash or cash equivalents, and may, at such locations within the casino as may be permitted by the commission, accept a personal check or checks for up to $1,500 in exchange for cash, cash equivalents, tokens, chips, or plaques to enable the person to take part in gaming or simulcast wagering activity as a player, provided that:

(a) The check is drawn on the patron's bank or brokerage cash management account;

(b) The check is for a specific amount;

(c) The check is made payable to the casino licensee;

(d) The check is dated but not post-dated;

(e) The patron's identity is established by examination of one of the following: valid credit card, driver's license, passport, or other form of identification credential which contains, at a minimum, the patron's signature;

(f) The check is restrictively endorsed "For Deposit Only" to the casino licensee's bank account and deposited on the next banking day following the date of the transaction; and

(g) The total amount of personal checks accepted by any one licensee pursuant to this subsection that are outstanding at any time, including the current check being submitted, does not exceed $1,500.

(2) Nothing in paragraph (1) of this subsection shall be construed to limit the authority of a casino licensee to accept, and exchange for cash or cash equivalents other than tokens, chips, or plaques, a check from a patron that is not offered or exchanged in order to enable the patron or anyone else to take part in gaming or simulcast wagering activity as a player, provided that:

(a) The patron so certifies;

(b) The casino licensee has no reason to believe that the cash or cash equivalents will be used to enable the patron or anyone else to take part in gaming or simulcast wagering activity as a player;

(c) The check is not accepted or exchanged in the casino or simulcasting facility; and

(d) The casino licensee maintains full documentation of the transaction in accordance with regulations established by the commission.

i. Checks cashed pursuant to the provisions of paragraph (1) of subsection h. of this section which are subsequently uncollectable may

not be deducted from the total of all sums received in calculating gross revenue pursuant to section 24 of P.L.1977, c.110 (C.5:12-24).

j. A person may request the commission to put that person's name on a list of persons to whom the extension of credit by a casino as provided in this section would be prohibited by submitting to the commission the person's name, address, and date of birth. The person does not need to provide a reason for this request. The commission shall provide this list to the credit department of each casino; neither the commission nor the credit department of a casino shall divulge the names on this list to any person or entity other than those provided for in this subsection. If such a person wishes to have that person's name removed from the list, the person shall submit this request to the commission, which shall so inform the credit departments of casinos no later than three days after the submission of the request.

k. Notwithstanding the provisions of paragraph (4) of subsection b. of this section to the contrary, a casino licensee may, prior to the completion of the verifications that are otherwise required by the rules of the commission for a casino licensee to issue credit, accept a check from a person to enable such person to take part in gaming or simulcast wagering as a player, or may give cash or cash equivalents in exchange for such check, provided that:

(1) the casino licensee records in the credit file of the person:

(a) the efforts that were made to complete the required verifications and the reasons why the verifications could not be completed; and

(b) a description of the criteria that were relied upon in determining to issue credit to the person prior to the completion of the required verifications;

(2) the check otherwise complies with the requirements of subsection b. of this section and is processed by the casino licensee in accordance with all other provisions of this section and the regulations of the commission; and

(3) any check accepted by a casino licensee pursuant to the provisions of this subsection:

(a) is clearly marked as such in a manner approved by the commission; and

(b) may not be deducted from the total of all sums received in calculating gross revenue pursuant to section 24 of P.L.1977, c.110 (C.5:12-24), even if such check should subsequently prove uncollectible or the casino licensee completes all of the required verifications prior to its deposit or presentment.

39. Section 102 of P.L.1977, c.110 (C.5:12-102) is amended to read as follows:

C.5:12-102 Junkets and complimentary services.

102. Junkets and Complimentary Services. a. No junkets may be organized or permitted except in accordance with the provisions of this act. No person may act as a junket representative or junket enterprise except in accordance with this section.

b. A junket representative employed by a casino licensee, an applicant for a casino license or an affiliate of a casino licensee shall be licensed as a casino employee in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.); provided, however, that said licensee need not be a resident of this State. Any person who holds a current and valid casino employee license may act as a junket representative while employed by a casino licensee or an affiliate. No casino licensee or applicant for a casino license may employ or otherwise engage a junket representative who is not so licensed.

c. Junket enterprises which, and junket representatives not employed by a casino licensee or an applicant for a casino license or by a junket enterprise who, are engaged in activities governed by this section shall be subject to the provisions of subsection c. of section 92 and subsection b. of section 104 of P.L.1977, c.110 (C.5:12-92 and 5:12-104) with regard to those activities, unless otherwise directed by the commission pursuant to subsection k. of this section. Such of the owners, management and supervisory personnel, and other principal employees of a junket enterprise as the commission may consider appropriate for qualification shall qualify under the standards, except for residency, established for qualification of a casino key employee under P.L.1977, c.110 (C.5:12-1 et seq.).

d. Prior to the issuance of any license required by this section, an applicant for licensure shall submit to the jurisdiction of the State of New Jersey and shall demonstrate to the satisfaction of the commission that he is amenable to service of process within this State. Failure to establish or maintain compliance with the requirements of this subsection shall constitute sufficient cause for the denial, suspension or revocation of any license issued pursuant to this section.

e. Upon petition by the holder of a casino license, an applicant for junket representative licensure may be issued a temporary license by the commission, provided that:

(1) the applicant for licensure is employed by a casino licensee;

(2) the applicant for licensure has filed a completed application as required by the commission;

(3) the division either certifies to the commission that the completed application for licensure as specified in paragraph (2) of this subsection has been in the possession of the division for at least 60 days or agrees to allow the commission to consider the application in some lesser time; and

(4) the division does not object to the temporary licensure of the applicant; provided, however, that failure of the division to object prior to the temporary licensure of the applicant shall not be construed to reflect in any manner upon the qualifications of the applicant for licensure.

In addition to any other authority granted by P.L.1977, c.110 (C.5:12-1 et seq.), the commission shall have the authority, upon receipt of a representation by the division that it possesses information which raises a reasonable possibility that a junket representative does not qualify for licensure, to immediately suspend, limit or condition any temporary license issued pursuant to this subsection, pending a hearing on the qualifications of the junket representative, in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.).

Unless otherwise terminated pursuant to P.L.1977, c.110 (C.5:12-1 et seq.), any temporary license issued pursuant to this subsection shall expire 12 months from the date of its issuance, and shall be renewable by the commission, in the absence of an objection by the division, as specified in paragraph (4) of this subsection, for one additional six-month period.

f. Every agreement concerning junkets entered into by a casino licensee and a junket representative or junket enterprise shall be deemed to include a provision for its termination without liability on the part of the casino licensee, if the commission orders the termination upon the suspension, limitation, conditioning, denial or revocation of the licensure of the junket representative or junket enterprise, in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.). Failure to expressly include such a condition in the agreement shall not constitute a defense in any action brought to terminate the agreement.

g. A casino licensee shall be responsible for the conduct of any junket representative or junket enterprise associated with it and for the terms and conditions of any junket engaged in on its premises, regardless of the fact that the junket may involve persons not employed by such a casino licensee.

h. A casino licensee shall be responsible for any violation or deviation from the terms of a junket. Notwithstanding any other

provisions of this act, the commission may, after hearings in accordance with this act, order restitution to junket participants, assess penalties for such violations or deviations, prohibit future junkets by the casino licensee, junket enterprise or junket representative, and order such further relief as it deems appropriate.

i. The commission shall, by regulation, prescribe methods, procedures and forms for the delivery and retention of information concerning the conduct of junkets by casino licensees. Without limitation of the foregoing, each casino licensee, in accordance with the rules of the commission, shall:

(1) Maintain on file a report describing the operation of any junket engaged in on its premises;

(2) (Deleted by amendment, P.L.1995, c.18.); and

(3) Submit to the commission and division a list of all its employees who are acting as junket representatives.

j. Each casino licensee, junket representative or junket enterprise shall, in accordance with the rules of the commission, file a report with the division with respect to each list of junket patrons or potential junket patrons purchased directly or indirectly by the casino licensee, junket representative or enterprise.

k. The commission shall have the authority to determine, either by regulation, or upon petition by the holder of a casino license, that a type of arrangement otherwise included within the definition of "junket" established by section 29 of P.L.1977, c.110 (C.5:12-29) shall not require compliance with any or all of the requirements of this section. The commission shall seek the opinion of the division prior to granting any exemption. In granting exemptions, the commission shall consider such factors as the nature, volume and significance of the particular type of arrangement, and whether the exemption would be consistent with the public policies established by this act. In applying the provisions of this subsection, the commission may condition, limit, or restrict any exemption as the commission may deem appropriate.

l. No junket enterprise or junket representative or person acting as a junket representative may:

(1) Engage in efforts to collect upon checks that have been returned by banks without full and final payment;

(2) Exercise approval authority with regard to the authorization or issuance of credit pursuant to section 101 of P.L.1977, c.110 (C.5:12-101);

(3) Act on behalf of or under any arrangement with a casino licensee or a gaming patron with regard to the redemption, con-

solidation, or substitution of the gaming patron's checks awaiting deposit pursuant to subsection c. of section 101 of P.L.1977, c.110 (C.5:12-101);

(4) Individually receive or retain any fee from a patron for the privilege of participating in a junket;

(5) Pay for any services, including transportation, or other items of value provided to, or for the benefit of, any patron participating in a junket.

m. No casino licensee shall offer or provide any complimentary services, gifts, cash or other items of value to any person unless:

(1) The complimentary consists of room, food, beverage or entertainment expenses provided directly to the patron and his guests by the licensee or indirectly to the patron and his guests on behalf of a licensee by a third party; or

(2) The complimentary consists of documented transportation expenses provided directly to the patron and his guests by the licensee or indirectly to the patron and his guests on behalf of a licensee by a third party, provided that the licensee complies with regulations promulgated by the commission to ensure that a patron's and his guests' documented transportation expenses are paid for or reimbursed only once; or

(3) The complimentary consists of coins, tokens, cash or other complimentary items or services provided through a bus coupon or other complimentary distribution program which, notwithstanding the requirements of section 99 of P.L.1977, c.110 (C.5:12-99), shall be filed with the commission upon the implementation of the program or maintained pursuant to commission regulation.

Notwithstanding the foregoing, a casino licensee may offer and provide complimentary cash or noncash gifts which are not otherwise included in paragraphs (1) through (3) of this subsection to any person, provided that any such gifts in excess of $2,000.00 per trip, or such greater amount as the commission may establish by regulation, are supported by documentation regarding the reason the gift was provided to the patron and his guests, including where applicable, a patron's player rating, which documentation shall be maintained by the casino licensee. For the purposes of this paragraph, all gifts presented to a patron and the patron's guests directly by the licensee or indirectly on behalf of the licensee by a third party within any five-day period shall be considered to have been made during a single trip. In the case of cash gifts, the commission shall establish by regulation the total amount of such gifts that a licensee may provide to a patron each year.

Each casino licensee shall maintain a regulated complimentary service account, for those complimentaries which are permitted pursuant to this section, and shall submit a quarterly report to the commission based upon such account and covering all complimentary services offered or engaged in by the licensee during the immediately preceding quarter. Such reports shall include identification of the regulated complimentary services and their respective costs, the number of persons by category of service who received the same, and such other information as the commission may require.

n. As used in this subsection, "person" means any State officer or employee subject to financial disclosure by law or executive order and any other State officer or employee with responsibility for matters affecting casino activity; any special State officer or employee with responsibility for matters affecting casino activity; the Governor; any member of the Legislature or full-time member of the Judiciary; any full-time professional employee of the Office of the Governor, or the Legislature; members of the Casino Reinvestment Development Authority; the head of a principal department; the assistant or deputy heads of a principal department, including all assistant and deputy commissioners; the head of any division of a principal department; any member of the governing body, or the municipal judge or the municipal attorney of a municipality wherein a casino is located; any member of or attorney for the planning board or zoning board of adjustment of a municipality wherein a casino is located, or any professional planner or consultant regularly employed or retained by such planning board or zoning board of adjustment.

No casino applicant or licensee shall provide directly or indirectly to any person any complimentary service or discount which is other than such service or discount that is offered to members of the general public in like circumstance.

o. Any person who, on the effective date of this 1992 amendatory act, P.L.1992, c.9, holds a current and valid plenary junket representative license, a junket representative license with a sole owner-operator endorsement, or a junket enterprise license authorizing the conduct of junket activities, shall be considered licensed in accordance with the provisions of this section and subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92) for the remaining term of his current license.

40. Section 106 of P.L.1977, c.110 (C.5:12-106) is amended to read as follows:

C.5:12-106 Casino employment.

106. Casino Employment. a. A casino licensee shall not appoint or employ in a position requiring a casino key employee license, a casino employee license, or a casino service employee registration any person not possessing a current and valid license or registration permitting such appointment or employment.

b. A casino licensee shall, within 24 hours of receipt of written or electronically transferred notice thereof, terminate the appointment or employment of any person whose license or registration has been revoked or has expired. A casino licensee shall comply in all respects with any order of the commission imposing limitations or restrictions upon the terms of employment or appointment in the course of any investigation or hearing.

c. An applicant for or a holder of a casino key employee license or a casino employee license whose application is denied or whose licensure is revoked, as the case may be, shall not, in addition to any restrictions imposed by the regulations of the commission on a reapplication for licensure, be employed by a casino licensee in a position that does not require a license until five years have elapsed from the date of the denial or revocation, except that the commission may permit such employment upon good cause shown.

41. Section 139 of P.L.1977, c.110 (C.5:12-139) is amended to read as follows:

C.5:12-139 Casino license fees.

139. Casino License Fees. a. The commission shall, by regulation, establish annual fees for the issuance or renewal of casino licenses. The issuance fee shall be based upon the cost of investigation and consideration of the license application and shall be not less than $200,000.00. The renewal fee shall be based upon the cost of maintaining control and regulatory activities contemplated by this act and shall be not less than $100,000.00 for a one-year casino license and $200,000.00 for a four-year casino license.

b. The Attorney General shall certify to the commission actual and prospective costs of the investigative and enforcement functions of the division, which costs shall be the basis, together with the operating expenses of the commission, for the establishment of annual license issuance and renewal fees.

c. A nonrefundable deposit of at least $100,000.00 shall be required to be posted with each application for a casino license and shall be applied to the initial license fee if the application is approved.

42. Section 7 of P.L.1984, c.218 (C.5:12-155) is amended to read as follows:

C.5:12-155 Officers; quorum.

7. The Governor shall designate from among the appointed and voting public members, a chairman and a vice chairman of the Casino Reinvestment Development Authority, who shall serve in those capacities at the pleasure of the Governor. The powers of the Casino Reinvestment Development Authority shall be vested in the members thereof in office from time to time and seven voting members of the Casino Reinvestment Development Authority shall constitute a quorum at any meeting thereof. Action may be taken by motions and resolutions adopted by the Casino Reinvestment Development Authority at any meeting thereof by the affirmative vote of at least seven members of the Casino Reinvestment Development Authority. No vacancy in the membership of the Casino Reinvestment Development Authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the Casino Reinvestment Development Authority.

43. Section 4 of P.L.1981, c.142 (C.52:13D-17.2) is amended to read as follows:

C.52:13D-17.2 "Person" defined; conflict of interest; violations; penalty.

4. a. As used in this section "person" means any State officer or employee subject to financial disclosure by law or executive order and any other State officer or employee with responsibility for matters affecting casino activity; any special State officer or employee with responsibility for matters affecting casino activity; the Governor; any member of the Legislature or any full-time member of the Judiciary; any full-time professional employee of the Office of the Governor, or the Legislature; members of the Casino Reinvestment Development Authority; the head of a principal department; the assistant or deputy heads of a principal department, including all assistant and deputy commissioners; the head of any division of a principal department; any member of the governing body, or the municipal judge or the municipal attorney of a municipality wherein a casino is located; any member of or attorney for the planning board or zoning board of adjustment of

a municipality wherein a casino is located, or any professional planner, or consultant regularly employed or retained by such planning board or zoning board of adjustment.

b. No State officer or employee, nor any person, nor any member of the immediate family of any State officer or employee, or person, nor any partnership, firm or corporation with which any such State officer or employee or person is associated or in which he has an interest, nor any partner, officer, director or employee while he is associated with such partnership, firm, or corporation, shall hold, directly or indirectly, an interest in, or hold employment with, or represent, appear for, or negotiate on behalf of, any holder of, or applicant for, a casino license, or any holding or intermediary company with respect thereto, in connection with any cause, application, or matter, except that (1) a State officer or employee other than a State officer or employee included in the definition of person, and (2) a member of the immediate family of a State officer or employee, or of a person, may hold employment with the holder of, or applicant for, a casino license if, in the judgment of the Executive Commission on Ethical Standards, the Joint Legislative Committee on Ethical Standards, or the Supreme Court, as appropriate, such employment will not interfere with the responsibilities of the State officer or employee, or person, and will not create a conflict of interest, or reasonable risk of the public perception of a conflict of interest, on the part of the State officer or employee, or person. No special State officer or employee without responsibility for matters affecting casino activity, excluding those serving in the Departments of Education, Health, and Human Services and the Commission on Higher Education, shall hold, directly or indirectly, an interest in, or represent, appear for, or negotiate on behalf of, any holder of, or applicant for, a casino license, or any holding or intermediary company with respect thereto, in connection with any cause, application, or matter. However, a special State officer or employee without responsibility for matters affecting casino activity may hold employment directly with any holder of or applicant for a casino license or any holding or intermediary company thereof and if so employed may hold, directly or indirectly, an interest in, or represent, appear for, or negotiate on behalf of, his employer, except as otherwise prohibited by law.

c. No person or any member of his immediate family, nor any partnership, firm or corporation with which such person is associated or in which he has an interest, nor any partner, officer,

director or employee while he is associated with such partnership, firm or corporation, shall, within two years next subsequent to the termination of the office or employment of such person, hold, directly or indirectly, an interest in, or hold employment with, or represent, appear for or negotiate on behalf of, any holder of, or applicant for, a casino license in connection with any cause, application or matter, or any holding or intermediary company with respect to such holder of, or applicant for, a casino license in connection with any phase of casino development, permitting, licensure or any other matter whatsoever related to casino activity, except that:

(1) a member of the immediate family of a person may hold employment with the holder of, or applicant for, a casino license if, in the judgment of the Executive Commission on Ethical Standards, the Joint Legislative Committee on Ethical Standards, or the Supreme Court, as appropriate, such employment will not interfere with the responsibilities of the person and will not create a conflict of interest, or reasonable risk of the public perception of a conflict of interest, on the part of the person; and

(2) an employee who is terminated as a result of a reduction in the workforce at the agency where employed, other than an employee who held a policy-making management position at any time during the five years prior to termination of employment, may, at any time prior to the end of the two-year period, accept employment with the holder of, or applicant for, a casino license if, in the judgment of the Executive Commission on Ethical Standards, the Joint Legislative Committee on Ethical Standards, or the Supreme Court, as appropriate, such employment will not create a conflict of interest, or reasonable risk of the public perception of a conflict of interest, on the part of the employee. In no case shall the restrictions of this subsection apply to a secretarial or clerical employee. Nothing herein contained shall alter or amend the post-employment restrictions applicable to members and employees of the Casino Control Commission and employees and agents of the Division of Gaming Enforcement pursuant to subsection b. (2) of section 59 and to section 60 of P.L.1977, c.110 (C.5:12-59 and C.5:12-60).

d. This section shall not apply to the spouse of a State officer or employee, which State officer or employee is without responsibility for matters affecting casino activity, who becomes the spouse subsequent to the State officer's or employee's appointment or employment as a State officer or employee and who is not individually or directly employed by a holder of, or applicant for, a casino license, or any holding or intermediary company.

e. The Joint Legislative Committee on Ethical Standards and the Executive Commission on Ethical Standards, as appropriate, shall forthwith determine and publish, and periodically update, a list of those positions in State government with responsibility for matters affecting casino activity.

f. No person shall solicit or accept, directly or indirectly, any complimentary service or discount from any casino applicant or licensee which he knows or has reason to know is other than a service or discount that is offered to members of the general public in like circumstance.

g. No person shall influence, or attempt to influence, by use of his official authority, the decision of the commission or the investigation of the division in any application for licensure or in any proceeding to enforce the provisions of this act or the regulations of the commission. Any such attempt shall be promptly reported to the Attorney General; provided, however, that nothing in this section shall be deemed to proscribe a request for information by any person concerning the status of any application for licensure or any proceeding to enforce the provisions of this act or the regulations of the commission.

h. Any person who willfully violates the provisions of this section is a disorderly person and shall be subject to a fine not to exceed $500.00 or imprisonment not to exceed six months, or both.

C.5:12-161.1 Atlantic City Fund, established in CRDA.

44. There is created and established in the Casino Reinvestment Development Authority a special account to be known as the "Atlantic City Fund," into which shall be deposited or credited the moneys specified in section 45 of this amendatory and supplementary act, P.L.1995, c.18 (C.5:12-161.2), and the moneys specified in subsection f. of section 3 of P.L.1984, c.218 (C.5:12-144.1). The moneys in the fund shall be expended by the authority for economic development projects of a revenue-producing nature that foster the redevelopment of Atlantic City, other than the construction or renovation of casino hotels. The moneys may also be expended for appropriate and reasonable administrative expenses incurred in the administration of the fund by the authority. At least 30 days before the authority votes on an application for funding for a project, the authority shall provide to the Chairpersons of the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or their successor committees, all relevant information concerning the project.

C.5:12-161.2 Moneys payable to the Atlantic City Fund; casino shares.

45. a. Beginning with Fiscal Year 1995-1996 and for the following three fiscal years, if the amount of money expended as operating expenses by the Casino Control Commission and the Division of Gaming Enforcement in each of those fiscal years is less than $57,300,000, the amount of the difference shall be due and payable to the Atlantic City Fund, created by section 44 of this amendatory and supplementary act, P.L.1995, c.18 (C.5:12-161.1), by all casino licensees on the last day of October following the end of each of those fiscal years. Beginning with Fiscal Year 1999-2000 and for the following three fiscal years, an amount equal to the average of the amounts paid to the Atlantic City Fund for Fiscal Years 1995-1996 through 1998-1999 shall be due and payable to the Atlantic City Fund by all casino licensees on the last day of October following the end of each of those fiscal years. Any amount expended by the commission or the division in connection with the investigation of an application for a statement of compliance, interim casino authorization, or a casino license other than a casino license existing on the effective date of this act shall not be included in the calculation of the commission and division expenditures for the purposes of this subsection.

b. Each casino licensee shall pay to the authority for deposit in the fund as the licensee's share of the amount required pursuant to subsection a. of this section an amount equal to its percentage of the total gross revenue of the relevant fiscal year. The amount of the gross revenue and the amount due from each licensee shall be determined and certified by the Casino Control Commission. If a licensee fails to pay the amount due or underpays by an unjustifiable amount, the commission shall impose a fine of 5% for the amount due or of the underpayment for each month or portion thereof the licensee is in default of payment, up to 25% of the amount in default; any fines imposed shall be paid to the authority for deposit in the fund.

46. Section 3 of P.L.1984, c.218 (C.5:12-144.1) is amended to read as follows:

C.5:12-144.1 Imposition of investment alternative tax.

3. a. (1) Commencing with the first annual tax return of a licensee for any calendar year beginning after December 31, 1983, there is imposed an investment alternative tax on the gross revenues as defined in section 24 of P.L.1977, c.110 (C.5:12-24) of

the licensee in the amount of 2.5% of those gross revenues. The tax imposed with respect to each calendar year shall be due and payable on the last day of April next following the end of the calendar year. The State Treasurer shall have a lien against the property constituting the casino of a licensee for the amount of any tax not paid when due. No tax shall be imposed, however, on the gross revenues received by a licensee during the first 12 months of the operation of any casino that commences operation after January 1, 1984.

(2) A licensee shall pay to the State Treasurer on or before the 15th day of the first, fourth, seventh, and 10th months of each year as partial payment of the investment alternative tax imposed pursuant to paragraph (1) of this subsection an amount equal to 1.25% of the estimated gross revenues for the three-month period immediately preceding the first day of those months. The moneys received shall be placed in an escrow account and shall be held until the licensee directs that the moneys be transferred to the Casino Reinvestment Development Authority for the purchase of bonds issued by or offered through the Casino Reinvestment Development Authority or pursuant to a contract for such a purchase, be made available to the licensee for a direct investment approved by the authority, or be transferred to the Casino Revenue Fund as partial payment of the investment alternative tax imposed pursuant to paragraph (1) of this subsection. Any interest derived from the moneys in the escrow account shall be paid or made available to the Casino Revenue Fund. If a licensee fails to pay the amount due or underpays by an unjustifiable amount, the Casino Control Commission shall impose a fine of 5% of the amount due or of the underpayment, as the case may be, for each month or portion thereof the licensee is in default of payment, up to 25% of the amount in default. Any fine imposed shall be paid to the Casino Reinvestment Development Authority and shall be used for the purposes of this 1984 amendatory and supplementary act.

b. Each licensee shall be entitled to an investment tax credit against the tax imposed by subsection a. of this section, provided the licensee shall pay over the moneys required pursuant to section 5 of P.L.1993, c.159 (C.5:12-173.5): (1) for the first 10 years of a licensee's tax obligation, in an amount equal to twice the purchase price of bonds issued by the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this 1984 amendatory and supplementary act, purchased by the licensee, or twice the amount of the investments authorized in lieu thereof, and (2) for the remainder of a licensee's tax obligation,

in an amount equal to twice the purchase price of bonds issued by the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this 1984 amendatory and supplementary act, purchased by the licensee, or twice the amount of the investments authorized in lieu thereof, and twice the amount of investments made by a licensee in other approved eligible investments made pursuant to section 25 of this act. The Casino Reinvestment Development Authority shall have the power to enter into a contract or contracts with a licensee pursuant to which the Casino Reinvestment Development Authority agrees to issue and sell bonds to the licensee, and the licensee agrees to purchase the bonds issued by or offered through the Casino Reinvestment Development Authority, in annual purchase price amounts as will constitute a credit against at least 50% of the tax to become due in any future year or years. The contract may contain those terms and conditions relating to the terms of the bonds and to the issuance and sale of the bonds to the licensee as the Casino Reinvestment Development Authority shall deem necessary or desirable. The contract shall not be deemed to be in violation of section 104 of P.L.1977, c.110 (C.5:12-104). After the first 10 years of a licensee's investment alternative tax obligation, a licensee will have the option of entering into a contract with the Casino Reinvestment Development Authority to have its tax credit comprised of direct investments in approved eligible projects. These direct investments shall not comprise more than 50% of a licensee's eligible tax credit in any one year.

The entering of a contract pursuant to this section shall be sufficient to entitle a licensee to an investment tax credit for the appropriate tax year.

c. A contract entered into between a licensee and the Casino Reinvestment Development Authority may provide for a deferral of payment for and delivery of bonds required to be purchased and for a deferral from making approved eligible investments in any year, but no deferral shall occur more than two years consecutively. A deferral of payment for any bonds required to be purchased by a licensee and a deferral from making approved eligible investments may be granted by the Casino Reinvestment Development Authority only upon a determination by the Casino Control Commission that purchase of these bonds or making approved eligible investments would cause extreme financial hardship to the licensee and a determination by the Casino Reinvestment Development Authority that the deferral of the payment

would not violate any covenant or agreement or impair any financial obligation of the Casino Reinvestment Development Authority. The contract may establish a late payment charge to be paid in the event of deferral or other late payment at a rate as shall be agreed to by the Casino Reinvestment Development Authority. If a deferral of purchase or investment is granted, the licensee shall be deemed to have made the purchase or investment at the time required by the contract, except that if the purchase is not made at the time to which the purchase or investment was deferred, then the licensee shall be deemed not to have made the purchase or investment. The Casino Control Commission shall adopt regulations establishing a uniform definition of extreme financial hardship applicable to all these contracts. If a licensee petitions the Casino Reinvestment Development Authority for a deferral, the Casino Reinvestment Development Authority shall give notice of that petition to the Casino Control Commission and to the Division of Gaming Enforcement within three days of the filing of the petition. The Casino Control Commission shall render a decision within 60 days of notice as to whether the licensee has established extreme financial hardship, after consultation with the Division of Gaming Enforcement. The Casino Reinvestment Development Authority shall render a decision as to the availability of the deferral within 10 days of the receipt by it of the decision of the Casino Control Commission and shall notify the Division of Gaming Enforcement and the Casino Control Commission of that decision. If a deferral is granted, the Casino Reinvestment Development Authority may determine whether the purchases or investments shall be made in a lump sum, made over a period of years, or whether the period of obligation shall be extended an additional period of time equivalent to the period of time deferred.

d. The license of any licensee which has defaulted in its obligation to make any purchase of bonds or investment in any approved eligible project under a contract entered into pursuant to subsection b. of this section for a period of 90 days may be suspended by the Casino Control Commission until that purchase is made or deferred in accordance with subsection b. of this section, or a fine or other penalty may be imposed upon the licensee by the commission. If the Casino Control Commission elects not to suspend the license of a licensee after the licensee has first defaulted in its obligation but instead imposes some lesser penalty and the licensee continues to be in default of its obligation after a period of 30 additional days and after any additional 30-day period, the commission may impose another fine or penalty

upon the licensee, which may include suspension of that licensee's license. The fine shall be 5% of the amount of the obligation owed for each month or portion thereof a licensee is in default, up to 25% of that obligation; shall be paid to the Casino Reinvestment Development Authority; and shall be used for the purposes of this 1984 amendatory and supplementary act.

e. A contract entered into by a licensee and the Casino Reinvestment Development Authority pursuant to subsection b. of this section may provide that after the first 10 years of a licensee's investment alternative tax obligation imposed by subsection a. of this section, the Casino Reinvestment Development Authority may repurchase bonds previously sold to the licensee, which were issued after the 10th year of a licensee's investment alternative tax obligation, by the Casino Reinvestment Development Authority, if the Casino Reinvestment Development Authority determines that the repurchase will not violate any agreement or covenant or impair any financial obligation of the Casino Reinvestment Development Authority and that the licensee will reinvest the proceeds of the resale in an eligible project approved by the Casino Reinvestment Development Authority.

f. (1) During the 30 years a licensee is obligated to pay an investment alternative tax pursuant to subsection k. of this section, the total of (a) the proceeds of all bonds purchased by a licensee from or through the Casino Reinvestment Development Authority and (b) all approved investments in eligible projects by a licensee shall be devoted to the financing of projects in the following areas and amounts:

Areas		Yrs. 1-3	Yrs. 4-5	Yrs. 6-10	Yrs. 11-15	Yrs. 16-20	Yrs. 21-25	Yrs. 26-30
(a)	Atlantic City	100%	90%	80%	50%	30%	20%	
(b)	South Jersey		8%	12%	28%	43%	45%	
(c)	North Jersey		2%	8%	22%	27%	35%	35%
(d)	Atlantic City through the Atlantic City Fund							65%,

except that, with respect to the obligations for calendar years 1994 through 1998, the amount allocated for the financing of projects in North Jersey from each casino licensee's obligation shall be the amount allocated for calendar year 1993, and the difference between that amount and the amount to be allocated to North Jersey, on the basis of the above schedule, from each

casino licensee's obligations for calendar years 1994 through 1998 shall be paid into or credited to the Atlantic City Fund established by section 44 of P.L.1995, c.18 (C.5:12-161.1) and be devoted to the financing of projects in Atlantic City through that fund. For the purposes of this paragraph, "South Jersey" means the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem; and "North Jersey" means the remaining 12 counties of the State. For the purposes of this 1984 amendatory and supplementary act, bond "proceeds" means all funds received from the sale of bonds and any funds generated or derived therefrom.

In the financing of projects outside Atlantic City, the Casino Reinvestment Development Authority shall give priority to the revitalization of the urban areas of this State in the ways specified in section 12 of this 1984 amendatory and supplementary act. Those areas shall include, but not be limited to, all municipalities qualifying for aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.).

Within nine months from the effective date of this 1984 amendatory and supplementary act, the Casino Reinvestment Development Authority shall determine the allocation of projected available moneys to municipalities in South Jersey for the first seven years of their receipt of funds, giving priority to the revitalization of the urban areas of the region. Municipalities receiving such an allocation shall present to the Casino Reinvestment Development Authority for its approval comprehensive plans or projects for which the allocations shall be used. Any such comprehensive plan or project may be submitted to the Casino Reinvestment Development Authority for a determination of eligibility at any time prior to the year for which the funds are allocated, and the Casino Reinvestment Development Authority shall make a determination of eligibility of the plan or project within a reasonable amount of time. If the Casino Reinvestment Development Authority makes a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, for any municipality whose total cost exceeds the amount allocated to that municipality for the first seven years of the receipt of funds by South Jersey municipalities, the Casino Reinvestment Development Authority shall make available sufficient funds in subsequent years necessary to complete those plans or projects, or to complete that portion of the plan or project originally agreed to be funded through the Casino Reinvestment Development Authority, from funds

received by the Casino Reinvestment Development Authority in the years following the seventh year of the receipt of funds by South Jersey municipalities. If the comprehensive plan or project is determined by the Casino Reinvestment Development Authority not to be an eligible plan or project, the municipality may submit any other comprehensive plan or project for a determination of eligibility. If, however, the municipality fails to receive a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, sufficient to exhaust the total allocation to that municipality for any year prior to April 30 of the following year for which the allocation was made, the allocation to that municipality for that year shall cease, and the Casino Reinvestment Development Authority may apply those excess funds to any other comprehensive plan or project in any other municipality in the region whose comprehensive plan or project has received a positive determination of eligibility by the Casino Reinvestment Development Authority.

Within 36 months from the effective date of this 1984 amendatory and supplementary act, the Casino Reinvestment Development Authority shall determine the allocation of projected available moneys to municipalities in North Jersey for the first five years of their receipt of funds, giving priority to the revitalization of the urban areas of the region. Municipalities receiving such an allocation shall present to the Casino Reinvestment Development Authority for its approval comprehensive plans or projects for which the allocations shall be used. Any such comprehensive plan or project may be submitted to the Casino Reinvestment Development Authority for a determination of eligibility at any time prior to the year for which the funds are allocated, and the Casino Reinvestment Development Authority shall make a determination of eligibility of the plan or project within a reasonable amount of time. If the Casino Reinvestment Development Authority makes a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, for any municipality whose total cost exceeds the amount allocated to that municipality for the first five years of the receipt of funds by North Jersey municipalities, the Casino Reinvestment Development Authority shall make available sufficient funds in subsequent years necessary to complete those plans or projects, or to complete that portion of the plan or project originally agreed to be funded through the Casino Reinvestment Development Authority, from funds received by the

Casino Reinvestment Development Authority in the years following the fifth year of the receipt of funds by North Jersey municipalities. If the comprehensive plan or project is determined by the Casino Reinvestment Development Authority not to be an eligible plan or project, the municipality may submit any other comprehensive plan or project for a determination of eligibility. If, however, the municipality fails to receive a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, sufficient to exhaust the total allocation to that municipality for any year prior to April 30 of the following year for which the allocation was made, the allocation to that municipality for that year shall cease, and the Casino Reinvestment Development Authority may apply those excess funds to any other comprehensive plan or project in any other municipality in the region whose comprehensive plan or project has received a positive determination of eligibility by the Casino Reinvestment Development Authority.

(2) Commencing with the first year in which a licensee incurs a tax obligation pursuant to this section, and for the period of two years thereafter, 100% of the proceeds of all bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City pursuant to paragraph (1) of this subsection shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income, as defined in this subsection. For the purposes of this subsection, the "rehabilitation, development, or construction of housing facilities" shall include expenses attributable to site preparation, infrastructure needs and housing-related community facilities and services, including supporting commercial development. Commencing with the fourth year in which a licensee incurs a tax obligation pursuant to this subsection, 50% of the proceeds of all bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City shall be used exclusively to finance the rehabilitation, development, or construction of housing facilities in the city of Atlantic City for persons or families of low through middle income. Commencing with the 11th year in which a licensee incurs a tax obligation pursuant to this section, 50% of the annual aggregate of the proceeds of bonds purchased by a licensee from the Casino Reinvestment

Development Authority which are devoted to the financing of projects in the city of Atlantic City and investments in approved eligible projects commenced by a licensee in the city of Atlantic City shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income.

(3) The Legislature finds that it is necessary to provide for a balanced community and develop a comprehensive housing program. The Casino Reinvestment Development Authority shall determine the need for housing in the city of Atlantic City, in consultation with the city of Atlantic City and specifically its zoning and planning boards. This shall include determining the types and classes of housing to be constructed and the number of units of each type and class of housing to be built. The Casino Reinvestment Development Authority shall give priority to the housing needs of the persons and their families residing in the city of Atlantic City in 1983 and continuing such residency through the effective date of this 1984 amendatory and supplementary act. The actual percentage of the proceeds of bonds and investments in approved eligible projects commenced by a licensee in the city of Atlantic City, which shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income, shall be based upon the authority's determination of the need for housing in the city of Atlantic City conducted pursuant to this subsection. Once the housing needs of the persons residing in the city of Atlantic City in 1983 and continuing such residency through the effective date of this 1984 amendatory and supplementary act have been met, as determined by the Casino Reinvestment Development Authority pursuant to this subsection, any required percentages for such housing in the city of Atlantic City may, in its sole discretion, be waived by the Casino Reinvestment Development Authority. To aid the Casino Reinvestment Development Authority in making these determinations, the Casino Reinvestment Development Authority shall review the proposal for a housing redevelopment program and strategy for the city of Atlantic City approved and adopted by the Casino Control Commission and shall give priority to same and any other plan or project which is consistent with the standards of this subsection and is acceptable to the Casino Reinvestment

Development Authority, pursuant to section 25 of this 1984 amendatory and supplementary act. The Casino Reinvestment Development Authority may determine whether the funds used to finance housing facilities in the city of Atlantic City for persons or families of low, moderate, median range, and middle income are derived from the proceeds of bonds purchased by a licensee from the Casino Reinvestment Development Authority to be devoted to the financing of projects in the city of Atlantic City, investments in approved eligible projects commenced by a licensee in the city of Atlantic City, or a combination of both. Any investment made by a licensee in excess of 100% of its eligible investment tax credit during the first three years and in excess of 50% thereafter in either the purchase of bonds or direct investments in approved eligible projects for low, moderate, median range, and middle income family housing facilities in the city of Atlantic City may be carried forward and credited against the licensee's obligation to make a 100% investment during the first three years and 50% thereafter in low, moderate, median range, and middle income family housing in any future year, with the approval of the Casino Reinvestment Development Authority. For the purposes of this act, "low income families" means families whose income does not exceed 50% of the median income of the area, with adjustments for smaller and larger families. "Moderate income families" means families whose income does not exceed 80% and is not less than 50% of the median income for the area, with adjustments for smaller and larger families. "Median range income families" means families whose income does not exceed 120% and is not less than 80% of the median income for the area, with adjustments for smaller and larger families. "Middle income families" means families whose income does not exceed 150% and not less than 120% of the median income for the area, with adjustments for smaller and larger families. "Median income" means an income defined as median within the Standard Metropolitan Statistical Area for Atlantic City by the United States Department of Housing and Urban Development.

In order to achieve a balanced community, the authority shall ensure that the development of housing for families of low and moderate income shall proceed at the same time as housing for families of median range and middle income, until such time as there is no longer a need for such facilities in the city of Atlantic City, as determined by the Casino Reinvestment Development Authority.

(4) Notwithstanding any other law or section to the contrary, particularly this subsection regarding the waiver of the required percentages for housing in the city of Atlantic City, subsection i. of section 14, and sections 26, 27, 28, 29, and 31 of this 1984 amendatory and supplementary act, nothing shall be implemented or waived by the Casino Reinvestment Development Authority which would reduce, impair, or prevent the fulfillment of the priorities established and contained in this subsection of this 1984 amendatory and supplementary act.

g. If a person is a licensee with regard to more than one approved hotel pursuant to section 82 of P.L.1977, c.110 (C.5:12-82), the person shall separately account for the gross revenues, the investment alternative tax obligations, and the investments for a tax credit against the investment alternative tax for each approved hotel, and the tax obligations of the licensee under this section shall be determined separately for each approved hotel. The licensee may apportion investments between its approved hotels; provided that no amount of investment shall be credited more than once. If a licensee receives the prior approval of the Casino Reinvestment Development Authority, the licensee may make eligible investments in excess of the investments necessary to receive a tax credit against the investment alternative tax for a given calendar year, and the licensee may carry forward this excess investment and have it credited to its next investment alternative tax obligation. If the Casino Reinvestment Development Authority approves of such excess investment and approves the carry forward of this excess investment, and a licensee elects to purchase bonds of the Casino Reinvestment Development Authority or makes direct investments in approved eligible projects in excess of the investments necessary to receive a tax credit against the investment alternative tax for its current obligation, the licensee shall be entitled to a reduction of the amount of investments necessary in future years, which amount shall be determined annually by the Casino Reinvestment Development Authority, taking into account a current market discount rate from the date of the purchase or investment to the date the purchase or investment would have been required to be made.

h. Each casino licensee shall prepare and file, in a form prescribed by the Casino Reinvestment Development Authority, an annual return reporting that financial information as shall be deemed necessary by the Casino Reinvestment Development Authority to carry out the provisions of this act. This return shall

be filed with the Casino Reinvestment Development Authority and the Casino Control Commission on or before April 30 following the calendar year on which the return is based. The Casino Control Commission shall verify to the Casino Reinvestment Development Authority the information contained in the report, to the fullest extent possible. Nothing in this subsection shall be deemed to affect the due dates for making any investment or paying any tax under this section.

i. Any purchase by a licensee of bonds issued by or offered through the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this act and subsection b. of this section and all approved eligible investments made by a licensee pursuant to section 25 of this act and subsection b. of this section are to be considered investments and not taxes owed or grants to the State or any political subdivision thereof. As such, a licensee shall have the possibility of the return of principal and a return on the capital invested as with other investments. Investors in the bonds issued by or offered through the Casino Reinvestment Development Authority shall be provided with an opinion from a recognized financial rating agency or a financial advisory firm with national standing that each loan of bond proceeds by the Casino Reinvestment Development Authority has the minimum characteristics of an investment, in that a degree of assurance exists that interest and principal payments can be made and other terms of the proposed investment be maintained over the period of the investment, and that the loan of the bond proceeds would qualify for a bond rating of "C" or better. If an opinion cannot be obtained from a recognized financial rating agency or a financial advisory firm with national standing, an opinion shall be obtained from an expert financial analyst with national standing, selected and hired by the Casino Reinvestment Development Authority. In order to achieve a balanced portfolio, assure the viability of the authority and the projects, facilities and programs undertaken pursuant to this 1984 amendatory and supplementary act, no more than 25% of the total investments made by or through the Casino Reinvestment Development Authority with the proceeds of bonds generated in each year shall be investments which would qualify for a bond rating of "C," unless all holders of obligations in each year agree to waive the 25% limit for that year. Nothing herein shall be interpreted as limiting the Casino Reinvestment Development Authority from taking any steps it deems appropriate to protect the characteristics of its investment in projects or any

other investments from not being real investments with a prospect for the return of principal and a return on the capital invested. Anything contained in this section shall not be considered a guarantee by the State or any political subdivision thereof of any return of principal or interest, but any purchase by a licensee of bonds or approved eligible investments made by a licensee pursuant to this act shall be at the risk of the licensee. A licensee or the licensees purchasing an issue of bonds issued by the Casino Reinvestment Development Authority in any given year may arrange, at their option, for those bonds or the investments, made by or through the Casino Reinvestment Development Authority with the proceeds of those bonds, to be insured. The cost of any such insurance purchased by a licensee or licensees shall be paid by the licensee or licensees desiring such insurance.

j. The Casino Reinvestment Development Authority shall promulgate rules and regulations deemed necessary to carry out the purposes of this section.

k. The obligation of a licensee to pay an investment alternative tax pursuant to subsection a. of this section shall end for each licensed facility operated by the licensee 30 years after any investment alternative tax obligation is first incurred in connection with each licensed facility operated by the licensee, unless extended in connection with a deferral granted by the Casino Reinvestment Development Authority pursuant to subsection c. of this section.

47. No later than the end of the 15th calendar month after the effective date of this act, the Casino Control Commission and the Division of Gaming Enforcement shall jointly report to the Legislature and the Governor on the impact, during the 12 months following the effective date, of the changes in the regulation and operation of casinos effectuated by this act, including but not limited to the effect of the elimination of the registration requirement for casino hotel employees and the elimination or reduction of various regulatory requirements.

Repealer.

48. Section 8 of P.L.1977, c.110 (C.5:12-8) and section 6 of P.L.1991, c.182 (C.5:12-8.1) are repealed.

49. This act shall take effect immediately.

Approved January 25, 1995.

CHAPTER 19

AN ACT concerning coastal municipalities and supplementing Title 13 of the Revised Statutes.

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

C.13:19-31 Findings, declarations, determinations.

1. The Legislature finds and declares that the New Jersey shore is a valuable environmental and economic resource, and that every effort should be made to ensure the continued viability of the shoreline; that periodic storms threaten to destroy portions of the shore and property located upland of the shore, especially in areas where beach and dune maintenance has been neglected; that although federal shore protection and disaster relief aid has helped to mitigate the adverse effects of subsequent storms on particular beachfronts, many beaches remain ineligible for these types of federal aid due to ignorance of the eligibility requirements; and that many shore municipalities could qualify for federal aid in the future if they implement the basic beach maintenance techniques specified in federal guidelines.

The Legislature therefore determines that it is altogether fitting and proper for the State to provide informational and educational services to shore municipalities concerning the eligibility requirements for federal shore protection and disaster relief aid.

C.13:19-32 DEP guidance document on federal aid, availability; "coastal municipality" defined.

2. a. The Department of Environmental Protection shall prepare a guidance document which provides information to coastal municipalities on eligibility requirements for receiving federal monies related to shore protection projects and disaster aid. The document shall provide detailed information which describes the policies, programs or other actions required of a municipality to qualify for these federal monies, and shall include a section which explains what a municipality must do to create and maintain an engineered beach.

b. Upon completion of the guidance document, the Department of Environmental Protection shall notify all coastal municipalities of the availability of the guidance document. The department shall provide copies of the guidance document to a municipality upon request.

c. As used in this act, "coastal municipality" means any municipality located within the coastal area as defined in section 4 of P.L.1973, c.185 (C.13:19-4).

3. This act shall take effect immediately.

Approved January 25, 1995.

CHAPTER 20

AN ACT concerning criminal offenses related to research facilities and amending N.J.S.2C:1-14, N.J.S.2C:17-3, N.J.S.2C:18-2, N.J.S.2C:18-3, N.J.S.2C:20-2 and N.J.S.2C:43-3.

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

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

Definitions.

2C:1-14. In this code, unless a different meaning plainly is required:

a. "Statute" includes the Constitution and a local law or ordinance of a political subdivision of the State;

b. "Act" or "action" means a bodily movement whether voluntary or involuntary;

c. "Omission" means a failure to act;

d. "Conduct" means an action or omission and its accompanying state of mind, or, where relevant, a series of acts and omissions;

e. "Actor" includes, where relevant, a person guilty of an omission;

f. "Acted" includes, where relevant, "omitted to act";

g. "Person," "he," and "actor" include any natural person and, where relevant, a corporation or an unincorporated association;

h. "Element of an offense" means (1) such conduct or (2) such attendant circumstances or (3) such a result of conduct as

(a) Is included in the description of the forbidden conduct in the definition of the offense;

(b) Establishes the required kind of culpability;

(c) Negatives an excuse or justification for such conduct;

(d) Negatives a defense under the statute of limitations; or

(e) Establishes jurisdiction or venue;

i. "Material element of an offense" means an element that does not relate exclusively to the statute of limitations, jurisdiction, venue or to any other matter similarly unconnected with (1) the harm or evil, incident to conduct, sought to be prevented by the law defining the offense, or (2) the existence of a justification or excuse for such conduct;

j. "Reasonably believes" or "reasonable belief" designates a belief the holding of which does not make the actor reckless or criminally negligent;

k. "Offense" means a crime, a disorderly persons offense or a petty disorderly persons offense unless a particular section in this code is intended to apply to less than all three;

l. (Deleted by amendment, P.L.1991, c.91).

m. "Amount involved," "benefit," and other terms of value. Where it is necessary in this act to determine value, for purposes of fixing the degree of an offense, that value shall be the fair market value at the time and place of the operative act.

n. "Motor vehicle" shall have the meaning provided in R.S.39:1-1.

o. "Unlawful taking of a motor vehicle" means conduct prohibited under N.J.S.2C:20-10 when the means of conveyance taken, operated or controlled is a motor vehicle.

p. "Research facility" means any building, laboratory, institution, organization, school, or person engaged in research, testing, educational or experimental activities, or any commercial or academic enterprise that uses warm-blooded or cold-blooded animals for food or fiber production, agriculture, research, testing, experimentation or education. A research facility includes, but is not limited to, any enclosure, separately secured yard, pad, pond, vehicle, building structure or premises or separately secured portion thereof.

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

Criminal mischief; offense defined, grading.

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

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

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

b. Grading. (1) Criminal mischief is a crime of the third degree if the actor purposely causes pecuniary loss of $2,000.00 or more, or a substantial interruption or impairment of public communication, transportation (including, but not limited to, the defacement, injury or removal of an official traffic sign or signal), supply of water, gas or power, or other public service.

(2) Criminal mischief is a crime of the fourth degree if the actor causes pecuniary loss in excess of $500.00 but less than $2,000.00, or a disorderly persons offense if he causes pecuniary loss of $500.00 or less.

(3) Criminal mischief is a crime of the third degree if the actor damages, defaces, eradicates, alters, receives, releases or causes the loss of any research property used by the research facility, or otherwise causes physical disruption to the functioning of the research facility.

The term "physical disruption" does not include any lawful activity that results from public, governmental, or research facility employee reaction to the disclosure of information about the research facility.

3. N.J.S.2C:18-2 is amended to read as follows:

Burglary.

2C:18-2. Burglary. a. Burglary defined. A person is guilty of burglary if, with purpose to commit an offense therein he:

(1) Enters a research facility, structure, or a separately secured or occupied portion thereof unless the structure was at the time open to the public or the actor is licensed or privileged to enter; or

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

b. Grading. Burglary is a crime of the second degree if in the course of committing the offense, the actor:

(1) Purposely, knowingly or recklessly inflicts, attempts to inflict or threatens to inflict bodily injury on anyone; or

(2) Is armed with or displays what appear to be explosives or a deadly weapon.

Otherwise burglary is a crime of the third degree. An act shall be deemed "in the course of committing" an offense if it occurs in an attempt to commit an offense or in immediate flight after the attempt or commission.

4. N.J.S.2C:18-3 is amended to read as follows:

Unlicensed entry of structures; defiant trespasser; defenses.

2C:18-3. a. Unlicensed entry of structures. A person commits an offense if, knowing that he is not licensed or privileged to do so, he enters or surreptitiously remains in any research facility, structure, or separately secured or occupied portion thereof. An offense under this subsection is a crime of the fourth degree if it is committed in a school or on school property. The offense is a crime of the fourth degree if it is committed in a dwelling. An offense under this section is a crime of the fourth degree if it is committed in a research facility. Otherwise it is a disorderly persons offense.

b. Defiant trespasser. A person commits a petty disorderly persons offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by:

(1) Actual communication to the actor; or

(2) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or

(3) Fencing or other enclosure manifestly designed to exclude intruders.

c. Defenses. It is an affirmative defense to prosecution under this section that:

(1) A structure involved in an offense under subsection a. was abandoned;

(2) The structure was at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the structure; or

(3) The actor reasonably believed that the owner of the structure, or other person empowered to license access thereto, would have licensed him to enter or remain.

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

Consolidation of theft offenses; grading; provisions applicable to theft generally.

2C:20-2. Consolidation of Theft Offenses; Grading; Provisions Applicable to Theft Generally. a. Consolidation of Theft Offenses. Conduct denominated theft in this chapter constitutes a single offense, but each episode or transaction may be the subject of a separate prosecution and conviction. A charge of theft may be supported by evidence that it was committed in any manner that would be theft under this chapter, notwithstanding the specification of a different manner in the indictment or accusation, subject only to the power of the court to ensure fair trial by grant-

ing a bill of particulars, discovery, a continuance, or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

b. Grading of theft offenses.

(1) Theft constitutes a crime of the second degree if:

(a) The amount involved is $75,000.00 or more;

(b) The property is taken by extortion;

(c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.2C:35-2 and the quantity is in excess of one kilogram; or

(d) The property stolen is a person's benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person's health care and the amount involved is $75,000 or more.

(2) Theft constitutes a crime of the third degree if:

(a) The amount involved exceeds $500.00 but is less than $75,000.00;

(b) The property stolen is a firearm, motor vehicle, vessel, boat, horse or airplane;

(c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.2C:35-2 and the amount involved is less than $75,000.00 or is undetermined and the quantity is one kilogram or less;

(d) It is from the person of the victim;

(e) It is in breach of an obligation by a person in his capacity as a fiduciary;

(f) It is by threat not amounting to extortion;

(g) It is of a public record, writing or instrument kept, filed or deposited according to law with or in the keeping of any public office or public servant;

(h) The property stolen is a person's benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person's health care and the amount involved is less than $75,000; or

(i) The property stolen is any real or personal property related to, necessary for, or derived from research, regardless of value, including, but not limited to, any sample, specimens and components thereof, research subject, including any warm-blooded or cold-blooded animals being used for research or intended for use in research, supplies, records, data or test results, prototypes or equipment, as well as any proprietary information or other type of information related to research.

(3) Theft constitutes a crime of the fourth degree if the amount involved is at least $200.00 but does not exceed $500.00. If the amount involved was less than $200.00 the offense constitutes a disorderly persons offense.

(4) The amount involved in a theft shall be determined by the trier of fact. The amount shall include, but shall not be limited to, the amount of any State tax avoided, evaded or otherwise unpaid, improperly retained or disposed of. Amounts involved in thefts committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated in determining the grade of the offense.

c. Claim of right. It is an affirmative defense to prosecution for theft that the actor:

(1) Was unaware that the property or service was that of another;

(2) Acted under an honest claim of right to the property or service involved or that he had a right to acquire or dispose of it as he did; or

(3) Took property exposed for sale, intending to purchase and pay for it promptly, or reasonably believing that the owner, if present, would have consented.

d. Theft from spouse. It is no defense that theft was from the actor's spouse, except that misappropriation of household and personal effects, or other property normally accessible to both spouses, is theft only if it occurs after the parties have ceased living together.

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

Fines and restitutions.

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

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

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

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

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

e. Any higher amount equal to double the pecuniary gain to the offender or loss to the victim caused by the conduct constituting the offense by the offender. In such case the court shall make a finding as to the amount of the gain or loss, and if the record does not contain sufficient evidence to support such a finding the

court may conduct a hearing upon the issue. For purposes of this section the terms "gain" means the amount of money or the value of property derived by the offender and "loss" means the amount of value separated from the victim and includes any reasonable and necessary expense incurred by the owner in recovering or replacing lost, stolen or damaged property, and, with respect to property of a research facility, includes the cost of repeating an interrupted or invalidated experiment or loss of profits. The term "victim" shall mean a person who suffers a personal physical or psychological injury or death or incurs loss of or injury to personal or real property as a result of a crime committed against that person, or in the case of a homicide, the nearest relative of the victim. The term "gain" shall also mean, where appropriate, the amount of any tax, fee, penalty and interest avoided, evaded, or otherwise unpaid or improperly retained or disposed of;

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

g. Up to twice the amounts authorized in subsection a., b., c. or d. of this section, in the case of a second or subsequent conviction of any tax offense defined in Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, as amended and supplemented, or of any offense defined in chapter 20 or 21 of this code.

h. In the case of violations of chapter 35, any higher amount equal to three times the street value of the controlled dangerous substance or controlled substance analog. The street value for purposes of this section shall be determined pursuant to subsection e. of N.J.S.2C:44-2.

The restitution ordered paid to the victim shall not exceed the victim's loss, except that in any case involving the failure to pay any State tax, the amount of restitution to the State shall be the full amount of the tax avoided or evaded, including full civil penalties and interest as provided by law. In any case where the victim of the offense is any department or division of State government, the court shall order restitution to the victim. Any restitution imposed on a person shall be in addition to any fine which may be imposed pursuant to this section.

7. This act shall take effect immediately.

Approved January 25, 1995.

CHAPTER 21

AN ACT concerning standards of ethical conduct for officers and employees of county colleges and amending P.L.1991, c.29.

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

1. Section 4 of P.L.1991, c.29 (C.40A:9-22.4) is amended to read as follows:

C.40A:9-22.4 Local Finance Board to have jurisdiction.

4. The Local Finance Board in the Division of Local Government Services in the Department of Community Affairs shall have jurisdiction to govern and guide the conduct of local government officers or employees regarding violations of the provisions of this act who are not otherwise regulated by a county or municipal code of ethics promulgated by a county or municipal ethics board in accordance with the provisions of this act. Local government officers or employees serving a local government agency created by more than one county or municipality and officers or employees of county colleges established pursuant to N.J.S.18A:64A-1 et seq. shall be under the jurisdiction of the board. The board in interpreting and applying the provisions of this act shall recognize that under the principles of democracy, public officers and employees cannot and should not be expected to be without any personal interest in the decisions and policies of government; that citizens who are government officers and employees have a right to private interests of a personal, financial and economic nature; and that standards of conduct shall distinguish between those conflicts of interest which are legitimate and unavoidable in a free society and those conflicts of interest which are prejudicial and material and are, therefore, corruptive of democracy and free society.

2. This act shall take effect immediately.

Approved January 25, 1995.

CHAPTER 22

AN ACT concerning State bonding requirements and supplementing Title 52 of the Revised Statutes.

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

C.52:32-42 Bond regulations; definitions.

1. a. A contracting agency shall promulgate regulations, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), establishing uniform guidelines in establishing the amount of any bond required in connection with the performance of each type of contract commonly awarded by the contracting agency. The regulations shall include, for each type of contract, a method for determining the appropriate amount of a bond based upon an assessment of the risk to the contracting agency presented by the contract and other factors relevant to the performance of a particular type of contract. The bond percentage required shall be identified in the State contract bid documents prior to the contract bidding date. A contracting agency which seeks to deviate from the requirements of the regulations in a particular case shall obtain the prior approval of the Public Contract Oversight Office established pursuant to P.L....., c. .....(C.....) (now pending before the Legislature as Assembly Bill No. 1623) by establishing a demonstrable need for departure from the contracting agency guidelines.

b. As used in this section:

"contracting agency" means the State or any board, commission, committee, authority or agency of the State which possesses the legal authority to award and make contracts; and

"State contract" means any purchase, contract or agreement the cost or contract price of which is to be paid, in whole or in part, with or out of State or contracting agency funds.

2. This act shall take effect upon the enactment in the law of P.L....., c..... (C. .....) (now pending before the Legislature as Assembly Bill No. 1623) which creates the Public Contract Oversight Office.

Approved January 25, 1995.

CHAPTER 23

AN ACT concerning access by State and local agencies to biotechnology trade secrets and related confidential information and supplementing P.L.1963, c.73 (C.47:1A-1 et seq.).

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

C.47:1A-1.1 Definitions.

1. As used in this act:

"Biotechnology" means any technique that uses living organisms, or parts of living organisms, to make or modify products, to improve plants or animals, or to develop micro-organisms for specific uses; including the industrial use of recombinant DNA, cell fusion, and novel bioprocessing techniques.

"Local agency" means a county or municipality, and includes a local health board or other local subdivision.

"State agency" means each of the principal departments in the Executive Branch of the State Government, and all boards, divisions, commissions, agencies, departments, councils, authorities, offices or officers within any such departments now existing or hereafter established.

C.47:1A-1.2 Restricted access to information.

2. a. When federal law or regulation requires the submission of biotechnology trade secrets and related confidential information, State and local agencies shall not have access to this information except as allowed by federal law.

b. A State or local agency shall not make any information it has access to under this act available to any other State or local agency, or to the general public, except as allowed pursuant to federal law.

3. This act shall take effect immediately.

Approved January 25, 1995.

CHAPTER 24

AN ACT concerning capital stock savings banks and amending P.L.1987, c.201.

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

1. Section 1 of P.L.1987, c.201 (C.17:9A-382) is amended to read as follows:

C.17:9A-382 Definitions.

1. As used in sections 1 through 27 of P.L.1987, c.201 (C.17:9A-382 et seq.):

a. "Beneficial owner":

(1) Includes any person who, directly or indirectly through any contract, arrangement, understanding, relationship or otherwise, has or shares:

(a) Voting power which includes the power to vote, or to direct the voting of shares; or

(b) Investment power which includes the power to dispose, or to direct the disposition of shares;

(2) Includes any person who directly or indirectly creates or uses a trust, proxy, power of attorney, pooling arrangement or any other contract, arrangement or device with the purpose or effect of divesting the person of beneficial ownership of shares or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade this act;

(3) Includes any person who has the right to acquire beneficial ownership of the shares as defined herein within sixty (60) days, including, but not limited to, any right to acquire:

(a) Through the exercise of any option, warrant or right;

(b) Through the conversion of a security;

(c) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(d) Pursuant to the automatic termination of a trust, discretionary account or similar arrangement; except that, any person who acquires a security or power specified in subparagraph (a), (b), or (c) above, with the purpose or effect of changing or influencing the control of the issuer, or in connection with or as a participation in any transaction having such effect or purpose, immediately upon the acquisition shall be deemed to be the beneficial owner of the shares which may be acquired through the exercise or conversion of such security or power. Any securities not outstanding which are subject to these options, warrants, rights, or conversion privileges shall be deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by the person but shall not be deemed to be outstanding for the purpose of computing the percentage of the class by any other person;

(4) Does not include:

(a) Any member of a national securities exchange who holds shares directly or indirectly on behalf of another person solely because the member is the record holder of the securities and,

pursuant to the rules of the exchange, may direct the vote of the shares without instruction on other than contested matters or matters that may affect substantially the rights or privileges of the holders of these shares to be voted, but is otherwise precluded by the rules of the exchange from voting without instruction; or

(b) Any person who in the ordinary course of business is a pledgee of securities under a written pledge agreement until the pledgee had taken all formal steps necessary which are required to declare a default and determines that the power to vote or direct a vote or to dispose or to direct the disposition of pledged shares will be exercised, provided that (i) the pledge agreement is bona fide and was not entered into with the purpose or the effect of changing or influencing the control of the issuer, or in connection with any transaction having any such purpose or effect including any transaction subject to this act; and (ii) the pledge agreement prior to default does not grant to the pledgee: (A) the power to vote or to direct the vote of the pledged securities; or (B) the power to dispose or to direct the disposition of the pledged securities other than the grant of this power pursuant to a pledged agreement under which credit is extended subject to Regulation T of the Federal Reserve Board, 12 C.F.R. 220, and in which the pledgee is a broker or dealer registered under section 15 of the "Securities Exchange Act of 1934," 48 Stat. 895 (15 U.S.C. §78o); or

(c) Any person engaged in business as an underwriter of securities who acquires shares through participation in good faith in a firm commitment underwriting of shares registered under the "Securities Act of 1933," 48 Stat. 74 (15 U.S.C. §77a et seq.), or under the "Securities Exchange Act of 1934," 48 Stat. 881 (15 U.S.C. §78a et seq.), until the expiration of 40 days after the date of the acquisition.

All securities of the same class beneficially owned by a person, regardless of the forms the beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by the person.

b. "Capital stock savings bank" means any savings bank chartered pursuant to the provisions of P.L.1982, c.9 (C.17:9A-8.1 et seq.) and includes any person that controls a capital stock savings bank.

c. "Commissioner" means the Commissioner of Banking.

d. "Control of a capital stock savings bank" includes:

(1) Owning, beneficially or otherwise, controlling, or having power to vote 25% or more of the outstanding shares of any class of voting securities of a capital stock savings bank, directly or indirectly, or acting through one or more persons;

(2) Controlling in any manner the election of a majority of the directors of a capital stock savings bank;

(3) Exercising or having the power to exercise directly or indirectly a controlling influence over the management or policies of a capital stock savings bank; or

(4) Conditioning in any manner the transfer of 25% or more of any class of voting securities of a capital stock savings bank.

"Control of a capital stock savings bank" does not include a director or officer of a capital stock savings bank acting in the capacity of performing his duties or responsibilities of office.

e. "Converted savings bank" means an organizing mutual savings bank which has converted to a capital stock savings bank pursuant to the provisions of P.L.1982, c.9 (C.17:9A-8.1 et seq.) subsequent to the formation of a mutual savings bank holding company.

f. "Mutual savings bank holding company" means a mutual savings bank holding company which has its principal office of business in this State and which has been formed by an organizing mutual savings bank pursuant to sections 7 through 27 of P.L.1987, c.201 (C.17:9A-388 through 17:9A-408).

g. "Organizing mutual savings bank" means a mutual savings bank which has its principal office of business in this State, the board of managers of which propose to form a mutual savings bank holding company pursuant to the provisions of this act.

h. "Person" means an individual, bank, corporation, savings bank, savings and loan association, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any form of entity.

i. "Subsidiary capital stock savings bank" means a capital stock savings bank which has been incorporated by the directors of a mutual savings bank holding company, a majority of the stock of which subsidiary capital stock savings bank is held by a mutual savings bank holding company.

j. "Voting power" means that a person has or shares, directly or indirectly, through any option, contract, arrangement, understanding, conversion right or relationship, or by acting jointly or in concert or otherwise, the power to vote, or to direct the voting of voting shares.

k. "Department" means the Department of Banking.

l. "Capital stock savings bank holding company" means a bank holding company that has issued or intends to issue voting capital stock; and which controls one or more savings banks located in this State or any other state, the aggregate deposits of which controlled savings banks exceed the aggregate deposits of the bank holding

company's subsidiaries which are banks, banks incorporated in other states or national banks wherever their principal office is located.

m. "Bank holding company" means a bank holding company subject to the "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. §1841 et seq.).

n. "Bank" means a bank as defined in subsection (1) of section 1 of P.L.1948, c.67 (C.17:9A-1), a national banking association having its principal office in this State and a bank holding company.

2. Section 2 of P.L.1987, c.201 (C.17:9A-383) is amended to read as follows:

C.17:9A-383 Prior approval.

2. No person shall, without the prior approval of the commissioner, acting directly or indirectly or through or in concert with one or more persons:

a. Obtain or exercise control of a capital stock savings bank;

b. Offer to acquire beneficial ownership or control of any voting shares of a capital stock savings bank if, after the acquisition, the person would beneficially own or control more than 25% of the then-outstanding voting shares of the capital stock savings bank; or

c. Acquire beneficial ownership or control of any voting shares of a capital stock savings bank, if, after the acquisition, the person would beneficially own or control more than 25% of the then-outstanding voting shares of the capital stock savings bank.

3. Section 3 of P.L.1987, c.201 (C.17:9A-384) is amended to read as follows:

C.17:9A-384 Application; hearing.

3. a. An application by a person for the approval of the commissioner to obtain control of a capital stock savings bank, to offer to acquire beneficial ownership or control of more than 25% of the voting shares of a capital stock savings bank, or to acquire beneficial ownership or control of more than 25% of the voting shares of a capital stock savings bank shall be made on a form provided by the commissioner. The commissioner shall give notice to the capital stock savings bank involved in the proposed transaction and, upon request, shall send a copy of the application to the capital stock savings bank within five business days of receiving the application. If the commissioner decides to hold a hearing on the application, the notice shall include the hearing date established pursuant to subsection b. of this section.

No later than 10 days after the date upon which a completed application is filed with the commissioner, the applicant shall cause to be published a notice of application for control of a capital stock savings bank. This publication shall be made in a newspaper of general circulation in the county in which the capital stock savings bank has its principal office. The notice shall include whatever information the commissioner, by regulation, deems to be necessary and appropriate.

b. The commissioner may hold a hearing on the application within 60 days of receipt of the completed application. If the commissioner decides to hold a hearing on the application, the commissioner shall notify the applicant as to the date of the hearing within five business days of the date the commissioner receives the completed application. The hearing shall be held in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules and regulations promulgated by the commissioner.

4. Section 5 of P.L.1987, c.201 (C.17:9A-386) is amended to read as follows:

C.17:9A-386 Voter ineligibility; registration.

5. a. Any shares in excess of 25% of the outstanding voting shares of a capital stock savings bank which are acquired in violation of sections 2 through 4 of P.L.1987, c.201 (C.17:9A-383 through 17:9A-385) shall not be eligible to be voted and shall not be counted in determining the number of shares outstanding for the purpose of determining the number or percent of shares required for shareholder action.

b. All shares of stock in a capital stock savings bank shall be registered in the name of the true owner of the shares, and if held as nominee or in trust or otherwise for the benefit of any other person, the person listed as registered owner shall disclose to the capital stock savings bank the names and addresses of all persons who hold a beneficial interest in the shares on written demand by the capital stock savings bank.

5. Section 6 of P.L.1987, c.201 (C.17:9A-387) is amended to read as follows:

C.17:9A-387 Violations, penalties.

6. a. Whenever it appears to the commissioner that any person has engaged in or is about to engage in any act or practice which

constitutes a violation of sections 2 through 5 of P.L.1987, c.201 (C.17:9A-383 through 17:9A-386) or any regulations promulgated pursuant thereto, the commissioner may conduct an investigation and issue cease and desist orders if he deems it necessary. In addition to all other remedies, the commissioner may bring an action in the Superior Court, Law Division on behalf of the State against any person or persons participating in or about to participate in a violation. In any court proceeding, the commissioner may apply for and shall be entitled to have issued the court's subpoena requiring the appearance of any defendant and the defendant's employees or agents, and the production of documents, books and records as may be necessary for the hearing of the action. Upon a proper showing, the court may grant a permanent or preliminary injunction or temporary restraining order or may order the rescission of any sale, tender for sale, purchase or tender for purchase of equity securities determined to be unlawful under sections 2 through 5 of P.L.1987, c.201 (C.17:9A-383 through 17:9A-386).

b. Whenever any person has engaged in or is about to engage in any act or practice which constitutes a violation of sections 2 through 5 of P.L.1987, c.201 (C.17:9A-383 through 17:9A-386) or any regulation or order issued thereunder, the capital stock savings bank or any record or beneficial owner of an equity security of the capital stock savings bank may bring an action to enjoin the person from continuing or doing any act in violation of this act. Upon a proper showing, the court may grant a permanent or preliminary injunction or temporary restraining order or may order the rescission of any sale, tender for sale, purchase or tender for purchase of equity securities determined to be unlawful under P.L.1987, c.201 (C.17:9A-382 et seq.) or under any regulation or order of the commissioner.

c. (1) In addition to any other penalties herein or otherwise provided by law, the commissioner may, upon notice and hearing impose a penalty not exceeding $10,000.00 for any violation of sections 2 through 5 of P.L.1987, c.201 (C.17:9A-383 through 17:9A-386) or of any rule or regulation promulgated thereto. The penalty shall be recovered by and in the name of the commissioner in a civil action by a summary proceeding under "the penalty enforcement law," N.J.S. 2A:58-1 et seq., in the Superior Court, Law Division. Whenever any violation of sections 2 through 5 of P.L.1987, c.201 (C.17:9A-383 through 17:9A-386) or of any regulation hereunder is of a continuing nature, each day during which the violation continues shall constitute an additional, separate and distinct offense, except during the time an appeal from the order or notice may be taken or is pending.

(2) Sections 2 through 6 of P.L.1987, c.201 (C.17:9A-383 through 17:9A-387) shall apply to all capital stock savings banks organized pursuant to P.L.1982, c.9 (C.17:9A-8.1 et seq.) whether chartered prior to or after the enactment of this act. Any person who prior to the effective date of this act directly or indirectly, beneficially owned or controlled more than 25% of the outstanding voting shares of a capital stock savings bank may continue such ownership after the effective date of this act without approval of the commissioner. This act shall not be construed to limit the applicability of any law governing the acquisition of securities.

(3) Sections 2 through 6 of P.L.1987, c.201 (C.17:9A-383 through 17:9A-387) shall not apply to any merger of a capital stock savings bank with another capital stock savings bank or mutual savings bank. The provisions of P.L.1982, c.9 (C.17:9A-8.1 et seq.) and sections 132 through 148 of P.L.1948, c.67 (C.17:9A-132 through C.17:9A-148) shall be the exclusive governing provisions.

(4) Notwithstanding any other law of this State, the provisions contained in sections 2 through 6 of P.L.1987, c.201 (C.17:9A-383 through 17:9A-387) shall also apply to an acquisition of voting shares of a bank or company which controls a bank by a savings bank or a savings bank holding company if, after the acquisition, the savings bank or savings bank holding company would beneficially own or control more than 25% of the outstanding voting shares of the bank or company which controls a bank. For the purpose of this paragraph (4), "savings bank" means any capital stock savings bank or mutual savings bank chartered under the laws of this State; "savings bank holding company" means any company located in this State which controls a savings bank and does not also control a bank; and "bank" shall have the same definition as provided in subsection (1) of section 1 of P.L.1948, c.67 (C.17:9A-1) and shall also include a national banking association having its principal office in this State.

6. This act shall take effect immediately.

Approved January 25, 1995.

CHAPTER 25

AN ACT concerning fire districts and amending P.L.1992, c.194.

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

1. Section 2 of P.L.1992, c.194 is amended to read as follows:

2. This act shall take effect immediately and shall expire on June 30, 1995.

2. This act shall take effect immediately.

Approved January 25, 1995.

CHAPTER 26

AN ACT establishing a New Jersey Breast Cancer Research Fund and supplementing Title 52 of the Revised Statutes and Title 54A of the New Jersey Statutes.

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

C.54A:9-25.7 New Jersey Breast Cancer Research Fund.

1. a. There is established in the Department of the Treasury a special fund to be known as the "New Jersey Breast Cancer Research Fund."

b. Each taxpayer shall have the opportunity to indicate on the taxpayer's New Jersey gross income tax return that a portion of the taxpayer's tax refund or an enclosed contribution be deposited in the special fund. The Director of the Division of Taxation in the Department of the Treasury shall provide each taxpayer with the opportunity to indicate the taxpayer's preference on the tax return in substantially the following way: New Jersey Breast Cancer Research Fund: I wish to contribute $5 ☐, $10 ☐, other amount $ ☐ to this fund.

Any costs incurred by the Division of Taxation for collection or administration attributable to this act may be deducted from receipts collected pursuant to this act, as determined by the Director of the Division of Budget and Accounting.

The State Treasurer shall deposit net contributions collected pursuant to this act into the New Jersey Breast Cancer Research Fund.

C.54A:9-25.8 Legislative appropriations; breast cancer research project defined.

2. The Legislature shall annually appropriate all monies deposited in the "New Jersey Breast Cancer Research Fund" established

pursuant to this act to the New Jersey State Commission on Cancer Research, established pursuant to P.L.1983, c.6 (C.52:9U-1 et seq.) for breast cancer research projects. As used in this act, "breast cancer research project" means a scientific research project which is approved by the commission and which focuses on the causes, prevention, screening, treatment or cure of breast cancer and may include, but is not limited to, basic, behavioral, clinical, demographic, epidemiologic and psychosocial research.

C.52:9U-6.1 Grants; qualified research institution defined.

3. The New Jersey State Commission on Cancer Research shall solicit, receive, evaluate and approve applications of qualified research institutions for grants from the "New Jersey Breast Cancer Research Fund," established pursuant to section 1 of P.L.1995, c.26 (C.54A:9-25.7), to conduct research relating to the causes, prevention, screening, treatment and cure of breast cancer. As used in this section, "qualified research institution" may include academic medical institutions, State or local government agencies, public or private organizations within New Jersey, and any other institution approved by the commission, which is conducting a breast cancer research project.

4. This act shall take effect immediately and apply to tax years commencing on or after January 1 following enactment.

Approved January 26, 1995.

CHAPTER 27

AN ACT concerning eligibility for the "Pharmaceutical Assistance to the Aged and Disabled" program, amending P.L.1975, c.194, supplementing P.L.1992, c.108, and repealing P.L.1983, c.293.

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

1. Section 2 of P.L.1975, c.194 (C.30:4D-21) is amended to read as follows:

C.30:4D-21 Pharmaceutical assistance eligibility.

2. a. Any resident of this State who is either a recipient of disability insurance benefits under Title II of the federal Social Security Act (42 U.S.C. § 401 et seq.) or 65 years of age and over and whose annual income is less than $16,624 if single or, if married, whose annual income combined with that of his spouse is less than $20,383, shall be eligible for "Pharmaceutical Assistance to the Aged and Disabled" if he is not otherwise qualified for assistance under P.L.1968, c.413 (C.30:4D-1 et seq.). Annual income shall not include gain from the sale of a principal residence that is excluded from gross income pursuant to N.J.S.54A:6-9.

b. Beginning January 1, 1996 and annually thereafter, the income eligibility limits provided in subsection a. of this section shall increase by the amount of the maximum Social Security benefit cost-of-living increase for that year for single and married persons, respectively. The commissioner shall adopt the new income limits annually by regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

2. a. The Casino Revenue Fund Advisory Commission, established pursuant to P.L.1992, c.108 (C.5:12-145.3 et seq.), shall conduct a study of the "Pharmaceutical Assistance to the Aged and Disabled" program established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.) which shall analyze the effectiveness of the program including its cost and utilization, and possible ways of providing pharmaceutical assistance in a more cost effective manner. In addition, the commission shall provide information in the study on the number of individuals who have not been terminated from the program or who have become eligible for the program as a result of the amendments to section 2 of P.L.1975, c.194 (C.30:4D-21) made by P.L.1995, c.27.

b. The commission shall submit a report of its findings to the Commissioner of Human Services, the Joint Budget Oversight Committee and the Governor no later than nine months after the effective date of this act.

Repealer.

3. P.L.1983, c.293 (C.30:4D-21.1) is repealed.

4. This act shall take effect immediately and shall be retroactive to January 1, 1995.

Approved February 15, 1995.

CHAPTER 28

AN ACT concerning commercial transactions, replacing chapters 3 and 4 of Title 12A of the New Jersey Statutes, and revising various parts of the statutory law.

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

1. Chapter 3 of Title 12A of the New Jersey Statutes (N.J.S. 12A:3-101 through 12A:3-805, including any amendments or supplements thereto) is repealed and replaced as follows:

CHAPTER 3 - NEGOTIABLE INSTRUMENTS

PART 1
GENERAL PROVISIONS AND DEFINITIONS

Short title.

12A:3-101. Short Title.

This chapter may be cited as Uniform Commercial Code -- Negotiable Instruments.

Subject matter.

12A:3-102. Subject Matter.

a. This chapter applies to negotiable instruments. It does not apply to money, to payment orders governed by chapter 4A, or to securities governed by chapter 8.

b. If there is conflict between this chapter and chapter 4 or 9, chapters 4 and 9 govern.

c. Regulations of the Board of Governors of the Federal Reserve System and operating circulars of the Federal Reserve Banks supersede any inconsistent provision of this chapter to the extent of the inconsistency.

Definitions.

12A:3-103. Definitions.

a. As used in this chapter:

(1) "Acceptor" means a drawee who has accepted a draft.

(2) "Drawee" means a person ordered in a draft to make payment.

(3) "Drawer" means a person who signs or is identified in a draft as a person ordering payment.

(4) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(5) "Maker" means a person who signs or is identified in a note as a person undertaking to pay.

(6) "Order" means a written instruction to pay money signed by the person giving the instruction. The instruction may be addressed to any person, including the person giving the instruction, or to one or more persons jointly or in the alternative but not in succession. An authorization to pay is not an order unless the person authorized to pay is also instructed to pay.

(7) "Ordinary care" in the case of a person engaged in business means observance of reasonable commercial standards, prevailing in the area in which the person is located, with respect to the business in which the person is engaged. In the case of a bank that takes an instrument for processing for collection or payment by automated means, reasonable commercial standards do not require the bank to examine the instrument if the failure to examine does not violate the bank's prescribed procedures and the bank's procedures do not vary unreasonably from general banking usage not disapproved by this chapter or chapter 4.

(8) "Party" means a party to an instrument.

(9) "Promise" means a written undertaking to pay money signed by the person undertaking to pay. An acknowledgment of an obligation by the obligor is not a promise unless the obligor also undertakes to pay the obligation.

(10) "Prove" with respect to a fact means to meet the burden of establishing the fact (12A:1-201(8)).

(11) "Remitter" means a person who purchases an instrument from its issuer if the instrument is payable to an identified person other than the purchaser.

b. Other definitions applying to this chapter and the sections in which they appear are:

"Acceptance" 12A:3-409
"Accommodated party" 12A:3-419
"Accommodation party" 12A:3-419
"Alteration" 12A:3-407
"Anomalous indorsement" 12A:3-205
"Blank indorsement" 12A:3-205
"Cashier's check" 12A:3-104
"Certificate of deposit" 12A:3-104
"Certified check" 12A:3-409
"Check" 12A:3-104
"Consideration" 12A:3-303
"Draft" 12A:3-104

"Holder in due course" 12A:3-302
"Incomplete instrument" 12A:3-115
"Indorsement" 12A:3-204
"Indorser" 12A:3-204
"Instrument" 12A:3-104
"Issue" 12A:3-105
"Issuer" 12A:3-105
"Negotiable instrument" 12A:3-104
"Negotiation" 12A:3-201
"Note" 12A:3-104
"Payable at a definite time" 12A:3-108
"Payable on demand" 12A:3-108
"Payable to bearer" 12A:3-109
"Payable to order" 12A:3-109
"Payment" 12A:3-602
"Person entitled to enforce" 12A:3-301
"Presentment" 12A:3-501
"Reacquisition" 12A:3-207
"Special indorsement" 12A:3-205
"Teller's check" 12A:3-104
"Transfer of instrument" 12A:3-203
"Traveler's check" 12A:3-104
"Value" 12A:3-303

c. The following definitions in other chapters apply to this chapter:
"Bank" 12A:4-105
"Banking day" 12A:4-104
"Clearing house" 12A:4-104
"Collecting bank" 12A:4-105
"Depositary bank" 12A:4-105
"Documentary draft" 12A:4-104
"Intermediary bank" 12A:4-105
"Item" 12A:4-104
"Payor bank" 12A:4-105
"Suspends payments" 12A:4-104

d. In addition, chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

Negotiable instrument.

12A:3-104. Negotiable Instrument.

a. Except as provided in subsections c. and d. of this section, "negotiable instrument" means an unconditional promise or order

to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:

(1) is payable to bearer or to order at the time it is issued or first comes into possession of a holder;

(2) is payable on demand or at a definite time; and

(3) does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain an undertaking or power to give, maintain, or protect collateral to secure payment, an authorization or power to the holder to confess judgment or realize on or dispose of collateral, or a waiver of the benefit of any law intended for the advantage or protection of an obligor.

b. "Instrument" means a negotiable instrument.

c. An order that meets all of the requirements of subsection a. of this section, except paragraph (1), and otherwise falls within the definition of "check" in subsection f. of this section is a negotiable instrument and a check.

d. A promise or order other than a check is not an instrument if, at the time it is issued or first comes into possession of a holder, it contains a conspicuous statement, however expressed, to the effect that the promise or order is not negotiable or is not an instrument governed by this chapter.

e. An instrument is a "note" if it is a promise and is a "draft" if it is an order. If an instrument falls within the definition of both "note" and "draft," a person entitled to enforce the instrument may treat it as either.

f. "Check" means a draft, other than a documentary draft, payable on demand and drawn on a bank or a cashier's check or teller's check. An instrument may be a check even though it is described on its face by another term, such as "money order."

g. "Cashier's check" means a draft with respect to which the drawer and drawee are the same bank or branches of the same bank.

h. "Teller's check" means a draft drawn by a bank on another bank, or payable at or through a bank.

i. "Traveler's check" means an instrument that is payable on demand, is drawn on or payable at or through a bank, is designated by the term "traveler's check" or by a substantially similar term, and requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the instrument.

j. "Certificate of deposit" means an instrument containing an acknowledgment by a bank that a sum of money has been

received by the bank and a promise by the bank to repay the sum of money. A certificate of deposit is a note of the bank.

Issue of instrument.

12A:3-105. Issue of Instrument.

a. "Issue" means the first delivery of an instrument by the maker or drawer, whether to a holder or nonholder, for the purpose of giving rights on the instrument to any person.

b. An unissued instrument, or an unissued incomplete instrument that is completed, is binding on the maker or drawer, but nonissuance is a defense. An instrument that is conditionally issued or is issued for a special purpose is binding on the maker or drawer, but failure of the condition or special purpose to be fulfilled is a defense.

c. "Issuer" applies to issued and unissued instruments and means a maker or drawer of an instrument.

Unconditional promise or order.

12A:3-106. Unconditional Promise or Order.

a. Except as provided in this section, for the purposes of subsection a. of 12A:3-104, a promise or order is unconditional unless it states an express condition to payment, that the promise or order is subject to or governed by another writing, or that rights or obligations with respect to the promise or order are stated in another writing. A reference to another writing does not of itself make the promise or order conditional.

b. A promise or order is not made conditional by a reference to another writing for a statement of rights with respect to collateral, prepayment, or acceleration, or because payment is limited to resort to a particular fund or source.

c. If a promise or order requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the promise or order, the condition does not make the promise or order conditional for the purposes of subsection a. of 12A:3-104. If the person whose specimen signature appears on an instrument fails to countersign the instrument, the failure to countersign is a defense to the obligation of the issuer, but the failure does not prevent a transferee of the instrument from becoming a holder of the instrument.

d. If a promise or order at the time it is issued or first comes into possession of a holder contains a statement, required by applicable statutory or administrative law, to the effect that the rights of a holder or transferee are subject to claims or defenses that the issuer could assert against the original payee, the promise or order

is not thereby made conditional for the purposes of subsection a. of 12A:3-104; but if the promise or order is an instrument, there cannot be a holder in due course of the instrument.

Instrument payable in foreign money.

12A:3-107. Instrument Payable in Foreign Money.

Unless the instrument otherwise provides, an instrument that states the amount payable in foreign money may be paid in the foreign money or in an equivalent amount in dollars calculated by using the current bank-offered spot rate at the place of payment for the purchase of dollars on the day on which the instrument is paid.

Payable on demand or at definite time.

12A:3-108. Payable on Demand or at Definite Time.

a. A promise or order is "payable on demand" if it states that it is payable on demand or at sight, or otherwise indicates that it is payable at the will of the holder, or does not state any time of payment.

b. A promise or order is "payable at a definite time" if it is payable on elapse of a definite period of time after sight or acceptance or at a fixed date or dates or at a time or times readily ascertainable at the time the promise or order is issued, subject to rights of prepayment, acceleration, extension at the option of the holder, or extension to a further definite time at the option of the maker or acceptor or automatically upon or after a specified act or event.

c. If an instrument, payable at a fixed date, is also payable upon demand made before the fixed date, the instrument is payable on demand until the fixed date and, if demand for payment is not made before that date, becomes payable at a definite time on the fixed date.

Payable to bearer or to order.

12A:3-109. Payable to Bearer or to Order.

a. A promise or order is payable to bearer if it:

(1) states that it is payable to bearer or to the order of bearer or otherwise indicates that the person in possession of the promise or order is entitled to payment;

(2) does not state a payee; or

(3) states that it is payable to or to the order of cash or otherwise indicates that it is not payable to an identified person.

b. A promise or order that is not payable to bearer is payable to order if it is payable to the order of an identified person or to an identified person or order. A promise or order that is payable to order is payable to the identified person.

c. An instrument payable to bearer may become payable to an identified person if it is specially indorsed pursuant to subsection a. of 12A:3-205. An instrument payable to an identified person may become payable to bearer if it is indorsed in blank pursuant to subsection b. of 12A:3-205.

Identification of person to whom instrument is payable.

12A:3-110. Identification of Person to Whom Instrument is Payable.

a. The person to whom an instrument is initially payable is determined by the intent of the person, whether or not authorized, signing as, or in the name or behalf of, the issuer of the instrument. The instrument is payable to the person intended by the signer even if that person is identified in the instrument by a name or other identification that is not that of the intended person. If more than one person signs in the name or behalf of the issuer of an instrument and all the signers do not intend the same person as payee, the instrument is payable to any person intended by one or more of the signers.

b. If the signature of the issuer of an instrument is made by automated means, such as a check-writing machine, the payee of the instrument is determined by the intent of the person who supplied the name or identification of the payee, whether or not authorized to do so.

c. A person to whom an instrument is payable may be identified in any way, including by name, identifying number, office, or account number. For the purpose of determining the holder of an instrument, the following rules apply:

(1) If an instrument is payable to an account and the account is identified only by number, the instrument is payable to the person to whom the account is payable. If an instrument is payable to an account identified by number and by the name of a person, the instrument is payable to the named person, whether or not that person is the owner of the account identified by number.

(2) If an instrument is payable to:

(a) a trust, an estate, or a person described as trustee or representative of a trust or estate, the instrument is payable to the trustee, the representative, or a successor of either, whether or not the beneficiary or estate is also named;

(b) a person described as agent or similar representative of a named or identified person, the instrument is payable to the represented person, the representative, or a successor of the representative;

(c) a fund or organization that is not a legal entity, the instrument is payable to a representative of the members of the fund or organization; or

(d) an office or to a person described as holding an office, the instrument is payable to the named person, the incumbent of the office, or a successor to the incumbent.

d. If an instrument is payable alternatively to two or more persons, it is payable to any of them and may be negotiated, discharged, or enforced by any or all of them in possession of the instrument. If an instrument is not payable alternatively to two or more persons, it is payable to all of them and may be negotiated, discharged, or enforced only by all of them. If an instrument payable to two or more persons is ambiguous as to whether it is payable to the persons alternatively, the instrument is payable to the persons alternatively.

Place of payment.

12A:3-111. Place of Payment.

Except as otherwise provided for items in chapter 4, an instrument is payable at the place of payment stated in the instrument. If no place of payment is stated, an instrument is payable at the address of the drawee or maker stated in the instrument. If no address is stated, the place of payment is the place of business of the drawee or maker. If a drawee or maker has more than one place of business, the place of payment is any place of business of the drawee or maker chosen by the person entitled to enforce the instrument. If the drawee or maker has no place of business, the place of payment is the residence of the drawee or maker.

Interest.

12A:3-112. Interest.

a. Unless otherwise provided in the instrument, an instrument is not payable with interest, and interest on an interest-bearing instrument is payable from the date of the instrument.

b. Interest may be stated in an instrument as a fixed or variable amount of money or it may be expressed as a fixed or variable rate or rates. The amount or rate of interest may be stated or described in the instrument in any manner and may require reference to information not contained in the instrument. If an instrument provides for interest, but the amount of interest payable cannot be ascertained from the description, interest is payable at the judgment rate in effect at the place of payment of the instrument and at the time interest first accrues.

Date of instrument.

12A:3-113. Date of Instrument.

a. An instrument may be antedated or postdated. The date stated determines the time of payment if the instrument is payable at a fixed period after date. Except as provided in subsection c. of 12A:4-401, an instrument payable on demand is not payable before the date of the instrument.

b. If an instrument is undated, its date is the date of its issue or, in the case of an unissued instrument, the date it first comes into possession of a holder.

Contradictory terms of instrument.

12A:3-114. Contradictory Terms of Instrument.

If an instrument contains contradictory terms, typewritten terms prevail over printed terms, handwritten terms prevail over both, and words prevail over numbers.

Incomplete instrument.

12A:3-115. Incomplete Instrument.

a. "Incomplete instrument" means a signed writing, whether or not issued by the signer, the contents of which show at the time of signing that it is incomplete but that the signer intended it to be completed by the addition of words or numbers.

b. Subject to subsection c. of this section, if an incomplete instrument is an instrument under 12A:3-104, it may be enforced according to its terms if it is not completed, or according to its terms as augmented by completion. If an incomplete instrument is not an instrument under 12A:3-104, but, after completion, the requirements of 12A:3-104 are met, the instrument may be enforced according to its terms as augmented by completion.

c. If words or numbers are added to an incomplete instrument without authority of the signer, there is an alteration of the incomplete instrument under 12A:3-407.

d. The burden of establishing that words or numbers were added to an incomplete instrument without authority of the signer is on the person asserting the lack of authority.

Joint and several liability; contribution.

12A:3-116. Joint and Several Liability; Contribution.

a. Except as otherwise provided in the instrument, two or more persons who have the same liability on an instrument as makers, drawers, acceptors, indorsers who indorse as joint payees, or anomalous indorsers are jointly and severally liable in the capacity in which they sign.

b. Except as provided in subsection e. of 12A:3-419 or by agreement of the affected parties, a party having joint and several liability who pays the instrument is entitled to receive from any party having the same joint and several liability contribution in accordance with applicable law.

c. Discharge of one party having joint and several liability by a person entitled to enforce the instrument does not affect the right under subsection b. of this section of a party having the same joint and several liability to receive contribution from the party discharged.

Other agreements affecting instrument.

12A:3-117. Other Agreements Affecting Instrument.

Subject to applicable law regarding exclusion of proof of contemporaneous or previous agreements, the obligation of a party to an instrument to pay the instrument may be modified, supplemented, or nullified by a separate agreement of the obligor and a person entitled to enforce the instrument, if the instrument is issued or the obligation is incurred in reliance on the agreement or as part of the same transaction giving rise to the agreement. To the extent an obligation is modified, supplemented, or nullified by an agreement under this section, the agreement is a defense to the obligation.

Statute of limitations.

12A:3-118. Statute of Limitations.

a. Except as provided in subsection e. of this section, an action to enforce the obligation of a party to pay a note payable at a definite time must be commenced within six years after the due date or dates stated in the note or, if a due date is accelerated, within six years after the accelerated due date.

b. Except as provided in subsection d. or e. of this section, if demand for payment is made to the maker of a note payable on demand, an action to enforce the obligation of a party to pay the note must be commenced within six years after the demand. If no demand for payment is made to the maker, an action to enforce the note is barred if neither principal nor interest on the note has been paid for a continuous period of 10 years.

c. Except as provided in subsection d. of this section, an action to enforce the obligation of a party to an unaccepted draft to pay the draft must be commenced within three years after dishonor of the draft or 10 years after the date of the draft, whichever period expires first.

d. An action to enforce the obligation of the acceptor of a certified check or the issuer of a teller's check, cashier's check, or

traveler's check must be commenced within three years after demand for payment is made to the acceptor or issuer, as the case may be.

e. An action to enforce the obligation of a party to a certificate of deposit to pay the instrument must be commenced within six years after demand for payment is made to the maker, but if the instrument states a due date and the maker is not required to pay before that date, the six-year period begins when a demand for payment is in effect and the due date has passed.

f. An action to enforce the obligation of a party to pay an accepted draft, other than a certified check, must be commenced within six years after the due date or dates stated in the draft or acceptance if the obligation of the acceptor is payable at a definite time, or within six years after the date of the acceptance if the obligation of the acceptor is payable on demand.

g. Unless governed by other law regarding claims for indemnity or contribution, an action for conversion of an instrument, for money had and received, or like action based on conversion, for breach of warranty, or to enforce an obligation, duty, or right arising under this chapter and not governed by this section must be commenced within three years after the cause of action accrues.

Notice of right to defend action.

12A:3-119. Notice of Right to Defend Action.

In an action for breach of an obligation for which a third person is answerable over pursuant to this chapter or chapter 4 of Title 12A of the New Jersey Statutes, the defendant may give the third person written notice of the litigation, and the person notified may then give similar notice to any other person who is answerable over. If the notice states that the person notified may come in and defend and that failure to do so will bind the person notified in an action later brought by the person giving the notice as to any determination of fact common to the two litigations, the person notified is so bound unless after seasonable receipt of the notice the person notified does come in and defend.

PART 2
NEGOTIATION, TRANSFER, AND INDORSEMENT

Negotiation.

12A:3-201. Negotiation.

a. "Negotiation" means a transfer of possession, whether voluntary or involuntary, of an instrument by a person other than the issuer to a person who thereby becomes its holder.

b. Except for negotiation by a remitter, if an instrument is payable to an identified person, negotiation requires transfer of possession of the instrument and its indorsement by the holder. If an instrument is payable to bearer, it may be negotiated by transfer of possession alone.

Negotiation subject to rescission.

12A:3-202. Negotiation Subject to Rescission.

a. Negotiation is effective even if obtained from an infant, a corporation exceeding its powers, or a person without capacity, by fraud, duress, or mistake, or in breach of duty or as part of an illegal transaction.

b. To the extent permitted by other law, negotiation may be rescinded or may be subject to other remedies, but those remedies may not be asserted against a subsequent holder in due course or a person paying the instrument in good faith and without knowledge of facts that are a basis for rescission or other remedy.

Transfer of instrument; rights acquired by transfer.

12A:3-203. Transfer of Instrument; Rights Acquired by Transfer.

a. An instrument is transferred when it is delivered by a person other than its issuer for the purpose of giving to the person receiving delivery the right to enforce the instrument.

b. Transfer of an instrument, whether or not the transfer is a negotiation, vests in the transferee any right of the transferor to enforce the instrument, including any right as a holder in due course, but the transferee cannot acquire rights of a holder in due course by a transfer, directly or indirectly, from a holder in due course if the transferee engaged in fraud or illegality affecting the instrument.

c. Unless otherwise agreed, if an instrument is transferred for value and the transferee does not become a holder because of lack of indorsement by the transferor, the transferee has a specifically enforceable right to the unqualified indorsement of the transferor, but negotiation of the instrument does not occur until the indorsement is made.

d. If a transferor purports to transfer less than the entire instrument, negotiation of the instrument does not occur. The transferee obtains no rights under this chapter and has only the rights of a partial assignee.

Indorsement.

12A:3-204. Indorsement.

a. "Indorsement" means a signature, other than that of a signer as maker, drawer, or acceptor, that alone or accompanied by other

words is made on an instrument for the purpose of negotiating the instrument, restricting payment of the instrument, or incurring indorser's liability on the instrument, but regardless of the intent of the signer, a signature and its accompanying words is an indorsement unless the accompanying words, terms of the instrument, place of the signature, or other circumstances unambiguously indicate that the signature was made for a purpose other than indorsement. For the purpose of determining whether a signature is made on an instrument, a paper affixed to the instrument is a part of the instrument.

b. "Indorser" means a person who makes an indorsement.

c. For the purpose of determining whether the transferee of an instrument is a holder, an indorsement that transfers a security interest in the instrument is effective as an unqualified indorsement of the instrument.

d. If an instrument is payable to a holder under a name that is not the name of the holder, indorsement may be made by the holder in the name stated in the instrument or in the holder's name or both, but signature in both names may be required by a person paying or taking the instrument for value or collection.

Special indorsement; blank indorsement; anomalous indorsement.

12A:3-205. Special Indorsement; Blank Indorsement; Anomalous Indorsement.

a. If an indorsement is made by the holder of an instrument, whether payable to an identified person or payable to bearer, and the indorsement identifies a person to whom it makes the instrument payable, it is a "special indorsement." When specially indorsed, an instrument becomes payable to the identified person and may be negotiated only by the indorsement of that person. The principles stated in 12A:3-110 apply to special indorsements.

b. If an indorsement is made by the holder of an instrument and it is not a special indorsement, it is a "blank indorsement." When indorsed in blank, an instrument becomes payable to bearer and may be negotiated by transfer of possession alone until specially indorsed.

c. The holder may convert a blank indorsement that consists only of a signature into a special indorsement by writing, above the signature of the indorser, words identifying the person to whom the instrument is made payable.

d. "Anomalous indorsement" means an indorsement made by a person who is not the holder of the instrument. An anomalous indorsement does not affect the manner in which the instrument may be negotiated.

Restrictive indorsement.

12A:3-206. Restrictive Indorsement.

a. An indorsement limiting payment to a particular person or otherwise prohibiting further transfer or negotiation of the instrument is not effective to prevent further transfer or negotiation of the instrument.

b. An indorsement stating a condition to the right of the indorsee to receive payment does not affect the right of the indorsee to enforce the instrument. A person paying the instrument or taking it for value or collection may disregard the condition, and the rights and liabilities of that person are not affected by whether the condition has been fulfilled.

c. If an instrument bears an indorsement described in subsection b. of 12A:4-201, or in blank or to a particular bank using the words "for deposit," "for collection," or other words indicating a purpose of having the instrument collected by a bank for the indorser or for a particular account, the following rules apply:

(1) A person, other than a bank, who purchases the instrument when so indorsed converts the instrument unless the amount paid for the instrument is received by the indorser or applied consistently with the indorsement.

(2) A depositary bank that purchases the instrument or takes it for collection when so indorsed converts the instrument unless the amount paid by the bank with respect to the instrument is received by the indorser or applied consistently with the indorsement.

(3) A payor bank that is also the depositary bank or that takes the instrument for immediate payment over the counter from a person other than a collecting bank converts the instrument unless the proceeds of the instrument are received by the indorser or applied consistently with the indorsement.

(4) Except as otherwise provided in paragraph (3) of subsection c. of this section, a payor bank or intermediary bank may disregard the indorsement and is not liable if the proceeds of the instrument are not received by the indorser or applied consistently with the indorsement.

d. Except for an indorsement covered by subsection c. of this section, if an instrument bears an indorsement using words to the effect that payment is to be made to the indorsee as agent, trustee, or other fiduciary for the benefit of the indorser or another person, the following rules apply:

(1) Unless there is notice of breach of fiduciary duty as provided in 12A:3-307, a person who purchases the instrument from the indorsee or takes the instrument from the indorsee for collec-

tion or payment may pay the proceeds of payment or the value given for the instrument to the indorsee without regard to whether the indorsee violates a fiduciary duty to the indorser.

(2) A subsequent transferee of the instrument or person who pays the instrument is neither given notice nor otherwise affected by the restriction in the indorsement unless the transferee or payor knows that the fiduciary dealt with the instrument or its proceeds in breach of fiduciary duty.

e. The presence on an instrument of an indorsement to which this section applies does not prevent a purchaser of the instrument from becoming a holder in due course of the instrument unless the purchaser is a converter under subsection c. of this section or has notice or knowledge of breach of fiduciary duty as stated in subsection d. of this section.

f. In an action to enforce the obligation of a party to pay the instrument, the obligor has a defense if payment would violate an indorsement to which this section applies and the payment is not permitted by this section.

Reacquisition.

12A:3-207. Reacquisition.

Reacquisition of an instrument occurs if it is transferred to a former holder, by negotiation or otherwise. A former holder who reacquires the instrument may cancel indorsements made after the reacquirer first became a holder of the instrument. If the cancellation causes the instrument to be payable to the reacquirer or to bearer, the reacquirer may negotiate the instrument. An indorser whose indorsement is canceled is discharged, and the discharge is effective against any subsequent holder.

PART 3
ENFORCEMENT OF INSTRUMENTS

Person entitled to enforce instrument.

12A:3-301. Person Entitled to Enforce Instrument.

"Person entitled to enforce" an instrument means the holder of the instrument, a nonholder in possession of the instrument who has the rights of a holder, or a person not in possession of the instrument who is entitled to enforce the instrument pursuant to 12A:3-309 or subsection d. of 12A:3-418. A person may be a person entitled to enforce the instrument even though the person is not the owner of the instrument or is in wrongful possession of the instrument.

Holder in Due Course.

12A:3-302. Holder in Due Course.

a. Subject to subsection c. of this section and subsection d. of 12A:3-106, "holder in due course" means the holder of an instrument if:

(1) the instrument when issued or negotiated to the holder does not bear such apparent evidence of forgery or alteration or is not otherwise so irregular or incomplete as to call into question its authenticity; and

(2) the holder took the instrument for value, in good faith, without notice that the instrument is overdue or has been dishonored or that there is an uncured default with respect to payment of another instrument issued as part of the same series, without notice that the instrument contains an unauthorized signature or has been altered, without notice of any claim to the instrument described in 12A:3-306, and without notice that any party has a defense or claim in recoupment described in subsection a. of 12A:3-305.

b. Notice of discharge of a party, other than discharge in an insolvency proceeding, is not notice of a defense under subsection a. of this section, but discharge is effective against a person who became a holder in due course with notice of the discharge. Public filing or recording of a document does not of itself constitute notice of a defense, claim in recoupment, or claim to the instrument.

c. Except to the extent a transferor or predecessor in interest has rights as a holder in due course, a person does not acquire rights of a holder in due course of an instrument taken by legal process or by purchase in an execution, bankruptcy, or creditor's sale or similar proceeding, by purchase as part of a bulk transaction not in ordinary course of business of the transferor, or as the successor in interest to an estate or other organization.

d. If, under paragraph (1) of subsection a. of 12A:3-303, the promise of performance that is the consideration for an instrument has been partially performed, the holder may assert rights as a holder in due course of the instrument only to the fraction of the amount payable under the instrument equal to the value of the partial performance divided by the value of the promised performance.

e. If the person entitled to enforce an instrument has only a security interest in the instrument and the person obliged to pay the instrument has a defense, claim in recoupment, or claim to the instrument that may be asserted against the person who granted the security interest, the person entitled to enforce the instrument may assert rights as a holder in due course only to an amount payable under the instrument which, at the time of enforcement of the instrument, does not exceed the amount of the unpaid obligation secured.

f. To be effective, notice must be received at a time and in a manner that gives a reasonable opportunity to act on it.

g. This section is subject to any law limiting status as a holder in due course in particular classes of transactions.

Value and consideration.

12A:3-303. Value and Consideration.

a. An instrument is issued or transferred for value if:

(1) the instrument is issued or transferred for a promise of performance, to the extent the promise has been performed;

(2) the transferee acquires a security interest or other lien in the instrument other than a lien obtained by judicial proceeding;

(3) the instrument is issued or transferred as payment of, or as security for, an antecedent claim against any person, whether or not the claim is due;

(4) the instrument is issued or transferred in exchange for a negotiable instrument; or

(5) the instrument is issued or transferred in exchange for the incurring of an irrevocable obligation to a third party by the person taking the instrument.

b. "Consideration" means any consideration sufficient to support a simple contract. The drawer or maker of an instrument has a defense if the instrument is issued without consideration. If an instrument is issued for a promise of performance, the issuer has a defense to the extent performance of the promise is due and the promise has not been performed. If an instrument is issued for value as stated in subsection a. of this section, the instrument is also issued for consideration.

Overdue instrument.

12A:3-304. Overdue Instrument.

a. An instrument payable on demand becomes overdue at the earliest of the following times:

(1) on the day after the day demand for payment is duly made;

(2) if the instrument is a check, 90 days after its date; or

(3) if the instrument is not a check, when the instrument has been outstanding for a period of time after its date which is unreasonably long under the circumstances of the particular case in light of the nature of the instrument and usage of the trade.

b. With respect to an instrument payable at a definite time the following rules apply:

(1) If the principal is payable in installments and a due date has not been accelerated, the instrument becomes overdue upon

default under the instrument for nonpayment of an installment, and the instrument remains overdue until the default is cured.

(2) If the principal is not payable in installments and the due date has not been accelerated, the instrument becomes overdue on the day after the due date.

(3) If a due date with respect to principal has been accelerated, the instrument becomes overdue on the day after the accelerated due date.

c. Unless the due date of principal has been accelerated, an instrument does not become overdue if there is default in payment of interest but no default in payment of principal.

Defenses and claims in recoupment.

12A:3-305. Defenses and Claims in Recoupment.

a. Except as stated in subsection b. of this section, the right to enforce the obligation of a party to pay an instrument is subject to the following:

(1) a defense of the obligor based on infancy of the obligor to the extent it is a defense to a simple contract, duress, lack of legal capacity, or illegality of the transaction which, under other law, nullifies the obligation of the obligor, fraud that induced the obligor to sign the instrument with neither knowledge nor reasonable opportunity to learn of its character or its essential terms, or discharge of the obligor in insolvency proceedings;

(2) a defense of the obligor stated in another section of this chapter or a defense of the obligor that would be available if the person entitled to enforce the instrument were enforcing a right to payment under a simple contract; and

(3) a claim in recoupment of the obligor against the original payee of the instrument if the claim arose from the transaction that gave rise to the instrument; but the claim of the obligor may be asserted against a transferee of the instrument only to reduce the amount owing on the instrument at the time the action is brought.

b. The right of a holder in due course to enforce the obligation of a party to pay the instrument is subject to defenses of the obligor stated in paragraph (1) of subsection a. of this section, but is not subject to defenses of the obligor stated in paragraph (2) of subsection a. of this section or claims in recoupment stated in paragraph (3) of subsection a. of this section against a person other than the holder.

c. Except as stated in subsection d. of this section, in an action to enforce the obligation of a party to pay the instrument, the obligor may not assert against the person entitled to enforce the instrument a defense, claim in recoupment, or claim to the instru-

ment (12A:3-306) of another person, but the other person's claim to the instrument may be asserted by the obligor if the other person is joined in the action and personally asserts the claim against the person entitled to enforce the instrument. An obligor is not obliged to pay the instrument if the person seeking enforcement of the instrument does not have rights of a holder in due course and the obligor proves that the instrument is a lost or stolen instrument.

d. In an action to enforce the obligation of an accommodation party to pay an instrument, the accommodation party may assert against the person entitled to enforce the instrument any defense or claim in recoupment under subsection a. of this section that the accommodated party could assert against the person entitled to enforce the instrument, except the defenses of discharge in insolvency proceedings, infancy, and lack of legal capacity.

Claims to an instrument.

12A:3-306. Claims to an Instrument.

A person taking an instrument, other than a person having rights of a holder in due course, is subject to a claim of a property or possessory right in the instrument or its proceeds, including a claim to rescind a negotiation and to recover the instrument or its proceeds. A person having rights of a holder in due course takes free of the claim to the instrument.

Notice of breach of fiduciary duty.

12A:3-307. Notice of Breach of Fiduciary Duty.

a. As used in this section:

(1) "Fiduciary" means an agent, trustee, partner, corporate officer or director, or other representative owing a fiduciary duty with respect to an instrument.

(2) "Represented person" means the principal, beneficiary, partnership, corporation, or other person to whom the duty stated in paragraph (1) is owed.

b. If an instrument is taken from a fiduciary for payment or collection or for value, the taker has knowledge of the fiduciary status of the fiduciary, and the represented person makes a claim to the instrument or its proceeds on the basis that the transaction of the fiduciary is a breach of fiduciary duty, the following rules apply:

(1) Notice of breach of fiduciary duty by the fiduciary is notice of the claim of the represented person.

(2) In the case of an instrument payable to the represented person or the fiduciary as such, the taker has notice of the breach of fiduciary duty if the instrument is taken in payment of or as security for

a debt known by the taker to be the personal debt of the fiduciary, taken in a transaction known by the taker to be for the personal benefit of the fiduciary, or deposited to an account other than an account of the fiduciary, as such, or an account of the represented person.

(3) If an instrument is issued by the represented person or the fiduciary as such, and made payable to the fiduciary personally, the taker does not have notice of the breach of fiduciary duty unless the taker knows of the breach of fiduciary duty.

(4) If an instrument is issued by the represented person or the fiduciary as such, to the taker as payee, the taker has notice of the breach of fiduciary duty if the instrument is taken in payment of or as security for a debt known by the taker to be the personal debt of the fiduciary, taken in a transaction known by the taker to be for the personal benefit of the fiduciary, or deposited to an account other than an account of the fiduciary, as such, or an account of the represented person.

Proof of signatures and status as holder in due course.

12A:3-308. Proof of Signatures and Status as Holder in Due Course.

a. In an action with respect to an instrument, the authenticity of, and authority to make, each signature on the instrument is admitted unless specifically denied in the pleadings. If the validity of a signature is denied in the pleadings, the burden of establishing validity is on the person claiming validity, but the signature is presumed to be authentic and authorized unless the action is to enforce the liability of the purported signer and the signer is dead or incompetent at the time of trial of the issue of validity of the signature. If an action to enforce the instrument is brought against a person as the undisclosed principal of a person who signed the instrument as a party to the instrument, the plaintiff has the burden of establishing that the defendant is liable on the instrument as a represented person under subsection a. of 12A:3-402.

b. If the validity of signatures is admitted or proved and there is compliance with subsection a. of this section, a plaintiff producing the instrument is entitled to payment if the plaintiff proves entitlement to enforce the instrument under 12A:3-301, unless the defendant proves a defense or claim in recoupment. If a defense or claim in recoupment is proved, the right to payment of the plaintiff is subject to the defense or claim, except to the extent the plaintiff proves that the plaintiff has rights of a holder in due course which are not subject to the defense or claim.

Enforcement of lost, destroyed, or stolen instrument.

12A:3-309. Enforcement of Lost, Destroyed, or Stolen Instrument.

a. A person not in possession of an instrument is entitled to enforce the instrument if the person was in possession of the instrument and entitled to enforce it when loss of possession occurred, the loss of possession was not the result of a transfer by the person or a lawful seizure, and the person cannot reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

b. A person seeking enforcement of an instrument under subsection a. of this section must prove the terms of the instrument and the person's right to enforce the instrument. If that proof is made, 12A:3-308 applies to the case as if the person seeking enforcement had produced the instrument. The court may not enter judgment in favor of the person seeking enforcement unless it finds that the person required to pay the instrument is adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument. Adequate protection may be provided by any reasonable means.

Effect of instrument on obligation for which taken.

12A:3-310. Effect of Instrument on Obligation for Which Taken.

a. Unless otherwise agreed, if a certified check, cashier's check, or teller's check is taken for an obligation, the obligation is discharged to the same extent that discharge would result if an amount of money equal to the amount of the instrument were taken in payment of the obligation. Discharge of the obligation does not affect any liability that the obligor may have as an indorser of the instrument.

b. Unless otherwise agreed and except as provided in subsection a. of this section, if a note or an uncertified check is taken for an obligation, the obligation is suspended to the same extent the obligation would be discharged if an amount of money equal to the amount of the instrument were taken, and the following rules apply:

(1) In the case of an uncertified check, suspension of the obligation continues until dishonor of the check or until it is paid or certified. Payment or certification of the check results in discharge of the obligation to the extent of the amount of the check.

(2) In the case of a note, suspension of the obligation continues until dishonor of the note or until it is paid. Payment of the note results in discharge of the obligation to the extent of the payment.

(3) Except as provided in paragraph (4) of this subsection b., if the check or note is dishonored and the obligee of the obligation for which the instrument was taken is the person entitled to enforce the instrument, the obligee may enforce either the instrument or the obligation. In the case of an instrument of a third person which is negotiated to the obligee by the obligor, discharge of the obligor on the instrument also discharges the obligation.

(4) If the person entitled to enforce the instrument taken for an obligation is a person other than the obligee, the obligee may not enforce the obligation to the extent the obligation is suspended. If the obligee is the person entitled to enforce the instrument but no longer has possession of it because it was lost, stolen, or destroyed, the obligation may not be enforced to the extent of the amount payable on the instrument, and to that extent the obligee's rights against the obligor are limited to enforcement of the instrument.

c. If an instrument other than one described in subsection a. or b. of this section is taken for an obligation, the effect is that stated in subsection a. of this section if the instrument is one on which a bank is liable as maker or acceptor, or that stated in subsection b. of this section in any other case.

Accord and satisfaction by use of instrument.

12A:3-311. Accord and Satisfaction by Use of Instrument.

a. If a person against whom a claim is asserted proves that that person in good faith tendered an instrument to the claimant as full satisfaction of the claim, the amount of the claim was unliquidated or subject to a bona fide dispute, and the claimant obtained payment of the instrument, the following subsections shall apply.

b. Unless subsection c. of this section applies, the claim is discharged if the person against whom the claim is asserted proves that the instrument or an accompanying written communication contained a conspicuous statement to the effect that the instrument was tendered as full satisfaction of the claim.

c. Subject to subsection d. of this section, a claim is not discharged under subsection b. of this section if either of the following applies:

(1) The claimant, if an organization, proves that within a reasonable time before the tender, the claimant sent a conspicuous statement to the person against whom the claim is asserted that communications concerning disputed debts, including an instrument tendered as full satisfaction of a debt, are to be sent to a designated person, office, or place, and the instrument or accompanying communication was not received by that designated person, office, or place.

(2) The claimant, whether or not an organization, proves that within 90 days after payment of the instrument, the claimant tendered repayment of the amount of the instrument to the person against whom the claim is asserted. This paragraph does not apply if the claimant is an organization that sent a statement complying with paragraph (1) of this subsection c.

d. A claim is discharged if the person against whom the claim is asserted proves that within a reasonable time before collection of the instrument was initiated, the claimant, or an agent of the claimant having direct responsibility with respect to the disputed obligation, knew that the instrument was tendered in full satisfaction of the claim.

PART 4
LIABILITY OF PARTIES

Signature.

12A:3-401. Signature.

a. A person is not liable on an instrument unless the person signed the instrument, or the person is represented by an agent or representative who signed the instrument and the signature is binding on the represented person under 12A:3-402.

b. A signature may be made manually or by means of a device or machine, and by the use of any name, including a trade or assumed name, or by a word, mark, or symbol executed or adopted by a person with present intention to authenticate a writing.

Signature by representative.

12A:3-402. Signature by Representative.

a. If a person acting, or purporting to act, as a representative signs an instrument by signing either the name of the represented person or the name of the signer, the represented person is bound by the signature to the same extent the represented person would be bound if the signature were on a simple contract. If the represented person is bound, the signature of the representative is the "authorized signature of the represented person" and the represented person is liable on the instrument, whether or not identified in the instrument.

b. If a representative signs the name of the representative to an instrument and the signature is an authorized signature of the represented person, the following rules apply:

(1) If the form of the signature shows unambiguously that the signature is made on behalf of the represented person who is identified in the instrument, the representative is not liable on the instrument.

(2) Subject to subsection c. of this section, if the form of the signature does not show unambiguously that the signature is made in a representative capacity or the represented person is not identified in the instrument, the representative is liable on the instrument to a holder in due course that took the instrument without notice that the representative was not intended to be liable on the instrument. With respect to any other person, the representative is liable on the instrument unless the representative proves that the original parties did not intend the representative to be liable on the instrument.

c. If a representative signs the name of the representative as drawer of a check without indication of the representative status and the check is payable from an account of the represented person who is identified on the check, the signer is not liable on the check if the signature is an authorized signature of the represented person.

Unauthorized signature.

12A:3-403. Unauthorized Signature.

a. Unless otherwise provided in this chapter or chapter 4 of Title 12A of the New Jersey Statutes, an unauthorized signature is ineffective except as the signature of the unauthorized signer in favor of a person who in good faith pays the instrument or takes it for value. An unauthorized signature may be ratified for all purposes of this chapter.

b. If the signature of more than one person is required to constitute the authorized signature of an organization, the signature of the organization is unauthorized if one of the required signatures is lacking.

c. The civil or criminal liability of a person who makes an unauthorized signature is not affected by any provision of this chapter which makes the unauthorized signature effective for the purposes of this chapter.

Impostors; fictitious payees.

12A:3-404. Impostors; Fictitious Payees.

a. If an impostor, by use of the mails or otherwise, induces the issuer of an instrument to issue the instrument to the impostor, or to a person acting in concert with the impostor, by impersonating the payee of the instrument or a person authorized to act for the payee, an indorsement of the instrument by any person in the name of the payee is effective as the indorsement of the payee in favor of a person who, in good faith, pays the instrument or takes it for value or for collection.

b. If a person whose intent determines to whom an instrument is payable (subsection a. or b. of 12A:3-110) does not intend the person identified as payee to have any interest in the instrument, or the person identified as payee of an instrument is a fictitious

person, the following rules apply until the instrument is negotiated by special indorsement:

(1) Any person in possession of the instrument is its holder.

(2) An indorsement by any person in the name of the payee stated in the instrument is effective as the indorsement of the payee in favor of a person who, in good faith, pays the instrument or takes it for value or for collection.

c. Under subsection a. or b. of this section, an indorsement is made in the name of a payee if it is made in a name substantially similar to that of the payee or the instrument, whether or not indorsed, is deposited in a depositary bank to an account in a name substantially similar to that of the payee.

d. With respect to an instrument to which subsection a. or b. of this section applies, if a person paying the instrument or taking it for value or for collection fails to exercise ordinary care in paying or taking the instrument and that failure substantially contributes to loss resulting from payment of the instrument, the person bearing the loss may recover from the person failing to exercise ordinary care to the extent the failure to exercise ordinary care contributed to the loss.

Employer's responsibility for fraudulent indorsement by employee.

12A:3-405. Employer's Responsibility for Fraudulent Indorsement by Employee.

a. As used in this section:

(1) "Employee" includes an independent contractor and employee of an independent contractor retained by the employer.

(2) "Fraudulent indorsement" means, in the case of an instrument payable to the employer, a forged indorsement purporting to be that of the employer, or, in the case of an instrument with respect to which the employer is the issuer, a forged indorsement purporting to be that of the person identified as payee.

(3) "Responsibility" with respect to instruments means authority to: sign or indorse instruments on behalf of the employer; process instruments received by the employer for bookkeeping purposes, for deposit to an account, or for other disposition; prepare or process instruments for issue in the name of the employer; supply information determining the names or addresses of payees of instruments to be issued in the name of the employer; control the disposition of instruments to be issued in the name of the employer; or act otherwise with respect to instruments in a responsible capacity. "Responsibility" does not include authority that

merely allows an employee to have access to instruments or blank or incomplete instrument forms that are being stored or transported or are part of incoming or outgoing mail, or similar access.

b. For the purpose of determining the rights and liabilities of a person who, in good faith, pays an instrument or takes it for value or for collection, if an employer entrusted an employee with responsibility with respect to the instrument and the employee or a person acting in concert with the employee makes a fraudulent indorsement of the instrument, the indorsement is effective as the indorsement of the person to whom the instrument is payable if it is made in the name of that person. If the person paying the instrument or taking it for value or for collection fails to exercise ordinary care in paying or taking the instrument and that failure substantially contributes to loss resulting from the fraud, the person bearing the loss may recover from the person failing to exercise ordinary care to the extent the failure to exercise ordinary care contributed to the loss.

c. Under subsection b. of this section, an indorsement is made in the name of the person to whom an instrument is payable if it is made in a name substantially similar to the name of that person or the instrument, whether or not indorsed, is deposited in a depositary bank to an account in a name substantially similar to the name of that person.

Negligence contributing to forged signature or alteration of instrument.

12A:3-406. Negligence Contributing to Forged Signature or Alteration of Instrument.

a. A person whose failure to exercise ordinary care substantially contributes to an alteration of an instrument or to the making of a forged signature on an instrument is precluded from asserting the alteration or the forgery against a person who, in good faith, pays the instrument or takes it for value or for collection.

b. Under subsection a. of this section, if the person asserting the preclusion fails to exercise ordinary care in paying or taking the instrument and that failure substantially contributes to loss, the loss is allocated between the person precluded and the person asserting the preclusion according to the extent to which the failure of each to exercise ordinary care contributed to the loss.

c. Under subsection a. of this section, the burden of proving failure to exercise ordinary care is on the person asserting the preclusion. Under subsection b. of this section, the burden of proving failure to exercise ordinary care is on the person precluded.

Alteration.

12A:3-407. Alteration.

a. "Alteration" means an unauthorized change in an instrument that purports to modify in any respect the obligation of a party, or an unauthorized addition of words or numbers or other change to an incomplete instrument relating to the obligation of a party.

b. Except as provided in subsection c. of this section, an alteration fraudulently made discharges a party whose obligation is affected by the alteration unless that party assents or is precluded from asserting the alteration. No other alteration discharges a party, and the instrument may be enforced according to its original terms.

c. A payor bank or drawee paying a fraudulently altered instrument or a person taking it for value, in good faith and without notice of the alteration, may enforce rights with respect to the instrument according to its original terms, or in the case of an incomplete instrument altered by unauthorized completion, according to its terms as completed.

Drawee not liable on unaccepted draft.

12A:3-408. Drawee not Liable on Unaccepted Draft.

A check or other draft does not of itself operate as an assignment of funds in the hands of the drawee available for its payment, and the drawee is not liable on the instrument until the drawee accepts it.

Acceptance of draft; certified check.

12A:3-409. Acceptance of Draft; Certified Check.

a. "Acceptance" means the drawee's signed agreement to pay a draft as presented. It must be written on the draft and may consist of the drawee's signature alone. Acceptance may be made at any time and becomes effective when notification pursuant to instructions is given or the accepted draft is delivered for the purpose of giving rights on the acceptance to any person.

b. A draft may be accepted although it has not been signed by the drawer, is otherwise incomplete, is overdue, or has been dishonored.

c. If a draft is payable at a fixed period after sight and the acceptor fails to date the acceptance, the holder may complete the acceptance by supplying a date in good faith.

d. "Certified check" means a check accepted by the bank on which it is drawn. Acceptance may be made as stated in subsection a. of this section or by a writing on the check which indicates that the check is certified. The drawee of a check has no obligation to certify the check, and refusal to certify is not dishonor of the check.

Acceptance varying draft.

12A:3-410. Acceptance Varying Draft.

a. If the terms of a drawee's acceptance vary from the terms of the draft as presented, the holder may refuse the acceptance and treat the draft as dishonored. In that case, the drawee may cancel the acceptance.

b. The terms of a draft are not varied by an acceptance to pay at a particular bank or place in the United States, unless the acceptance states that the draft is to be paid only at that bank or place.

c. If the holder assents to an acceptance varying the terms of a draft, the obligation of each drawer and indorser that does not expressly assent to the acceptance is discharged.

Refusal to pay cashier's checks, teller's checks, and certified checks.

12A:3-411. Refusal to Pay Cashier's Checks, Teller's Checks, and Certified Checks.

a. As used in this section, "obligated bank" means the acceptor of a certified check or the issuer of a cashier's check or teller's check bought from the issuer.

b. If the obligated bank wrongfully refuses to pay a cashier's check or certified check, stops payment of a teller's check, or refuses to pay a dishonored teller's check, the person asserting the right to enforce the check is entitled to compensation for expenses and loss of interest resulting from the nonpayment and may recover consequential damages if the obligated bank refuses to pay after receiving notice of particular circumstances giving rise to the damages.

c. Expenses or consequential damages under subsection b. of this section are not recoverable if the refusal of the obligated bank to pay occurs because the bank suspends payments, the obligated bank asserts a claim or defense of the bank that it has reasonable grounds to believe is available against the person entitled to enforce the instrument, the obligated bank has a reasonable doubt whether the person demanding payment is the person entitled to enforce the instrument, or payment is prohibited by law.

Obligation of issuer of note or cashier's check.

12A:3-412. Obligation of Issuer of Note or Cashier's Check.

The issuer of a note or cashier's check or other draft drawn on the drawer is obliged to pay the instrument according to its terms at the time it was issued or, if not issued, at the time it first came into possession of a holder, or if the issuer signed an incomplete instrument, according to its terms when completed, to the extent stated in 12A:3-115 and 12A:3-407. The obligation is owed to a

person entitled to enforce the instrument or to an indorser who paid the instrument under 12A:3-415.

Obligation of acceptor.

12A:3-413. Obligation of Acceptor.

a. The acceptor of a draft is obliged to pay the draft according to its terms at the time it was accepted, even though the acceptance states that the draft is payable "as originally drawn" or equivalent terms, if the acceptance varies the terms of the draft, according to the terms of the draft as varied, or if the acceptance is of a draft that is an incomplete instrument, according to its terms when completed, to the extent stated in 12A:3-115 and 12A:3-407. The obligation is owed to a person entitled to enforce the draft or to the drawer or an indorser who paid the draft under 12A:3-414 or 12A:3-415.

b. If the certification of a check or other acceptance of a draft states the amount certified or accepted, the obligation of the acceptor is that amount. If the certification or acceptance does not state an amount, the amount of the instrument is subsequently raised, and the instrument is then negotiated to a holder in due course, the obligation of the acceptor is the amount of the instrument at the time it was taken by the holder in due course.

Obligation of drawer.

12A:3-414. Obligation of Drawer.

a. This section does not apply to cashier's checks or other drafts drawn on the drawer.

b. If an unaccepted draft is dishonored, the drawer is obliged to pay the draft according to its terms at the time it was issued or, if not issued, at the time it first came into possession of a holder, or if the drawer signed an incomplete instrument, according to its terms when completed, to the extent stated in 12A:3-115 and 12A:3-407. The obligation is owed to a person entitled to enforce the draft or to an indorser who paid the draft under 12A:3-415.

c. If a draft is accepted by a bank, the drawer is discharged, regardless of when or by whom acceptance was obtained.

d. If a draft is accepted and the acceptor is not a bank, the obligation of the drawer to pay the draft if the draft is dishonored by the acceptor is the same as the obligation of an indorser under subsections a. and c. of 12A:3-415.

e. If a draft states that it is drawn "without recourse" or otherwise disclaims liability of the drawer to pay the draft, the drawer is not liable under subsection b. of this section to pay the draft if

the draft is not a check. A disclaimer of the liability stated in subsection b. of this section is not effective if the draft is a check.

f. If a check is not presented for payment or given to a depositary bank for collection within 30 days after its date, the drawee suspends payments after expiration of the 30-day period without paying the check, and because of the suspension of payments, the drawer is deprived of funds maintained with the drawee to cover payment of the check, the drawer to the extent deprived of funds may discharge its obligation to pay the check by assigning to the person entitled to enforce the check the rights of the drawer against the drawee with respect to the funds.

Obligation of indorser.

12A:3-415. Obligation of Indorser.

a. Subject to subsections b., c., d. and e. of this section and to subsection d. of 12A:3-419, if an instrument is dishonored, an indorser is obliged to pay the amount due on the instrument according to the terms of the instrument at the time it was indorsed, or if the indorser indorsed an incomplete instrument, according to its terms when completed, to the extent stated in 12A:3-115 and 12A:3-407. The obligation of the indorser is owed to a person entitled to enforce the instrument or to a subsequent indorser who paid the instrument under this section.

b. If an indorsement states that it is made "without recourse" or otherwise disclaims liability of the indorser, the indorser is not liable under subsection a. of this section to pay the instrument.

c. If notice of dishonor of an instrument is required by 12A:3-503 and notice of dishonor complying with that section is not given to an indorser, the liability of the indorser under subsection a. of this section is discharged.

d. If a draft is accepted by a bank after an indorsement is made, the liability of the indorser under subsection a. of this section is discharged.

e. If an indorser of a check is liable under subsection a. of this section and the check is not presented for payment, or given to a depositary bank for collection, within 30 days after the day the indorsement was made, the liability of the indorser under subsection a. of this section is discharged.

Transfer warranties.

12A:3-416. Transfer Warranties.

a. A person who transfers an instrument for consideration warrants to the transferee and, if the transfer is by indorsement, to any subsequent transferee that:

(1) the warrantor is a person entitled to enforce the instrument;

(2) all signatures on the instrument are authentic and authorized;

(3) the instrument has not been altered;

(4) the instrument is not subject to a defense or claim in recoupment of any party which can be asserted against the warrantor; and

(5) the warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer.

b. A person to whom the warranties under subsection a. are made and who took the instrument in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the instrument plus expenses and loss of interest incurred as a result of the breach.

c. The warranties stated in subsection a. of this section cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection b. of this section is discharged to the extent of any loss caused by the delay in giving notice of the claim.

d. A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

Presentment warranties.

12A:3-417. Presentment Warranties.

a. If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft, the person obtaining payment or acceptance, at the time of presentment, and a previous transferor of the draft, at the time of transfer, warrant to the drawee making payment or accepting the draft in good faith that:

(1) the warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;

(2) the draft has not been altered; and

(3) the warrantor has no knowledge that the signature of the drawer of the draft is unauthorized.

b. A drawee making payment may recover from any warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to

receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft, breach of warranty is a defense to the obligation of the acceptor. If the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from any warrantor for breach of warranty the amounts stated in this subsection.

c. If a drawee asserts a claim for breach of warranty under subsection a. of this section based on an unauthorized indorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the indorsement is effective under 12A:3-404 or 12A:3-405 or the drawer is precluded under 12A:3-406 or 12A:4-406 from asserting against the drawee the unauthorized indorsement or alteration.

d. If a dishonored draft is presented for payment to the drawer or an indorser or any other instrument is presented for payment to a party obliged to pay the instrument, and payment is received, the following rules apply:

(1) The person obtaining payment and a prior transferor of the instrument warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the instrument, a person entitled to enforce the instrument or authorized to obtain payment on behalf of a person entitled to enforce the instrument.

(2) The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

e. The warranties stated in subsections a. and d. of this section cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection b. or d. of this section is discharged to the extent of any loss caused by the delay in giving notice of the claim.

f. A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

Payment or acceptance by mistake.

12A:3-418. Payment or Acceptance by Mistake.

a. Except as provided in subsection c. of this section, if the drawee of a draft pays or accepts the draft and the drawee acted on the mistaken belief that payment of the draft had not been

stopped pursuant to 12A:4-403 or the signature of the drawer of the draft was authorized, the drawee may recover the amount of the draft from the person to whom or for whose benefit payment was made or, in the case of acceptance, may revoke the acceptance. Rights of the drawee under this subsection are not affected by failure of the drawee to exercise ordinary care in paying or accepting the draft.

b. Except as provided in subsection c. of this section, if an instrument has been paid or accepted by mistake and the case is not covered by subsection a. of this section, the person paying or accepting may, to the extent permitted by the law governing mistake and restitution, recover the payment from the person to whom or for whose benefit payment was made or in the case of acceptance, may revoke the acceptance.

c. The remedies provided by subsection a. or b. of this subsection may not be asserted against a person who took the instrument in good faith and for value or who in good faith changed position in reliance on the payment or acceptance. This subsection does not limit remedies provided by 12A:3-417 or 12A:4-407.

d. Notwithstanding 12A:4-215, if an instrument is paid or accepted by mistake and the payor or acceptor recovers payment or revokes acceptance under subsection a. or b. of this section, the instrument is deemed not to have been paid or accepted and is treated as dishonored, and the person from whom payment is recovered has rights as a person entitled to enforce the dishonored instrument.

Instruments signed for accommodation.

12A:3-419. Instruments Signed for Accommodation.

a. If an instrument is issued for value given for the benefit of a party to the instrument ("accommodated party") and another party to the instrument ("accommodation party") signs the instrument for the purpose of incurring liability on the instrument without being a direct beneficiary of the value given for the instrument, the instrument is signed by the accommodation party "for accommodation."

b. An accommodation party may sign the instrument as maker, drawer, acceptor, or indorser and, subject to subsection d. of this section, is obliged to pay the instrument in the capacity in which the accommodation party signs. The obligation of an accommodation party may be enforced notwithstanding any statute of frauds and whether or not the accommodation party receives consideration for the accommodation.

c. A person signing an instrument is presumed to be an accommodation party and there is notice that the instrument is signed for accommodation if the signature is an anomalous

indorsement or is accompanied by words indicating that the signer is acting as surety or guarantor with respect to the obligation of another party to the instrument. Except as provided in 12A:3-605, the obligation of an accommodation party to pay the instrument is not affected by the fact that the person enforcing the obligation had notice when the instrument was taken by that person that the accommodation party signed the instrument for accommodation.

d. If the signature of a party to an instrument is accompanied by words indicating unambiguously that the party is guaranteeing collection rather than payment of the obligation of another party to the instrument, the signer is obliged to pay the amount due on the instrument to a person entitled to enforce the instrument only if execution of judgment against the other party has been returned unsatisfied, the other party is insolvent or in an insolvency proceeding, the other party cannot be served with process, or it is otherwise apparent that payment cannot be obtained from the other party.

e. An accommodation party who pays the instrument is entitled to reimbursement from the accommodated party and is entitled to enforce the instrument against the accommodated party. An accommodated party who pays the instrument has no right of recourse against, and is not entitled to contribution from, an accommodation party.

Conversion of instrument.

12A:3-420. Conversion of Instrument.

a. The law applicable to conversion of personal property applies to instruments. An instrument is also converted if it is taken by transfer, other than a negotiation, from a person not entitled to enforce the instrument or a bank makes or obtains payment with respect to the instrument for a person not entitled to enforce the instrument or receive payment. An action for conversion of an instrument may not be brought by the issuer or acceptor of the instrument or a payee or indorsee who did not receive delivery of the instrument either directly or through delivery to an agent or a co-payee.

b. In an action under subsection a. of this section, the measure of liability is presumed to be the amount payable on the instrument, but recovery may not exceed the amount of the plaintiff's interest in the instrument.

c. A representative, other than a depositary bank, who has in good faith dealt with an instrument or its proceeds on behalf of one who was not the person entitled to enforce the instrument is not liable in conversion to that person beyond the amount of any proceeds that it has not paid out.

PART 5
DISHONOR

Presentment.

12A:3-501. Presentment.

a. "Presentment" means a demand made by or on behalf of a person entitled to enforce an instrument to pay the instrument made to the drawee or a party obliged to pay the instrument or, in the case of a note or accepted draft payable at a bank, to the bank, or to accept a draft made to the drawee.

b. The following rules are subject to chapter 4, agreement of the parties, and clearing-house rules and the like:

(1) Presentment may be made at the place of payment of the instrument and must be made at the place of payment if the instrument is payable at a bank in the United States; may be made by any commercially reasonable means, including an oral, written, or electronic communication; is effective when the demand for payment or acceptance is received by the person to whom presentment is made; and is effective if made to any one of two or more makers, acceptors, drawees, or other payors.

(2) Upon demand of the person to whom presentment is made, the person making presentment must exhibit the instrument, give reasonable identification and, if presentment is made on behalf of another person, reasonable evidence of authority to do so, and sign a receipt on the instrument for any payment made or surrender the instrument if full payment is made.

(3) Without dishonoring the instrument, the party to whom presentment is made may return the instrument for lack of a necessary indorsement, or refuse payment or acceptance for failure of the presentment to comply with the terms of the instrument, an agreement of the parties, or other applicable law or rule.

(4) The party to whom presentment is made may treat presentment as occurring on the next business day after the day of presentment if the party to whom presentment is made has established a cut-off hour not earlier than 2 p.m. for the receipt and processing of instruments presented for payment or acceptance and presentment is made after the cut-off hour.

Dishonor.

12A:3-502. Dishonor.

a. Dishonor of a note is governed by the following rules:

(1) If the note is payable on demand, the note is dishonored if presentment is duly made to the maker and the note is not paid on the day of presentment.

(2) If the note is not payable on demand and is payable at or through a bank or the terms of the note require presentment, the note is dishonored if presentment is duly made and the note is not paid on the day it becomes payable or the day of presentment, whichever is later.

(3) If the note is not payable on demand and paragraph (2) does not apply, the note is dishonored if it is not paid on the day it becomes payable.

b. Dishonor of an unaccepted draft other than a documentary draft is governed by the following rules:

(1) If a check is duly presented for payment to the payor bank otherwise than for immediate payment over the counter, the check is dishonored if the payor bank makes timely return of the check or sends timely notice of dishonor or nonpayment under 12A:4-301 or 12A:4-302, or becomes accountable for the amount of the check under 12A:4-302.

(2) If a draft is payable on demand and paragraph (1) does not apply, the draft is dishonored if presentment for payment is duly made to the drawee and the draft is not paid on the day of presentment.

(3) If a draft is payable on a date stated in the draft, the draft is dishonored if presentment for payment is duly made to the drawee and payment is not made on the day the draft becomes payable or the day of presentment, whichever is later, or presentment for acceptance is duly made before the day the draft becomes payable and the draft is not accepted on the day of presentment.

(4) If a draft is payable on elapse of a period of time after sight or acceptance, the draft is dishonored if presentment for acceptance is duly made and the draft is not accepted on the day of presentment.

c. Dishonor of an unaccepted documentary draft occurs according to the rules stated in paragraphs (2), (3) and (4) of subsection b. of this section, except that payment or acceptance may be delayed without dishonor until no later than the close of the third business day of the drawee following the day on which payment or acceptance is required by those paragraphs.

d. Dishonor of an accepted draft is governed by the following rules:

(1) If the draft is payable on demand, the draft is dishonored if presentment for payment is duly made to the acceptor and the draft is not paid on the day of presentment.

(2) If the draft is not payable on demand, the draft is dishonored if presentment for payment is duly made to the acceptor and

payment is not made on the day it becomes payable or the day of presentment, whichever is later.

e. In any case in which presentment is otherwise required for dishonor under this section and presentment is excused under 12A:3-504, dishonor occurs without presentment if the instrument is not duly accepted or paid.

f. If a draft is dishonored because timely acceptance of the draft was not made and the person entitled to demand acceptance consents to a late acceptance, from the time of acceptance the draft is treated as never having been dishonored.

Notice of dishonor.

12A:3-503. Notice of Dishonor.

a. The obligation of an indorser stated in subsection a. of 12A:3-415 and the obligation of a drawer stated in subsection d. of 12A:3-414 may not be enforced unless the indorser or drawer is given notice of dishonor of the instrument complying with this section or notice of dishonor is excused under subsection b. of 12A:3-504.

b. Notice of dishonor may be given by any person; may be given by any commercially reasonable means, including an oral, written, or electronic communication; and is sufficient if it reasonably identifies the instrument and indicates that the instrument has been dishonored or has not been paid or accepted. Return of an instrument given to a bank for collection is sufficient notice of dishonor.

c. Subject to subsection c. of 12A:3-504, with respect to an instrument taken for collection by a collecting bank, notice of dishonor must be given by the bank before midnight of the next banking day following the banking day on which the bank receives notice of dishonor of the instrument, or by any other person within 30 days following the day on which the person receives notice of dishonor. With respect to any other instrument, notice of dishonor must be given within 30 days following the day on which dishonor occurs.

Excused presentment and notice of dishonor.

12A:3-504. Excused Presentment and Notice of Dishonor.

a. Presentment for payment or acceptance of an instrument is excused if the person entitled to present the instrument cannot with reasonable diligence make presentment, the maker or acceptor has repudiated an obligation to pay the instrument or is dead or in insolvency proceedings, by the terms of the instrument presentment is not necessary to enforce the obligation of indorsers or the drawer, the drawer or indorser whose obligation is being

enforced has waived presentment or otherwise has no reason to expect or right to require that the instrument be paid or accepted, or the drawer instructed the drawee not to pay or accept the draft or the drawee was not obligated to the drawer to pay the draft.

b. Notice of dishonor is excused if by the terms of the instrument notice of dishonor is not necessary to enforce the obligation of a party to pay the instrument, or the party whose obligation is being enforced waived notice of dishonor. A waiver of presentment is also a waiver of notice of dishonor.

c. Delay in giving notice of dishonor is excused if the delay was caused by circumstances beyond the control of the person giving the notice and the person giving the notice exercised reasonable diligence after the cause of the delay ceased to operate.

Evidence of dishonor.

12A:3-505. Evidence of Dishonor.

a. The following are admissible as evidence and create a presumption of dishonor and of any notice of dishonor stated:

(1) a document regular in form as provided in subsection b. of this section which purports to be a protest;

(2) a purported stamp or writing of the drawee, payor bank, or presenting bank on or accompanying the instrument stating that acceptance or payment has been refused unless reasons for the refusal are stated and the reasons are not consistent with dishonor;

(3) a book or record of the drawee, payor bank, or collecting bank, kept in the usual course of business which shows dishonor, even if there is no evidence of who made the entry.

b. A protest is a certificate of dishonor made by a United States consul or vice consul, or a notary public or other person authorized to administer oaths by the law of the place where dishonor occurs. It may be made upon information satisfactory to that person. The protest must identify the instrument and certify either that presentment has been made or, if not made, the reason why it was not made, and that the instrument has been dishonored by nonacceptance or nonpayment. The protest may also certify that notice of dishonor has been given to some or all parties.

PART 6
DISCHARGE AND PAYMENT

Discharge and effect of discharge.

12A:3-601. Discharge and Effect of Discharge.

a. The obligation of a party to pay the instrument is discharged as stated in this chapter or by an act or agreement with the party which would discharge an obligation to pay money under a simple contract.

b. Discharge of the obligation of a party is not effective against a person acquiring rights of a holder in due course of the instrument without notice of the discharge.

Payment.

12A:3-602. Payment.

a. Subject to subsection b. of this section, an instrument is paid to the extent payment is made by or on behalf of a party obliged to pay the instrument, and to a person entitled to enforce the instrument. To the extent of the payment, the obligation of the party obliged to pay the instrument is discharged even though payment is made with knowledge of a claim to the instrument under 12A:3-306 by another person.

b. The obligation of a party to pay the instrument is not discharged under subsection a. of this section if:

(1) a claim to the instrument under 12A:3-306 is enforceable against the party receiving payment and payment is made with knowledge by the payor that payment is prohibited by injunction or similar process of a court of competent jurisdiction, or in the case of an instrument other than a cashier's check, teller's check, or certified check, the party making payment accepted, from the person having a claim to the instrument, indemnity against loss resulting from refusal to pay the person entitled to enforce the instrument; or

(2) the person making payment knows that the instrument is a stolen instrument and pays a person it knows is in wrongful possession of the instrument.

Tender of payment.

12A:3-603. Tender of Payment.

a. If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument, the effect of tender is governed by principles of law applicable to tender of payment under a simple contract.

b. If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument and the tender is refused, there is discharge, to the extent of the amount of the tender, of the obligation of an indorser or accommodation party having a right of recourse with respect to the obligation to which the tender relates.

c. If tender of payment of an amount due on an instrument is made to a person entitled to enforce the instrument, the obligation of the obligor to pay interest after the due date on the amount tendered is discharged. If presentment is required with respect to an instrument and the obligor is able and ready to pay on the due date at every place of payment stated in the instrument, the obligor is deemed to have made tender of payment on the due date to the person entitled to enforce the instrument.

Discharge by cancellation or renunciation.

12A:3-604. Discharge by Cancellation or Renunciation.

a. A person entitled to enforce an instrument, with or without consideration, may discharge the obligation of a party to pay the instrument by an intentional voluntary act, such as surrender of the instrument to the party, destruction, mutilation, or cancellation of the instrument, cancellation or striking out of the party's signature, or the addition of words to the instrument indicating discharge, or by agreeing not to sue or otherwise renouncing rights against the party by a signed writing.

b. Cancellation or striking out of an indorsement pursuant to subsection a. of this section does not affect the status and rights of a party derived from the indorsement.

Discharge of indorsers and accommodation parties.

12A:3-605. Discharge of Indorsers and Accommodation Parties.

a. In this section, the term "indorser" includes a drawer having the obligation described in subsection d. of 12A:3-414.

b. Discharge, under 12A:3-604, of the obligation of a party to pay an instrument does not discharge the obligation of an indorser or accommodation party having a right of recourse against the discharged party.

c. If a person entitled to enforce an instrument agrees, with or without consideration, to an extension of the due date of the obligation of a party to pay the instrument, the extension discharges an indorser or accommodation party having a right of recourse against the party whose obligation is extended to the extent the indorser or accommodation party proves that the extension caused loss to the indorser or accommodation party with respect to the right of recourse.

d. If a person entitled to enforce an instrument agrees, with or without consideration, to a material modification of the obligation of a party other than an extension of the due date, the modification discharges the obligation of an indorser or accommodation party having a right of recourse against the person whose obligation is modified to the extent the modification causes loss to the

indorser or accommodation party with respect to the right of recourse. The loss suffered by the indorser or accommodation party as a result of the modification is equal to the amount of the right of recourse unless the person enforcing the instrument proves that no loss was caused by the modification or that the loss caused by the modification was an amount less than the amount of the right of recourse.

e. If the obligation of a party to pay an instrument is secured by an interest in collateral and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of an indorser or accommodation party having a right of recourse against the obligor is discharged to the extent of the impairment. The value of an interest in collateral is impaired to the extent the value of the interest is reduced to an amount less than the amount of the right of recourse of the party asserting discharge, or the reduction in value of the interest causes an increase in the amount by which the amount of the right of recourse exceeds the value of the interest. The burden of proving impairment is on the party asserting discharge.

f. If the obligation of a party is secured by an interest in collateral not provided by an accommodation party and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of any party who is jointly and severally liable with respect to the secured obligation is discharged to the extent the impairment causes the party asserting discharge to pay more than that party would have been obliged to pay, taking into account rights of contribution, if impairment had not occurred. If the party asserting discharge is an accommodation party not entitled to discharge under subsection e. of this section, the party is deemed to have a right to contribution based on joint and several liability rather than a right to reimbursement. The burden of proving impairment is on the party asserting discharge.

g. Under subsection e. or f. of this section, impairing value of an interest in collateral includes failure to obtain or maintain perfection or recordation of the interest in collateral, release of collateral without substitution of collateral of equal value, failure to perform a duty to preserve the value of collateral owed, under chapter 9 or other law, to a debtor or surety or other person secondarily liable, or failure to comply with applicable law in disposing of collateral.

h. An accommodation party is not discharged under subsection c., d. or e. of this section unless the person entitled to enforce the instrument knows of the accommodation or has notice under subsection c. of 12A:3-419 that the instrument was signed for accommodation.

i. A party is not discharged under this section if the party asserting discharge consents to the event or conduct that is the basis of the discharge, or the instrument or a separate agreement of the party provides for waiver of discharge under this section either specifically or by general language indicating that parties waive defenses based on suretyship or impairment of collateral.

2. Chapter 4 of Title 12A of the New Jersey Statutes (N.J.S.12A:4-101 through 12A:4-504, including any amendments thereto and P.L.1964, c.166, s.6 (C.12A:4-109)) is repealed and replaced as follows:

CHAPTER 4 - BANK DEPOSITS AND COLLECTIONS

Short title.

12A:4-101. Short Title.

This chapter may be cited as Uniform Commercial Code -- Bank Deposits and Collections.

Applicability.

12A:4-102. Applicability.

a. To the extent that items within this chapter are also within chapters 3 and 8, they are subject to those chapters. If there is conflict, this chapter governs chapter 3, but chapter 8 governs this chapter.

b. The liability of a bank for action or non-action with respect to an item handled by it for purposes of presentment, payment, or collection is governed by the law of the place where the bank is located. In the case of action or non-action by or at a branch or separate office of a bank, its liability is governed by the law of the place where the branch or separate office is located.

Variation by agreement; measure of damages; action constituting ordinary care.

12A:4-103. Variation by Agreement; Measure of Damages; Action Constituting Ordinary Care.

a. The effect of the provisions of this chapter may be varied by agreement, but the parties to the agreement cannot disclaim a bank's responsibility for its lack of good faith or failure to exercise ordinary care or limit the measure of damages for the lack or failure. However, the parties may determine by agreement the standards by which the bank's responsibility is to be measured if those standards are not manifestly unreasonable.

b. Federal Reserve regulations and operating circulars, clearing-house rules, and the like, have the effect of agreements under

subsection a. of this section, whether or not specifically assented to by all parties interested in items handled.

c. Action or non-action approved by this chapter or pursuant to Federal Reserve regulations or operating circulars is the exercise of ordinary care and, in the absence of special instructions, action or non-action consistent with clearing-house rules and the like or with a general banking usage not disapproved by this chapter, is prima facie the exercise of ordinary care.

d. The specification or approval of certain procedures by this chapter is not disapproval of other procedures that may be reasonable under the circumstances.

e. The measure of damages for failure to exercise ordinary care in handling an item is the amount of the item reduced by an amount that could not have been realized by the exercise of ordinary care. If there is also bad faith it includes any other damages the party suffered as a proximate consequence.

Definitions and index of definitions.

12A:4-104. Definitions and Index of Definitions.

a. In this chapter, unless the context otherwise requires:

(1) "Account" means any deposit or credit account with a bank, including a demand, time, savings, passbook, share draft, or like account, other than an account evidenced by a certificate of deposit;

(2) "Afternoon" means the period of a day between noon and midnight;

(3) "Banking day" means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions;

(4) "Clearing house" means an association of banks or other payors regularly clearing items;

(5) "Customer" means a person having an account with a bank or for whom a bank has agreed to collect items, including a bank that maintains an account at another bank;

(6) "Documentary draft" means a draft to be presented for acceptance or payment if specified documents, certificated securities (12A:8-102) or instructions for uncertificated securities (12A:8-308), or other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft;

(7) "Draft" means a draft as defined in 12A:3-104 or an item, other than an instrument, that is an order.

(8) "Drawee" means a person ordered in a draft to make payment.

(9) "Item" means an instrument or a promise or order to pay money handled by a bank for collection or payment. The term

does not include a payment order governed by chapter 4A or a credit or debit card slip;

(10) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later;

(11) "Settle" means to pay in cash, by clearing-house settlement, in a charge or credit or by remittance, or otherwise as agreed. A settlement may be either provisional or final.

(12) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over, or that it ceases or refuses to make payments in the ordinary course of business.

b. Other definitions applying to this chapter and the sections in which they appear are:

"Agreement for electronic presentment" 12A:4-110
"Bank" 12A:4-105
"Collecting bank" 12A:4-105
"Depositary bank" 12A:4-105
"Intermediary bank" 12A:4-105
"Payor bank" 12A:4-105
"Presenting bank" 12A:4-105
"Presentment notice" 12A:4-110

c. The following definitions in other chapters apply to this chapter:

"Acceptance" 12A:3-409
"Alteration" 12A:3-407
"Cashier's check" 12A:3-104
"Certificate of deposit" 12A:3-104
"Certified check" 12A:3-409
"Check" 12A:3-104
"Good faith" 12A:3-103
"Holder in due course" 12A:3-302
"Instrument" 12A:3-104
"Notice of dishonor" 12A:3-503
"Order" 12A:3-103
"Ordinary care" 12A:3-103
"Person entitled to enforce" 12A:3-301
"Presentment" 12A:3-501
"Promise" 12A:3-103
"Prove" 12A:3-103
"Teller's check" 12A:3-104
"Unauthorized signature" 12A:3-403

d. In addition, chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

"Bank"; "depositary bank"; "payor bank"; "intermediary bank"; "collecting bank"; "presenting bank".

12A:4-105. "Bank"; "Depositary Bank"; "Payor Bank"; "Intermediary Bank"; "Collecting Bank"; "Presenting Bank".

As used in this chapter:

a. "Bank" means a person engaged in the business of banking, including a savings bank, savings and loan association, credit union, or trust company.

b. "Depositary bank" means the first bank to take an item even though it is also the payor bank, unless the item is presented for immediate payment over the counter;

c. "Payor bank" means a bank that is the drawee of a draft;

d. "Intermediary bank" means a bank to which an item is transferred in course of collection except the depositary or payor bank;

e. "Collecting bank" means a bank handling an item for collection except the payor bank;

f. "Presenting bank" means a bank presenting an item except a payor bank.

Payable through or payable at bank; collecting bank.

12A:4-106. Payable Through or Payable At Bank; Collecting Bank.

a. If an item states that it is "payable through" a bank identified in the item, the item designates the bank as a collecting bank and does not by itself authorize the bank to pay the item, and the item may be presented for payment only by or through the bank.

b. If an item states that it is "payable at" a bank identified in the item, the item is equivalent to a draft drawn on the bank.

c. If a draft names a nonbank drawee and it is unclear whether a bank named in the draft is a co-drawee or a collecting bank, the bank is a collecting bank.

Separate office of bank.

12A:4-107. Separate Office of Bank.

A branch or separate office of a bank is a separate bank for the purpose of computing the time within which and determining the place at or to which action may be taken or notice or orders must be given under this chapter and under chapter 3.

Time of receipt of items.

12A:4-108. Time of Receipt of Items.

a. For the purpose of allowing time to process items, prove balances, and make the necessary entries on its books to determine its position for the day, a bank may fix an afternoon hour of 2 P.M. or later as a cutoff hour for the handling of money and items and the making of entries on its books.

b. An item or deposit of money received on any day after a cutoff hour so fixed or after the close of the banking day may be treated as being received at the opening of the next banking day.

Delays.

12A:4-109. Delays.

a. Unless otherwise instructed, a collecting bank in a good faith effort to secure payment of a specific item drawn on a payor other than a bank, and with or without the approval of any person involved, may waive, modify, or extend time limits imposed or permitted by Title 12A for a period not exceeding two additional banking days without discharge of drawers or indorsers or liability to its transferor or a prior party.

b. Delay by a collecting bank or payor bank beyond time limits prescribed or permitted by Title 12A or by instructions is excused if the delay is caused by interruption of communication or computer facilities, suspension of payments by another bank, war, emergency conditions, failure of equipment, or other circumstances beyond the control of the bank, and the bank exercises such diligence as the circumstances require.

Electronic presentment.

12A:4-110. Electronic Presentment.

a. "Agreement for electronic presentment" means an agreement, clearing-house rule, or Federal Reserve regulation or operating circular, providing that presentment of an item may be made by transmission of an image of an item or information describing the item ("presentment notice") rather than delivery of the item itself. The agreement may provide for procedures governing retention, presentment, payment, dishonor, and other matters concerning items subject to the agreement.

b. Presentment of an item pursuant to an agreement for presentment is made when the presentment notice is received.

c. If presentment is made by presentment notice, a reference to "item" or "check" in this chapter means the presentment notice unless the context otherwise indicates.

Statute of limitations.

12A:4-111. Statute of Limitations.

An action to enforce an obligation, duty, or right arising under this chapter must be commenced within three years after the cause of action accrues.

Status of collecting bank as agent and provisional status of credits; applicability of chapter; item indorsed "pay any bank."

12A:4-201. Status of Collecting Bank as Agent and Provisional Status of Credits; Applicability of Chapter; Item Indorsed "Pay Any Bank."

a. Unless a contrary intent clearly appears and before the time that a settlement given by a collecting bank for an item is or becomes final, the bank, with respect to the item, is an agent or sub-agent of the owner of the item and any settlement given for the item is provisional. This provision applies regardless of the form of indorsement or lack of indorsement and even though credit given for the item is subject to immediate withdrawal as of right or is in fact withdrawn; but the continuance of ownership of an item by its owner and any rights of the owner to proceeds of the item are subject to rights of a collecting bank, such as those resulting from outstanding advances on the item and rights of recoupment or setoff. If an item is handled by banks for purposes of presentment, payment, collection, or return, the relevant provisions of this chapter apply even though action of the parties clearly establishes that a particular bank has purchased the item and is the owner of it.

b. After an item has been indorsed with the words "pay any bank" or the like, only a bank may acquire the rights of a holder until the item has been:

(1) returned to the customer initiating collection; or

(2) specially indorsed by a bank to a person who is not a bank.

Responsibility for collection or return; when action is timely.

12A:4-202. Responsibility for Collection or Return; When Action is Timely.

a. A collecting bank must exercise ordinary care in:

(1) presenting an item or sending it for presentment;

(2) sending notice of dishonor or nonpayment or returning an item other than a documentary draft to the bank's transferor after learning that the item has not been paid or accepted, as the case may be;

(3) settling for an item when the bank receives final settlement; and

(4) notifying its transferor of any loss or delay in transit within a reasonable time after discovery thereof.

b. A collecting bank exercises ordinary care under subsection a. of this section by taking proper action before its midnight deadline following receipt of an item, notice, or settlement. Taking proper action within a reasonably longer time may constitute the exercise of ordinary care, but the bank has the burden of establishing timeliness.

c. Subject to paragraph (1) of subsection a. of this section, a bank is not liable for the insolvency, neglect, misconduct, mistake, or default of another bank or person or for loss or destruction of an item in the possession of others or in transit.

Effect of instructions.

12A:4-203. Effect of Instructions.

Subject to the provisions of chapter 3 concerning conversion of instruments (12A:3-420) and restrictive indorsements (12A:3-206), only a collecting bank's transferor can give instructions that affect the bank or constitute notice to it, and a collecting bank is not liable to prior parties for any action taken pursuant to the instructions or in accordance with any agreement with its transferor.

Methods of sending and presenting; sending directly to payor bank.

12A:4-204. Methods of Sending and Presenting; Sending Directly to Payor Bank.

a. A collecting bank shall send items by a reasonably prompt method, taking into consideration relevant instructions, the nature of the item, the number of those items on hand, the cost of collection involved, and the method generally used by it or others to present those items.

b. A collecting bank may send:

(1) an item directly to the payor bank;

(2) an item to a nonbank payor if authorized by its transferor; and

(3) an item other than documentary drafts to a nonbank payor, if authorized by Federal Reserve regulation or operating circular, clearing-house rule, or the like.

c. Presentment may be made by a presenting bank at a place where the payor bank or other payor has requested that presentment be made.

Depositary bank holder of unindorsed item.

12A:4-205. Depositary Bank Holder of Unindorsed Item.

If a customer delivers an item to a depositary bank for collection:

a. the depositary bank becomes a holder of the item at the time it receives the item for collection if the customer at the time of delivery was a holder of the item, whether or not the customer indorses the item, and, if the bank satisfies the other requirements of 12A:3-302, it is a holder in due course; and

b. the depositary bank warrants to collecting banks, the payor bank or other payor, and the drawer that the amount of the item was paid to the customer or deposited to the customer's account.

Transfer between banks.

12A:4-206. Transfer Between Banks.

Any agreed method that identifies the transferor bank is sufficient for the item's further transfer to another bank.

Transfer warranties.

12A:4-207. Transfer Warranties.

a. A customer or collecting bank that transfers an item and receives a settlement or other consideration warrants to the transferee and to any subsequent collecting bank that:

(1) the warrantor is a person entitled to enforce the item;

(2) all signatures on the item are authentic and authorized;

(3) the item has not been altered;

(4) the item is not subject to a defense or claim in recoupment under subsection a. of 12A:3-305 of any party that can be asserted against the warrantor; and

(5) the warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer.

b. If an item is dishonored, a customer or collecting bank transferring the item and receiving settlement or other consideration is obliged to pay the amount due on the item according to the terms of the item at the time it was transferred, or if the transfer was of an incomplete item, according to its terms when completed as stated in 12A:3-115 and 12A:3-407. The obligation of a transferor is owed to the transferee and to any subsequent collecting bank that takes the item in good faith. A transferor cannot disclaim its obligation under this subsection by an indorsement stating that it is made "without recourse" or otherwise disclaiming liability.

c. A person to whom the warranties under subsection (a) are made and who took the item in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the item plus expenses and loss of interest incurred as a result of the breach.

d. The warranties stated in subsection a. of this section cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of

the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

e. A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

Presentment warranties.

12A:4-208. Presentment Warranties.

a. If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft, the person obtaining payment or acceptance, at the time of presentment, and a previous transferor of the draft, at the time of transfer, warrant to the drawee that pays or accepts the draft in good faith that:

(1) the warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;

(2) the draft has not been altered; and

(3) the warrantor has no knowledge that the signature of the purported drawer of the draft is unauthorized.

b. A drawee making payment may recover from a warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft breach of warranty is a defense to the obligation of the acceptor, and if the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from a warrantor for breach of warranty the amounts stated in this subsection.

c. If a drawee asserts a claim for breach of warranty under subsection a. of this section based on an unauthorized indorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the indorsement is effective under 12A:3-404 or 12A:3-405 or the drawer is precluded under 12A:3-406 or 12A:4-406 from asserting against the drawee the unauthorized indorsement or alteration.

d. If a dishonored draft is presented for payment to the drawer or an indorser or any other item is presented for payment to a party obliged to pay the item, and the item is paid, the person obtaining payment and a prior transferor of the item warrant to the person making payment in good faith that the warrantor is, or

was, at the time the warrantor transferred the item, a person entitled to enforce the item or authorized to obtain payment on behalf of a person entitled to enforce the item. The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

e. The warranties stated in subsections a. and d. of this section cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

f. A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

Encoding and retention warranties.

12A:4-209. Encoding and Retention Warranties.

a. A person who encodes information on or with respect to an item after issue warrants to any subsequent collecting bank and to the payor bank or other payor that the information is correctly encoded. If the customer of a depositary bank encodes, that bank also makes the warranty.

b. A person who undertakes to retain an item pursuant to an agreement for electronic presentment warrants to any subsequent collecting bank and to the payor bank or other payor that retention and presentment of the item comply with the agreement. If a customer of a depositary bank undertakes to retain an item, that bank also makes this warranty.

c. A person to whom warranties are made under this section and who took the item in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, plus expenses and loss of interest incurred as a result of the breach.

Security interest of collecting bank in items, accompanying documents and proceeds.

12A:4-210. Security Interest of Collecting Bank in Items, Accompanying Documents and Proceeds.

a. A collecting bank has a security interest in an item and any accompanying documents or the proceeds of either:

(1) in case of an item deposited in an account, to the extent to which credit given for the item has been withdrawn or applied;

(2) in case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given, whether or not the credit is drawn upon or there is a right of charge-back; or

(3) if it makes an advance on or against the item.

b. If credit given for several items received at one time or pursuant to a single agreement is withdrawn or applied in part, the security interest remains upon all the items, any accompanying documents or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

c. Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. As long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to chapter 9, but:

(1) no security agreement is necessary to make the security interest enforceable (12A:9-203(1)(a));

(2) no filing is required to perfect the security interest; and

(3) the security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

When bank gives value for purposes of holder in due course.

12A:4-211. When Bank Gives Value for Purposes of Holder in Due Course.

For purposes of determining its status as a holder in due course, a bank has given value to the extent it has a security interest in an item, if the bank otherwise complies with the requirements of 12A:3-302 on what constitutes a holder in due course.

Presentment by notice of item not payable by, through, or at bank; liability of drawer or indorser.

12A:4-212. Presentment by Notice of Item not Payable By, Through, or At Bank; Liability of Drawer or Indorser.

a. Unless otherwise instructed, a collecting bank may present an item not payable by, through, or at a bank by sending to the party to accept or pay a written notice that the bank holds the item for acceptance or payment. The notice must be sent in time to be received on or before the day when presentment is due and the bank must meet any requirement of the party to accept or pay under 12A:3-501 by the close of the bank's next banking day after it knows of the requirement.

b. If presentment is made by notice and payment, acceptance, or request for compliance with a requirement under 12A:3-501 is

not received by the close of business on the day after maturity or, in the case of demand items, by the close of business on the third banking day after notice was sent, the presenting bank may treat the item as dishonored and charge any drawer or indorser by sending it notice of the facts.

Medium and time of settlement by bank.

12A:4-213. Medium and Time of Settlement by Bank.

a. With respect to settlement by a bank, the medium and time of settlement may be prescribed by Federal Reserve regulations or circulars, clearing-house rules, and the like, or agreement. In the absence of such prescription:

(1) the medium of settlement is cash or credit to an account in a Federal Reserve bank of or specified by the person to receive settlement; and

(2) the time of settlement, is:

(a) with respect to tender of settlement by cash, a cashier's check, or teller's check, when the cash or check is sent or delivered;

(b) with respect to tender of settlement by credit in an account in a Federal Reserve Bank, when the credit is made;

(c) with respect to tender of settlement by a credit or debit to an account in a bank, when the credit or debit is made or, in the case of tender of settlement by authority to charge an account, when the authority is sent or delivered; or

(d) with respect to tender of settlement by a funds transfer, when payment is made pursuant to subsection (1) of 12A:4A-406 to the person receiving settlement.

b. If the tender of settlement is not by a medium authorized by subsection a. of this section or the time of settlement is not fixed by subsection a. of this section, no settlement occurs until the tender of settlement is accepted by the person receiving settlement.

c. If settlement for an item is made by cashier's check or teller's check and the person receiving settlement, before its midnight deadline:

(1) presents or forwards the check for collection, settlement is final when the check is finally paid; or

(2) fails to present or forward the check for collection, settlement is final at the midnight deadline of the person receiving settlement.

d. If settlement for an item is made by giving authority to charge the account of the bank giving settlement in the bank receiving settlement, settlement is final when the charge is made by the bank receiving settlement if there are funds available in the account for the amount of the item.

Right of charge-back or refund; liability of collecting bank; return of item.

12A:4-214. Right of Charge-Back or Refund; Liability of Collecting Bank; Return of Item.

a. If a collecting bank has made provisional settlement with its customer for an item and fails by reason of dishonor, suspension of payments by a bank, or otherwise to receive settlement for the item which is or becomes final, the bank may revoke the settlement given by it, charge back the amount of any credit given for the item to its customer's account, or obtain refund from its customer, whether or not it is able to return the items, if by its midnight deadline or within a longer reasonable time after it learns the facts it returns the item or sends notification of the facts. If the return or notice is delayed beyond the bank's midnight deadline or a longer reasonable time after it learns the facts, the bank may revoke the settlement, charge back the credit, or obtain refund from its customer, but it is liable for any loss resulting from the delay. These rights to revoke, charge back, and obtain refund terminate if and when a settlement for the item received by the bank is or becomes final.

b. A collecting bank returns an item when it is sent or delivered to the bank's customer or transferor or pursuant to its instructions.

c. A depositary bank that is also the payor may charge back the amount of an item to its customer's account or obtain refund in accordance with the section governing return of an item received by a payor bank for credit on its books (12A:4-301).

d. The right to charge back is not affected by:

(1) previous use of a credit given for the item; or

(2) failure by any bank to exercise ordinary care with respect to the item, but a bank so failing remains liable.

e. A failure to charge back or claim refund does not affect other rights of the bank against the customer or any other party.

f. If credit is given in dollars as the equivalent of the value of an item payable in foreign money, the dollar amount of any charge-back or refund must be calculated on the basis of the bank-offered spot rate for the foreign money prevailing on the day when the person entitled to the charge-back or refund learns that it will not receive payment in ordinary course.

Final payment of item by payor bank; when provisional debits and credits become final; when certain credits become available for withdrawal.

12A:4-215. Final Payment of Item by Payor Bank; When Provisional Debits and Credits Become Final; When Certain Credits become Available for Withdrawal.

a. An item is finally paid by a payor bank when the bank has first done any of the following:

(1) paid the item in cash;

(2) settled for the item without having a right to revoke the settlement under statute, clearing-house rule, or agreement; or

(3) made a provisional settlement for the item and failed to revoke the settlement in the time and manner permitted by statute, clearing-house rule, or agreement.

b. If provisional settlement for an item does not become final, the item is not finally paid.

c. If provisional settlement for an item between the presenting and payor banks is made through a clearing house or by debits or credits in an account between them, then to the extent that provisional debits or credits for the item are entered in accounts between the presenting and payor banks or between the presenting and successive prior collecting banks seriatim, they become final upon final payment of the items by the payor bank.

d. If a collecting bank receives a settlement for an item which is or becomes final, the bank is accountable to its customer for the amount of the item and any provisional credit given for the item in an account with its customer becomes final.

e. Subject to applicable law stating a time for availability of funds and any right of the bank to apply the credit to an obligation of the customer, credit given by a bank for an item in a customer's account becomes available for withdrawal as of right:

(1) if the bank has received a provisional settlement for the item, when the settlement becomes final and the bank has had a reasonable time to receive return of the item and the item has not been received within that time;

(2) if the bank is both the depositary bank and the payor bank, and the item is finally paid, at the opening of the bank's second banking day following receipt of the item.

f. Subject to applicable law stating a time for availability of funds and any right of a bank to apply a deposit to an obligation of the depositor, a deposit of money becomes available for withdrawal as of right at the opening of the bank's next banking day after receipt of the deposit.

Insolvency and preference.

12A:4-216. Insolvency and Preference.

a. If an item is in or comes into the possession of a payor or collecting bank that suspends payment and the item has not been

finally paid, the item must be returned by the receiver, trustee, or agent in charge of the closed bank to the presenting bank or the closed bank's customer.

b. If a payor bank finally pays an item and suspends payments without making a settlement for the item with its customer or the presenting bank which settlement is or becomes final, the owner of the item has a preferred claim against the payor bank.

c. If a payor bank gives or a collecting bank gives or receives a provisional settlement for an item and thereafter suspends payments, the suspension does not prevent or interfere with the settlement's becoming final if the finality occurs automatically upon the lapse of certain time or the happening of certain events.

d. If a collecting bank receives from subsequent parties settlement for an item, which settlement is or becomes final and the bank suspends payments without making a settlement for the item with its customer which settlement is or becomes final, the owner of the item has a preferred claim against the collecting bank.

Deferred posting; recovery of payment by return of items; time of dishonor; return of items by payor bank.

12A:4-301. Deferred Posting; Recovery of Payment by Return of Items; Time of Dishonor; Return of Items by Payor Bank.

a. If a payor bank settles for a demand item other than a documentary draft presented otherwise than for immediate payment over the counter before midnight of the banking day of receipt, the payor bank may revoke the settlement and recover the settlement if, before it has made final payment and before its midnight deadline, it

(1) returns the item; or

(2) sends written notice of dishonor or nonpayment if the item is unavailable for return.

b. If a demand item is received by a payor bank for credit on its books, it may return the item or send notice of dishonor and may revoke any credit given or recover the amount thereof withdrawn by its customer, if it acts within the time limit and in the manner specified in subsection a. of this section.

c. Unless previous notice of dishonor has been sent, an item is dishonored at the time when for purposes of dishonor it is returned or a notice is sent in accordance with this section.

d. An item is returned:

(1) as to an item presented through a clearing house, when it is delivered to the presenting or last collecting bank or to the clearing house or is sent or delivered in accordance with clearing-house rules; or

(2) in all other cases, when it is sent or delivered to the bank's customer or transferor or pursuant to instructions.

Payor bank's responsibility for late return of item.

12A:4-302. Payor Bank's Responsibility for Late Return of Item.

a. If an item is presented to and received by a payor bank, the bank is accountable for the amount of:

(1) a demand item, other than a documentary draft, whether properly payable or not, if the bank, in any case in which it is not also the depositary bank, retains the item beyond midnight of the banking day of receipt without settling for it or, whether or not it is also the depositary bank, does not pay or return the item or send notice of dishonor until after its midnight deadline; or

(2) any other properly payable item unless, within the time allowed for acceptance or payment of that item, the bank either accepts or pays the item or returns it and accompanying documents.

b. The liability of a payor bank to pay an item pursuant to subsection a. of this section is subject to defenses based on breach of a presentment warranty (12A:4-208) or proof that the person seeking enforcement of the liability presented or transferred the item for the purpose of defrauding the payor bank.

When items are subject to notice, stop-payment order, legal process, or setoff; order in which items may be charged or certified.

12A:4-303. When Items are Subject to Notice, Stop-payment Order, Legal Process, or Setoff; Order in Which Items May Be Charged or Certified.

a. Any knowledge, notice, or stop-payment order received by, legal process served upon, or setoff exercised by a payor bank comes too late to terminate, suspend, or modify the bank's right or duty to pay an item or to charge its customer's account for the item if the knowledge, notice, stop-payment order, or legal process is received or served and a reasonable time for the bank to act thereon expires or the setoff is exercised after the earliest of the following:

(1) the bank accepts or certifies the item;

(2) the bank pays the item in cash;

(3) the bank settles for the item without having a right to revoke the settlement under statute, clearing-house rule, or agreement;

(4) the bank becomes accountable for the amount of the item under 12A:4-302 dealing with the payor bank's responsibility for late return of items; or

(5) with respect to checks, a cutoff hour no earlier than one hour after the opening of the next banking day after the banking

day on which the bank received the check and no later than the close of that next banking day or, if no cutoff hour is fixed, the close of the next banking day after the banking day on which the bank received the check.

b. Subject to subsection a. of this section, items may be accepted, paid, certified, or charged to the indicated account of its customer in any order.

When bank may charge customer's account.

12A:4-401. When Bank May Charge Customer's Account.

a. A bank may charge against the account of a customer an item that is properly payable from that account even though the charge creates an overdraft. An item is properly payable if it is authorized by the customer and is in accordance with any agreement between the customer and bank.

b. A customer is not liable for the amount of an overdraft if the customer neither signed the item nor benefited from the proceeds of the item.

c. A bank may charge against the account of a customer a check that is otherwise properly payable from the account, even though payment was made before the date of the check, unless the customer has given notice to the bank of the postdating describing the check with reasonable certainty. The notice is effective for the period stated in subsection b. of 12A:4-403 for stop-payment orders, and must be received at such time and in such manner as to afford the bank a reasonable opportunity to act on it before the bank takes any action with respect to the check described in 12A:4-303. If a bank charges against the account of a customer a check before the date stated in the notice of postdating, the bank is liable for damages for the loss resulting from its act. The loss may include damages for dishonor of subsequent items under 12A:4-402.

d. A bank that in good faith makes payment to a holder may charge the indicated account of its customer according to:

(1) the original terms of the altered item; or

(2) the terms of the completed item, even though the bank knows the item has been completed unless the bank has notice that the completion was improper.

Bank's liability to customer for wrongful dishonor; time of determining insufficiency of account.

12A:4-402. Bank's Liability to Customer for Wrongful Dishonor; Time of Determining Insufficiency of Account.

a. Except as otherwise provided in this chapter, a payor bank wrongfully dishonors an item if it dishonors an item that is properly payable, but a bank may dishonor an item that would create an overdraft unless it has agreed to pay the overdraft.

b. A payor bank is liable to its customer for damages proximately caused by the wrongful dishonor of an item. Liability is limited to actual damages proved and may include damages for an arrest or prosecution of the customer or other consequential damages. Whether any consequential damages are proximately caused by the wrongful dishonor is a question of fact to be determined in each case.

c. A payor bank's determination of the customer's account balance on which a decision to dishonor for insufficiency of available funds is based may be made at any time between the time the item is received by the payor bank and the time that the payor bank returns the item or gives notice in lieu of return, and no more than one determination need be made. If, at the election of the payor bank, a subsequent balance determination is made for the purpose of reevaluating the bank's decision to dishonor the item, the account balance at that time is determinative of whether a dishonor for insufficiency of available funds is wrongful.

Customer's right to stop payment; burden of proof of loss.

12A:4-403. Customer's Right to Stop Payment; Burden of Proof of Loss.

a. A customer or any person authorized to draw on the account if there is more than one person may stop payment of any item drawn on the customer's account or close the account by an order to the bank describing the item or account with reasonable certainty received at a time and in a manner that affords the bank a reasonable opportunity to act on it before any action is taken by the bank pursuant to 12A:4-303 with respect to the item described. If the signature of more than one person is required to draw on an account, any person whose signature is required may stop payment or close the account.

b. A stop-payment order is effective for six months, but it lapses after 14 calendar days if the original order was oral and was not confirmed in writing within that period. A stop-payment order may be renewed for additional six-month periods by a writing given to the bank within a period during which the stop-payment order is effective.

c. The burden of establishing the fact and amount of loss resulting from the payment of an item contrary to a stop-payment order

or order to close an account is on the customer. The loss from payment of an item contrary to a stop-payment order may include damages for dishonor of subsequent items under 12A:4-402.

Bank not obliged to pay check more than six months old.

12A:4-404. Bank not Obliged to Pay Check More Than Six Months Old.

A bank is under no obligation to a customer having a checking account to pay a check, other than a certified check, which is presented more than six months after its date, but it may charge its customer's account for a payment made thereafter in good faith.

Death or incompetence of customer.

12A:4-405. Death or Incompetence of Customer.

a. A payor or collecting bank's authority to accept, pay, or collect an item or to account for proceeds of its collection, if otherwise effective, is not rendered ineffective by incompetence of a customer of either bank existing at the time the item is issued or its collection is undertaken if the bank does not know of an adjudication of incompetence. Neither death nor incompetence of a customer revokes the authority to accept, pay, collect, or account until the bank knows of the fact of death or of an adjudication of incompetence and has reasonable opportunity to act on it.

b. Even with knowledge, a bank may for 10 days after the date of death pay or certify checks drawn on or before that date unless ordered to stop payment by a person claiming an interest in the account.

Customer's duty to discover and report unauthorized signature or alteration.

12A:4-406. Customer's Duty to Discover and Report Unauthorized Signature or Alteration.

a. A bank that sends or makes available to a customer a statement of account showing payment of items for the account shall either return or make available to the customer the items paid or provide information in the statement of account sufficient to allow the customer reasonably to identify the items paid.

The statement of account provides sufficient information if the item is described by item number, amount, and date of payment.

b. If the items are not returned to the customer, the person retaining the items shall either retain the items or, if the items are destroyed, maintain the capacity to furnish legible copies of the items until the expiration of seven years after receipt of the items. A customer may request an item from the bank that paid the item, and that bank must

provide in a reasonable time either the item or, if the item has been destroyed or is not otherwise obtainable, a legible copy of the item.

c. If a bank sends or makes available a statement of account or items pursuant to subsection a. of this section, the customer must exercise reasonable promptness in examining the statement or the items to determine whether any payment was not authorized because of an alteration of an item or because a purported signature by or on behalf of the customer was not authorized. If, based on the statement or items provided, the customer should reasonably have discovered the unauthorized payment, the customer must promptly notify the bank of the relevant facts.

d. If the bank proves that the customer failed, with respect to an item, to comply with the duties imposed on the customer by subsection c. of this section, the customer is precluded from asserting against the bank:

(1) the customer's unauthorized signature or any alteration on the item, if the bank also proves that it suffered a loss by reason of the failure; and

(2) the customer's unauthorized signature or alteration by the same wrongdoer on any other item paid in good faith by the bank if the payment was made before the bank received notice from the customer of the unauthorized signature or alteration and after the customer had been afforded a reasonable period of time, not exceeding 30 days, in which to examine the item or statement of account and notify the bank.

e. If subsection d. of this section applies and the customer proves that the bank failed to exercise ordinary care in paying the item and that the failure substantially contributed to loss, the loss is allocated between the customer precluded and the bank asserting the preclusion according to the extent to which the failure of the customer to comply with subsection c. of this section and the failure of the bank to exercise ordinary care contributed to the loss. If the customer proves that the bank did not pay the item in good faith, the preclusion under subsection d. of this section does not apply.

f. Without regard to care or lack of care of either the customer or the bank, a customer who does not within one year after the statement or items are made available to the customer (subsection a. of this section) discover and report the customer's unauthorized signature on or any alteration on the item is precluded from asserting against the bank the unauthorized signature or alteration. If there is a preclusion under this subsection, the payor bank may not recover for breach of warranty under 12A:4-208 with respect to the unauthorized signature or alteration to which the preclusion applies.

Payor bank's right to subrogation on improper payment.

12A:4-407. Payor Bank's Right to Subrogation on Improper Payment.

If a payor bank has paid an item over the order of the drawer or maker to stop payment, or after an account has been closed, or otherwise under circumstances giving a basis for objection by the drawer or maker, to prevent unjust enrichment and only to the extent necessary to prevent loss to the bank by reason of its payment of the item, the payor bank is subrogated to the rights:

a. of any holder in due course on the item against the drawer or maker;

b. of the payee or any other holder of the item against the drawer or maker either on the item or under the transaction out of which the item arose; and

c. of the drawer or maker against the payee or any other holder of the item with respect to the transaction out of which the item arose.

Handling of documentary drafts; duty to send for presentment and to notify customer of dishonor.

12A:4-501. Handling of Documentary Drafts; Duty to Send for Presentment and to Notify Customer of Dishonor.

A bank that takes a documentary draft for collection shall present or send the draft and accompanying documents for presentment and, upon learning that the draft has not been paid or accepted in due course, shall seasonably notify its customer of the fact even though it may have discounted or bought the draft or extended credit available for withdrawal as of right.

Presentment of "on arrival" drafts.

12A:4-502. Presentment of "On Arrival" Drafts.

If a draft or the relevant instructions require presentment "on arrival," "when goods arrive" or the like, the collecting bank need not present until in its judgment a reasonable time for arrival of the goods has expired. Refusal to pay or accept because the goods have not arrived is not dishonor; the bank must notify its transferor of the refusal but need not present the draft again until it is instructed to do so or learns of the arrival of the goods.

Responsibility of presenting bank for documents and goods; report of reasons for dishonor; referee in case of need.

12A:4-503. Responsibility of Presenting Bank for Documents and Goods; Report of Reasons for Dishonor; Referee in Case of Need.

a. Unless otherwise instructed and except as provided in chapter 5 of Title 12A, a bank presenting a documentary draft:

(1) must deliver the documents to the drawee on acceptance of the draft if it is payable more than three days after presentment; otherwise, only on payment; and

(2) upon dishonor, either in the case of presentment for acceptance or presentment for payment, may seek and follow instructions from any referee in case of need designated in the draft or, if the presenting bank does not choose to utilize the referee's services, it must use diligence and good faith to ascertain the reason for dishonor, must notify its transferor of the dishonor and of the results of its effort to ascertain the reasons therefor, and must request instructions.

b. A presenting bank is under no obligation with respect to goods represented by the documents except to follow any reasonable instructions seasonably received; it has a right to reimbursement for any expense incurred in following instructions and to prepayment of or indemnity for those expenses.

Privilege of presenting bank to deal with goods; security interest for expenses.

12A:4-504. Privilege of Presenting Bank to Deal with Goods; Security Interest for Expenses.

a. A presenting bank that, following the dishonor of a documentary draft, has seasonably requested instructions but does not receive them within a reasonable time may store, sell, or otherwise deal with the goods in any reasonable manner.

b. For its reasonable expenses incurred by action under subsection a. of this section, the presenting bank has a lien upon the goods or their proceeds, which may be foreclosed in the same manner as an unpaid seller's lien.

3. N.J.S.12A:1-201 is amended to read as follows:

General definitions.

12A:1-201. General Definitions.

Subject to additional definitions contained in the subsequent chapters of this act which are applicable to specific chapters or subchapters thereof, and unless the context otherwise requires, in this act:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, set-off, suit in equity and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this act (12A:1-205 and 2-208).

Whether an agreement has legal consequences is determined by the provisions in this act, if applicable; otherwise by the law of contracts (12A:1-103). (Compare "Contract.")

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill.

"Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons in the business of selling goods of that kind. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) "Conspicuous": A term or cause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NON-NEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous." Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this act and any other applicable rules of law. (Compare "Agreement.")

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an

assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper, or certificated securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt, or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document shall purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this act to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder," with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument payable to an identified person, if the identified person is in possession. "Holder" with respect to a document of title means the person in possession if the goods are deliverable to bearer or to the order of the person in possession.

(21) To "honor" is to pay or accept and pay, where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay the person's debts in the ordinary course of business or cannot pay

the person's debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more nations.

(25) A person has "notice" of a fact when:

(a) The person has actual knowledge of it; or

(b) The person has received a notice or notification of it; or

(c) From all the facts and circumstances known to the person at the time in question the person has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when the person has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this act.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not the other actually comes to know of it. A person "receives" a notice or notification when:

(a) It comes to the person's attention; or

(b) It is duly delivered at the place of business through which the contract was made or at any other place held out by the person as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to the attention of the individual if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of the individual's regular duties or unless the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29)"Party," as distinct from "third party," means a person who has engaged in a transaction or made an agreement within this act.

(30)"Person" includes an individual or an organization (See 12A:1-102).

(31)"Presumption" or "presumed" means that the trier of fact shall find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32)"Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift or any other voluntary transaction creating an interest in property.

(33)"Purchaser" means a person who takes by purchase.

(34)"Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35)"Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36)"Rights" includes remedies.

(37)"Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (12A:2-401) is limited in effect to a reservation of a "security interest." The term also includes any interest of a buyer of accounts or chattel paper which is subject to chapter 9. The special property interest of a buyer of goods on identification of those goods to a contract for sale under 12A:2-401 is not a "security interest," but a buyer may also acquire a "security interest" by complying with chapter 9. Unless a consignment is intended as security, reservation of title thereunder is not a "security interest," but a consignment in any event is subject to the provisions on consignment sales (12A:2-326). Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security.

Whether a transaction creates a lease or security interest is determined by the facts of each case; however, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and

(a) the original term of the lease is equal to or greater than the remaining economic life of the goods,

(b) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods,

(c) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement, or

(d) the lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

A transaction does not create a security interest merely because it provides that

(a) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into,

(b) the lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods,

(c) the lessee has an option to renew the lease or to become the owner of the goods,

(d) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed, or

(e) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

For purposes of this subsection (37):

Additional consideration is not nominal if (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;

"Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and

"Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(38)"Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39)"Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40)"Surety" includes guarantor.

(41)"Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42)"Term" means that portion of an agreement which relates to a particular matter.

(43)"Unauthorized" signature or indorsement means one made without actual, implied, or apparent authority and includes a forgery.

(44)"Value." Except as otherwise provided with respect to negotiable instruments and bank collections (12A:3-303, 12A:4-210 and 12A:4-211) a person gives "value" for rights if the person acquires them:

(a) In return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or

(b) As security for or in total or partial satisfaction of a pre-existing claim; or

(c) By accepting delivery pursuant to a pre-existing contract for purchase; or

(d) Generally, in return for any consideration sufficient to support a simple contract.

(45)"Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46)"Written" or "writing" includes printing, typewriting, or any other intentional reduction to tangible form.

4. N.J.S. 12A:1-207 is amended to read as follows:

Performance or acceptance under reservation of rights.

12A:1-207. Performance or Acceptance Under Reservation of Rights.

(1) A party who, with explicit reservation of rights, performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as "without prejudice", "under protest" or the like are sufficient.

(2) Subsection (1) does not apply to an accord and satisfaction.

5. N.J.S.12A:2-103 is amended to read as follows:

Definitions and index of definitions.

12A:2-103. Definitions and Index of Definitions.

(1) In this chapter unless the context otherwise requires

(a) "Buyer" means a person who buys or contracts to buy goods.

(b) "Good faith" in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

(c) "Receipt" of goods means taking physical possession of them.

(d) "Seller" means a person who sells or contracts to sell goods.

(2) Other definitions applying to this Chapter or to specified Subchapters thereof, and the sections in which they appear are:

"Acceptance" ..... 12A:2-606.
"Banker's credit" ..... 12A:2-325.
"Between merchants" ..... 12A:2-104.
"Cancellation" ..... 12A:2-106(4).
"Commercial unit" ..... 12A:2-105.
"Confirmed credit" ..... 12A:2-325.
"Conforming to contract" ..... 12A:2-106.
"Contract for sale" ..... 12A:2-106.
"Cover" ..... 12A:2-712.
"Entrusting" ..... 12A:2-403.
"Financing agency" ..... 12A:2-104.
"Future goods" ..... 12A:2-105.
"Goods" ..... 12A:2-105.
"Identification" ..... 12A:2-501.
"Installment contract" ..... 12A:2-612.
"Letter of Credit" ..... 12A:2-325.
"Lot" ..... 12A:2-105.
"Merchant" ..... 12A:2-104.
"Overseas" ..... 12A:2-323.

"Person in position of seller" ..... 12A:2-707.
"Present sale" ..... 12A:2-106.
"Sale" ..... 12A:2-106.
"Sale on approval" ..... 12A:2-326.
"Sale or return" ..... 12A:2-326.
"Termination" ..... 12A:2-106.

(3) The following definitions in other Chapters apply to this Chapter:
"Check" ..... 12A:3-104.
"Consignee" ..... 12A:7-102.
"Consignor" ..... 12A:7-102.
"Consumer goods" ..... 12A:9-109.
"Dishonor" ..... 12A:3-502.
"Draft" ..... 12A:3-104.

(4) In addition Chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this Chapter.

6. N.J.S.12A:2-511 is amended to read as follows:

Tender of payment by buyer; payment by check.

12A:2-511. Tender of Payment by Buyer; Payment by Check.

(1) Unless otherwise agreed tender of payment is a condition to the seller's duty to tender and complete any delivery.

(2) Tender of Payment is sufficient when made by any means or in any manner current in the ordinary course of business unless the seller demands payment in legal tender and gives any extension of time reasonably necessary to procure it.

(3) Subject to the provisions of this Act on the effect of an instrument on an obligation (12A:3-310), payment by check is conditional and is defeated as between the parties by dishonor of the check on due presentment.

7. N.J.S.12A:9-203 is amended to read as follows:

Attachment and enforceability of security interest; proceeds; formal requisites.

12A:9-203. Attachment and Enforceability of Security Interest; Proceeds; Formal Requisites.

(1) Subject to the provisions of 12A:4-210 on the security interest of a collecting bank, 12A:8-321 on security interests in securities and 12A:9-113 on a security interest arising under the chapter on sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless:

(a) The collateral is in the possession of the secured party pursuant to agreement, or the debtor has signed a security agreement

which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned;

(b) Value has been given; and

(c) The debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subsection (1) have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed a security agreement gives the secured party the rights to proceeds provided by 12A:9-306.

(4) A transaction, although subject to this chapter, is also subject to the provisions of those statutes set forth as saved from repeal by this subtitle in section 12A:10-104, and in case of conflict between the provisions of this chapter and any such statute so saved from repeal, the provisions of such statute control. Failure to comply with any such applicable statute has only the effect which is specified therein.

(5) In case of conflict between this chapter and the provisions of "The Credit Union Act of 1984," P.L.1984, c.171, ss.2 to 46 (C.17:13-79 to C.17:13-124), concerning a transaction subject to this chapter and also subject to the provisions of "The Credit Union Act of 1984," the provisions of "The Credit Union Act of 1984" shall control.

8. N.J.S.12A:9-206 is amended to read as follows:

Agreement not to assert defenses against assignee; modification of sales warranties where security agreement exists.

12A:9-206. Agreement Not to Assert Defenses Against Assignee; Modification of Sales Warranties Where Security Agreement Exists.

(1) Subject to any statute or decision which establishes a different rule for buyers or lessees of consumer goods, an agreement by a buyer or lessee that he will not assert against an assignee any claim or defense which he may have against the seller or lessor is enforceable by an assignee who takes his assignment for value, in good faith and without notice of a claim or defense, except as to defenses of a type which may be asserted against a holder in due course of a negotiable instrument under the chapter on Negotiable Instruments (chapter 3). A buyer who as part of one transaction signs both a negotiable instrument and a security agreement makes such an agreement.

(2) When a seller retains a purchase money security interest in goods the chapter on Sales (chapter 2) governs the sale and any disclaimer, limitation or modification of the seller's warranties.

9. N.J.S.12A:9-302 is amended to read as follows:

When filing is required to perfect security interests; security interests to which filing provisions of this chapter do not apply.

12A:9-302. When Filing Is Required to Perfect Security Interests; Security Interests to Which Filing Provisions of This Chapter Do Not Apply.

(1) A financing statement shall be filed to perfect all security interests except the following:

(a) A security interest in collateral in possession of the secured party under 12A:9-305;

(b) A security interest temporarily perfected in instruments or documents without delivery under 12A:9-304 or in proceeds for a 10-day period under 12A:9-306;

(c) A security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(d) A purchase money security interest in consumer goods; but filing is required for a motor vehicle required to be registered; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in 12A:9-313;

(e) An assignment of accounts which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts of the assignor;

(f) A security interest of a collecting bank (12A:4-210) or in securities (12A:8-321) or arising under the chapter on sales (see 12A:9-113) or covered in subsection (3) of this section;

(g) An assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.

(2) If a secured party assigns a perfected security interest, no filing under this chapter is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this chapter is not necessary or effective to perfect a security interest in property subject to:

(a) A statute or treaty of the United States which provides for a national or international registration or a national or international

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certificate of title or which specifies a place of filing different from that specified in this chapter for filing of the security interest; or

(b) The following statutes of this State:

R.S.39:10-1 to R.S.39:10-9 both inclusive;

P.L.1971, c.311 (C.39:10-9.1 and C.39:10-9.2);

R.S.39:10-10 to R.S.39:10-16 both inclusive;

R.S.39:10-18 to R.S.39:10-25 both inclusive;

P.L.1984, c.152 (C.12:7A-1 to C.12:7A-29 both inclusive);

but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of this chapter (subchapter 4) apply to a security interest in that collateral created by the person as debtor; or

(c) A certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subsection (2) of 12A:9-103).

(4) Compliance with a statute or treaty described in subsection (3) is equivalent to the filing of a financing statement under this chapter, and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in 12A:9-103 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty; in other respects the security interest is subject to this chapter.

10. N.J.S.12A:9-312 is amended to read as follows:

Priorities among conflicting security interests in the same collateral.

12A:9-312. Priorities Among Conflicting Security Interests in the Same Collateral.

(1) The rules of priority stated in other sections of this subchapter and in the following sections shall govern when applicable: 12A:4-210 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; 12A:9-103 on security interests related to other jurisdictions; 12A:9-114 on consignments.

(2) (Deleted by amendment, P.L.1962, c.203, s.4.)

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if:

(a) The purchase money security interest is perfected at the time the debtor receives possession of the inventory; and

(b) The purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party, or (ii) before the beginning of the 21-day period where the purchase money security interest is temporarily perfected without filing or possession (subsection (5) of 12A:9-304); and

(c) The holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(d) The notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within 10 days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined according to the following rules:

(a) Conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(b) So long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purposes of subsection (5) a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing, the taking of possession, or under 12A:8-321 on securities, the security interest has the same priority for the purposes of subsection (5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances, made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

11. N.J.S. 3B:14-58 is amended to read as follows:

Deposit in fiduciary's personal account; liability of bank receiving deposit and paying checks.

3B:14-58. Deposit in fiduciary's personal account; liability of bank receiving deposit and paying checks.

a. If a fiduciary makes a deposit in a bank to his personal credit of checks drawn by him upon an account in his own name as fiduciary, or of checks drawn by him upon an account in the name of his principal, if he is empowered to draw thereon, or, except as provided in subsection b. of this section, if he otherwise makes a deposit of funds held by him as fiduciary, the bank receiving the deposit is not bound to inquire whether the fiduciary is committing thereby a breach of his obligation as fiduciary. The bank is authorized to pay the amount of the deposit of any part thereof upon the personal check of the fiduciary without being liable to the principal, unless the bank receives the deposit or pays the check with actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in making the deposit or in drawing the check, or with knowledge of facts that its action in receiving the deposit of paying the check amounts to bad faith.

b. In the case of an instrument payable to the principal or the fiduciary as fiduciary, the bank has notice of the breach of fiduciary duty if the instrument is deposited to an account of the principal or an account other than an account of the fiduciary, as fiduciary.

12. Section 3 of P.L.1971, c.399 (C. 17:16C-38.2) is amended to read as follows:

C.17:16C-38.2 Form, terms of consumer notes.

3. No retail installment contract shall require or entail the execution of any note unless such note shall have printed the words "CONSUMER NOTE" in 10-point bold type or larger on the face thereof. Such a note with the words "CONSUMER NOTE" printed thereon shall be subject to the terms and conditions of the retail installment contract and shall not be a negotiable instrument within the meaning of chapter 3 (Negotiable Instruments) N.J.S.12A:3-101 et seq., or a security interest within the meaning of chapter 9 (Secured Transactions) N.J.S.12A:9-101 et seq. of the Uniform Commercial Code. Any subsequent holder of a consumer note shall be subject to all claims and defenses of the retail buyer against the retail seller arising out of the transaction but no such claim or defense may be asserted against such holder in excess of the time

sales price under the retail installment contract for any sale, except that, in the case of the sale of a new motor vehicle, as defined in R.S.39:10-2, no claim or defense may be asserted against such holder in excess of the time balance under the retail installment contract. No claim or defense which the retail buyer may have against the retail seller arising otherwise than out of the retail installment contract or any separate instrument executed in connection therewith shall be asserted against any subsequent holder.

13. Section 2 of P.L.1969, c.237 (C.17:16C-64.2) is amended to read as follows:

C.17:16C-64.2 Form, terms of consumer notes.

2. No home repair contract shall require or entail the execution of any note unless such note shall have printed the words "CONSUMER NOTE" in 10-point bold type or larger on the face thereof. Such a note with the words "CONSUMER NOTE" printed thereon shall be subject to the terms and conditions of the home repair contract and shall not be a negotiable instrument within the meaning of chapter 3 (Negotiable Instruments) of the Uniform Commercial Code, N.J.S.12A:3-101 et seq.

Repealer.

14. Section 227 of P.L.1948, c.67 (C.17:9A-227) and Sections 1 through 5 of P.L.1951, c.166 (C.17:9A-229.1 through 229.5) are repealed.

15. This act shall take effect on the first day of the first calendar month which follows the 90th day after enactment.

Approved February 15, 1995.

CHAPTER 29

AN ACT concerning the conveyance of certain property by a board of education and amending N.J.S.18A:20-9.

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

1. N.J.S.18A:20-9 is amended to read as follows:

Conveyance of school property for public purposes.

18A:20-9. Whenever any board of education shall by resolution determine that any tract of land is no longer desirable or necessary for school purposes it may authorize the conveyance thereof, whether there is a building thereon or not, for a nominal consideration, to the municipality or any board, body or commission thereof, or to any volunteer fire company or rescue squad actively engaged in the protection of life and property and duly incorporated under the laws of the State of New Jersey, or to any American Legion post, Veterans of Foreign Wars, or other recognized veterans' organization of the United States of America, located in the municipality or the county, as a meeting place for such organization, or to a nonprofit child care service organization duly incorporated under the laws of the State of New Jersey, to a nonprofit hospital duly licensed under the laws of the State, or to a nonprofit organization duly licensed under the laws of the State of New Jersey to provide emergency shelter for the homeless, or to a nonprofit historic preservation organization duly incorporated under the laws of the State of New Jersey to provide a place for educational, cultural and musical functions. The president and secretary of the board shall be authorized to execute and deliver a conveyance for the same in the name and under the seal of the board, which conveyance may, in the discretion of the board, be made subject to a condition or limitation that said land shall be used by such municipality, board, body or commission thereof for public purposes and by any such fire company for fire company purposes or by such rescue squad for rescue squad purposes or to any veterans' organization, or to any child care service organization, or to any nonprofit hospital, or to any provider of emergency shelter for the homeless, or to any nonprofit historic preservation organization, and in the event that the property shall cease to be used for any of the purposes contemplated by this section, such property shall thereupon revert to and the title thereof shall vest in the board of education making the conveyance thereof hereunder.

2. This act shall take effect immediately.

Approved February 15, 1995.

CHAPTER 30

AN ACT increasing the membership of the boards of taxation of certain counties and amending R.S.54:3-2.

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

1. R.S.54:3-2 is amended to read as follows:

Taxation board members.

54:3-2. Each board shall, as heretofore, be known as the county board of taxation, and be composed of three members, except as hereinafter provided, to be appointed by the Governor by and with the advice and consent of the Senate. Each member shall be a resident and citizen of the county in and for which he is appointed. Members shall be chosen because of their special qualifications, knowledge and experience in matters concerning the valuation and taxation of property, particularly of real property. At no time shall more than two of the members belong to the same political party. In counties of the first class, in counties of the second class having a population of more than 550,000 and in counties of the fifth class having a population of more than 400,000 there shall be five members of whom no more than three shall belong to the same political party. For the purposes of this section, "population" means the State population according to the 1990 federal decennial census. Each member shall, within 24 months of appointment, unless the member shall have served as a member of the county board of taxation continuously for at least 10 years prior to the effective date of P.L.1981, c.516, was reappointed to a five-year term prior to that date, and is currently serving that term, furnish proof that he has received certificates indicating satisfactory completion of training courses designated in section 4 of P.L.1967, c.44 (C.54:1-35.28) or that he possesses an assessor's certificate issued pursuant to P.L.1967, c.44, as supplemented. Each member serving on the effective date of P.L.1979, c.499, unless the member shall have served as a member continuously for at least 10 years prior to the effective date of P.L.1981, c.516, was reappointed to a five-year term prior to that date, and is currently serving that term, shall furnish such proof within 30 months of such effective date, if 30 months or more of his term are remaining thereafter.

If any member so required does not furnish such proof within said 24-month period, or 30-month period for any member serving on the effective date of P.L.1979, c.499, the county tax administrator shall immediately notify the president of the county

board of taxation and the Director of the Division of Taxation. The director shall upon the receipt of such notification declare the position to be vacant, and shall notify the Governor of the existence of such vacancy. The Governor shall thereupon appoint, with the advice and consent of the Senate, a different citizen and resident of the relative county to fill such position for the unexpired term.

2. This act shall take effect immediately.

Approved February 15, 1995.

CHAPTER 31

AN ACT concerning the consumption of alcoholic beverages and amending P.L.1985, c.311.

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

1. Section 1 of P.L.1985, c.311 (C.2C:33-17) is amended to read as follows:

C.2C:33-17 Availability of alcoholic beverages to underaged, offenses.

1. a. Anyone who purposely or knowingly offers or serves or makes available an alcoholic beverage to a person under the legal age for consuming alcoholic beverages or entices or encourages that person to drink an alcoholic beverage is a disorderly person.

This subsection shall not apply to a parent or guardian of the person under legal age for consuming alcoholic beverages if the parent or guardian is of the legal age to consume alcoholic beverages or to a religious observance, ceremony or rite. This subsection shall also not apply to any person in his home who is of the legal age to consume alcoholic beverages who offers or serves or makes available an alcoholic beverage to a person under the legal age for consuming alcoholic beverages or entices that person to drink an alcoholic beverage in the presence of and with the permission of the parent or guardian of the person under the legal age for consuming alcoholic beverages if the parent or guardian is of the legal age to consume alcoholic beverages.

b. A person who makes real property owned, leased or managed by him available to, or leaves that property in the care of, another person with the purpose that alcoholic beverages will be made available for consumption by, or will be consumed by, persons who are under the legal age for consuming alcoholic beverages is guilty of a disorderly persons offense.

This subsection shall not apply if:

(1) the real property is licensed or required to be licensed by the Division of Alcoholic Beverage Control in accordance with the provisions of R.S.33:1-1 et seq;

(2) the person making the property available, or leaving it in the care of another person, is of the legal age to consume alcoholic beverages and is the parent or guardian of the person who consumes alcoholic beverages while under the legal age for consuming alcoholic beverages; or

(3) the alcoholic beverages are consumed by a person under the legal age for consuming alcoholic beverages during a religious observance, ceremony or rite.

2. This act shall take effect immediately.

Approved February 23, 1995.

CHAPTER 32

AN ACT expanding eligibility for certain veterans education benefits and amending P.L.1975, c.331.

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

1. Section 1 of P.L.1975, c.331 (C.18A:71-61) is amended to read as follows:

C.18A:71-61 Definitions.

1. As used herein:

"Prisoner of war" and "person missing in action" means any person who was a resident of this State at the time he or she entered service of the United States Armed Forces, or whose official residence is within this State, and who, while serving in said

United States Armed Forces, has been declared to be a prisoner of war, or to be a person missing in action as established by the Secretary of Defense after January 1, 1960.

"Dependent" means any child born before, during or after the period of time its parent was a prisoner of war or a person missing in action, or any child legally adopted or in the legal custody of the parent prior to, during or after the time the parent was a prisoner of war or a person missing in action.

2. This act shall take effect immediately.

Approved February 23, 1995.

CHAPTER 33

AN ACT concerning the return of certain documents by certain lenders and amending R.S.17:10-15, P.L.1960, c.40 and P.L.1960, c.41.

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

1. R.S.17:10-15 is amended to read as follows:

Obligations of licensee to borrower.

17:10-15. Every licensee shall:

a. Deliver to the borrower at the time a loan is made a statement in the English language showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the borrower and of the licensee, the payment schedule, the amount of interest charges, and the annual percentage rate of interest;

b. Give to any borrower who makes a payment in cash a plain and complete receipt for all payments made on account of the loan at the time payments are made, specifying the amount applied to interest and the amount, if any, applied to principal, and stating the unpaid balance, if any, of the loan;

c. Permit payment to be made in advance in any amount on any contract of loan at any time, but the licensee may apply the payment first to all interest in full at the agreed rate up to the date of payment;

d. Upon repayment of the loan in full, mark indelibly every obligation and security signed by the borrower, or a copy thereof, with the word "paid" or "canceled," and release, or give the borrower evidence to release any mortgage, or security interest which no longer secures an obligation to the licensee, restore any pledge, cancel and return any note or a copy thereof, and cancel and return any assignment or a copy thereof given to the licensee by the borrower.

No licensee shall take any confession of judgment or any power of attorney. No licensee shall take any note, promise to pay, or security that does not accurately disclose the amount of the loan, the date of the loan, the payment schedule, the amount of interest charges, and the annual percentage rate of interest, nor any instrument in which blanks are left to be filled in after the loan is made.

2. Section 52 of P.L.1960, c.40 (C.17:16C-52) is amended to read as follows:

C.17:16C-52 Payment in full of retail installment contract.

52. Upon payment in full by the retail buyer of the time balance and other amounts lawfully due under a retail installment contract, the holder shall:

(a) Return to the retail buyer either the original instruments evidencing indebtedness or constituting security under a retail installment contract, which were signed by the retail buyer or his sureties or guarantors in conjunction with such contract or a copy thereof, excepting such instruments as are filed or recorded with a public official and retained in the files of such official;

(b) Release all security interest in the goods or in any collateral security to the obligation of the retail buyer under such contract;

(c) Deliver to the retail buyer such good and sufficient assignments and certificates of title as may be necessary to vest the retail buyer with complete evidence of title.

3. Section 53 of P.L.1960, c.40 (C.17:16C-53) is amended to read as follows:

C.17:16C-53 Certificate of ownership delivered to retail buyer upon final payment.

53. When the final payment on a retail installment contract is made in cash by the retail buyer, or his authorized representative, at the designated licensed office of the holder, the certificate of ownership and other evidence of lien, or a copy thereof, showing satisfaction of the encumbrance, unless otherwise provided by rule or regulation of the commissioner, shall be delivered at the

time of such payment if demanded by the retail buyer, otherwise delivery may be made at a later date in person or by mail as may be arranged between retail buyer and holder; all other instruments, or a copy thereof, shall be delivered or mailed to the retail buyer within 35 days from the date of final payment.

4. Section 14 of P.L.1960, c.41 (C.17:16C-75) is amended to read as follows:

C.17:16C-75 Duties of holder upon payment in full of home repair contract.

14. With respect to contracts pursuant to which there is a lien, mortgage or encumbrance upon the goods or real property, upon payment in full by the owner of the time sales price and other amounts lawfully due under a home repair contract, the holder shall:

(a) return to the owner either the original instruments evidencing indebtedness under a home repair contract which were signed by the owner or his sureties or guarantors in connection with such contract or a copy thereof, excepting such instruments as are filed with a public official and retained in the files of such official;

(b) release all security interest in the goods or real property affected by the home repair contract; and

(c) deliver to the owner such good and sufficient assignments, releases of liens and mortgages on personal and real property and such other instruments of title as may be necessary to vest the owner with complete evidence of title.

With respect to all other contracts, the holder, upon payment in full by the retail buyer of the time sales price and other amounts lawfully due under a home repair contract, shall furnish the owner with such instruments as the commissioner may by regulation provide.

5. This act shall take effect immediately.

Approved March 1, 1995.

CHAPTER 34

AN ACT concerning the retention of certain records by school districts and supplementing chapter 6 of Title 18A of the New Jersey Statutes.

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

C.18A:6-7a Alleged child abuse, neglect by school employee; no use if unfounded.

1. When a complaint made against a school employee alleging child abuse or neglect is investigated by the Division of Youth and Family Services, the division shall notify the school district and the employee of its findings. Upon receipt of a finding by the division that such a complaint is unfounded, the school district shall remove any references to the complaint and investigation by the division from the employee's personnel records. A complaint made against a school employee that has been classified as unfounded by the Division of Youth and Family Services shall not be used against the employee for any purpose relating to employment, including but not limited to, discipline, salary, promotion, transfer, demotion, retention or continuance of employment, termination of employment or any right or privilege relating to employment.

2. Within one year of the enactment of this act, school districts shall review employee personnel files and remove all references to complaints and investigations by the Division of Youth and Family Services of child abuse and neglect that have been classified by the division as unfounded or unsubstantiated without concerns.

3. This act shall take effect immediately.

Approved March 1, 1995.

CHAPTER 35

AN ACT concerning cemetery salespersons and cemetery maintenance anc preservation funds and amending N.J.S.8A:4-3, 8A:4-4 and 8A:9-12.

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

1. N.J.S.8A:4-3 is amended to read as follows:

Trust funds; deposit; exception; release of corpus.

8A:4-3. a. Any cemetery company incorporated after December 1, 1971 shall, as a condition for the issuance to it of a certificate

of authority to operate a cemetery, cause to be deposited in a banking institution authorized by law to maintain trust accounts and having and maintaining a principal place of business within this State, the sum of $25,000 in trust, and shall designate such banking institution as trustee of the fund so deposited; provided, however, that any cemetery company operating a crematory physically separated from a cemetery and functioning exclusively as a crematory shall not be required to provide for the $25,000 initial trust fund deposit. Any such cemetery company operating a crematory wholly independent and physically separated from any cemetery which has heretofore made such a $25,000 initial trust deposit may make application to the New Jersey Cemetery Board for an order terminating such trust and providing for the refund of said moneys to the cemetery company. The New Jersey Cemetery Board shall, upon application of said cemetery company and upon being satisfied that said cemetery company operates said crematory wholly independent of and physically separated from any cemetery, issue an authorization to the banking institution acting as trustee of the Initial Balance Fund directing the release of the said fund to the cemetery company which established the fund. The income received from a trust account shall be paid to the cemetery company to be used for maintenance and preservation of the cemetery. The fund so deposited shall be called the Initial Balance Fund.

b. Within one month after the issuance of a certificate of authority and before it shall dispose of any interment space, the cemetery company shall cause to be established a second trust fund, which shall be a custodial trust fund, in a banking institution authorized by law to maintain trust accounts and having and maintaining a place of business within this State. This second fund shall be called the Maintenance and Preservation Fund and shall be augmented from time to time as set forth in the "New Jersey Cemetery Act," N.J.S.8A:1-1 et seq.

c. If the trust funds of the cemetery company do not exceed $150,000, then the cemetery company need not establish a custodial trust fund in accordance with subsection b. of this section but shall otherwise be subject to all other provisions of the "New Jersey Cemetery Act," N.J.S.8A:1-1 et seq., as well as the laws of the State of New Jersey regarding trust funds. If the amount of the trust funds is $150,000 or less and exceeds, or will soon exceed, the maximum deposit amount which the Federal Deposit Insurance Corporation insures pursuant to 12 U.S.C.§1817(i) and 12 U.S.C.§1821(a), the cemetery company shall establish a sec-

ond insured trust fund account in a different banking institution authorized by law to maintain trust accounts and having and maintaining a place of business in this State and shall transfer to that trust fund account an amount of trust funds, the result of which shall be that the amount of funds in each banking institution shall not exceed the amount insured by the Federal Deposit Insurance Corporation.

d. Whenever the cemetery company shall have deposited in its Maintenance and Preservation Fund a sum amounting to $50,000, it shall submit proof thereof to the board and the board shall thereupon issue an authorization to the banking institution acting as trustee of the Initial Balance Fund directing the release of the corpus of said fund to the cemetery company which established the fund.

2. N.J.S.8A:4-4 is amended to read as follows:

Trust fund to be established by certain companies.

8A:4-4. a. Each and every cemetery company organized before December 1, 1971 which has obtained a certificate of authority to operate a cemetery from the board, shall within 1 month following the issuance of the certificate of authority, cause to be established a custodial trust fund in a banking institution authorized by law to maintain trust accounts and having and maintaining a place of business within this State. This fund shall be called the Maintenance and Preservation Fund and shall be augmented from time to time as set forth in the "New Jersey Cemetery Act," N.J.S.8A:1-1 et seq., or as ordered by the cemetery board.

b. Notwithstanding subsection a. of this section, if the trust funds of the cemetery company do not exceed $150,000, then the cemetery company need not establish a custodial trust fund in accordance with this section but shall otherwise be subject to all other provisions of the "New Jersey Cemetery Act," N.J.S.8A:1-1 et seq. as well as the laws of the State of New Jersey regarding trust funds. If the amount of the trust funds is $150,000 or less and exceeds, or will soon exceed, the maximum deposit amount which the Federal Deposit Insurance Corporation insures pursuant to 12 U.S.C.§1817(i) and 12 U.S.C.§1821(a), the cemetery company shall establish a second insured trust fund account in a different banking institution authorized by law to maintain trust accounts and having and maintaining a place of business in this State and shall transfer to that trust fund account an amount of trust funds, the result of which shall be that the amount of funds

in each banking institution shall not exceed the amount insured by the Federal Deposit Insurance Corporation.

3. N.J.S.8A:9-12 is amended to read as follows:

License term.

8A:9-12. A license shall be issued or renewed for a period of two years, except that the New Jersey Cemetery Board may establish, through rule and regulation, a longer licensing period, not to exceed five years. The New Jersey Cemetery Board may also establish, through rule and regulation, shorter or longer licensing periods for initial licenses obtained, or for licenses renewed, within two years following the effective date of this 1995 amendatory act.

4. This act shall take effective immediately.

Approved March 1, 1995.

CHAPTER 36

AN ACT concerning professional engineers and land surveyors, and amending and supplementing P.L.1938, c.342.

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

1. Section 10 of P.L.1938, c.342 (C.45:8-36) is amended to read as follows:

C.45:8-36 Certificates.

10. Certificates. The board shall issue a license certificate upon payment of the application fee as provided in this chapter, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter, and who has paid the license fee to cover licensure for the year or fraction thereof in which such license is issued. In the case of a licensed professional engineer the certificate shall authorize the practice of the applicant as a "professional engineer" and in the case of a licensed land surveyor as a "land surveyor," or as "professional engineer and land surveyor" when the applicant qualifies in both classifications. Certificates of license shall show the full name of the licensee,

shall have a license number and shall be signed by the president and the secretary-director of the board under the seal of the board. The issuance of a license certificate by this board shall be evidence that the person named therein is entitled to all the rights and privileges of a licensed professional engineer or a licensed land surveyor, or as both as the case may be, while said certificate remains unrevoked, unexpired, or is not on a retired status list.

Each professional engineer or land surveyor shall upon receipt of license certificate, obtain a seal of a design authorized by the board, bearing his name, license number and the legend "Licensed Professional Engineer," "Licensed Land Surveyor," or "Licensed Professional Engineer and Land Surveyor," as the case may be. Plans, specifications, plats, and reports issued by persons authorized under this chapter shall be sealed with said seal, during the life of the licensee's certificate, but it shall be unlawful for anyone to stamp or seal any documents with said seal after the certificate of the licensee named thereon has expired, has been revoked, or is on a retired status list, unless said certificate shall have been renewed, reissued or reinstated from retirement status as provided pursuant to section 3 of P.L.1995, c.36 (C.45:8-36.2). The exact method of fulfilling the requirement as to the sealing of documents shall be regulated by the board.

All professional engineers licensed by this board prior to the passage of this chapter, shall continue to practice under the various classifications heretofore granted and within the branches of engineering indicated or may, upon application therefor, and the payment of a fee of $5.00 receive a new certificate under the title "professional engineer"; provided, said professional engineer presents evidence satisfactory to the board of his qualifications to practice in the field of general engineering comprehended in the title "professional engineer."

All license certificates shall be recorded by the board in the office of the Secretary of State, in a book kept for that purpose and any recording fee as may be provided by law shall be paid by the applicant before the license certificate is delivered.

The examining board shall be empowered to issue a certificate of registration as "Engineer-in-Training" or "Surveyor-in-Training," as the case may be, to an applicant who meets the qualifications outlined elsewhere herein.

An applicant who meets the requirements of this act shall receive a certificate of registration as "Engineer-in-Training," or "Surveyor-in-Training," whichever is applicable, which certificate may remain in effect for a period of 10 years from the date of issuance.

2. Section 13 of P.L.1938, c.342 (C.45:8-39) is amended to read as follows:

C.45:8-39 Practice without license and other violations; penalties; actions for penalties.

13. a. Any person who, hereafter, is not legally authorized to practice professional engineering or land surveying in this State according to the provisions of this act, who shall so practice or offer so to practice in this State, except as provided in section 14 of this act, or any person presenting or attempting to file as his own the certificate of license of another, or who shall give false or forged evidence of any kind to the board, or to any member or representative thereof, in obtaining a certificate of license, or who shall falsely impersonate another licensed practitioner of like or different name, or who shall use or attempt to use an expired certificate of license, an unexpired and revoked certificate of license, or a certificate of license which is on a retired status list, or who shall use either the title "Engineer-in-Training" or "Surveyor-in-Training" without holding a valid certificate of registration issued by the board, or who shall otherwise violate any of the provisions of this act, shall be subject to a penalty of not more than $200.00 for the first offense and not more than $500.00 for each and every subsequent offense. The penalties provided for by this section shall be sued for and recovered in civil actions by the State Board of Professional Engineers and Land Surveyors.

b. Pursuant to the provisions of the "Building Design Services Act," P.L.1989, c.277 (C.45:4B-1 et seq.) the board:

(1) May refer any complaint, question or controversy involving the application of that act to the joint committee.

(2) Shall take no disciplinary action against any licensed architect alleged to have engaged in a violation of that act or the unlicensed practice of engineering.

(3) Shall refer a request for a declaratory ruling to the joint committee.

(4) Shall provide any and all documents in its possession regarding any matter referred to the joint committee.

(5) Shall, when necessary and appropriate, exercise the investigation or enforcement powers conferred by law to aid and assist the joint committee in its functions.

(6) Shall, consistent with that act, discipline any professional engineer who, or business association authorized to offer engineering services which, violates that act. Such a violation shall be

deemed professional misconduct. Any violation of that act by an unlicensed individual or unauthorized business association shall be disciplined by the New Jersey State Board of Architects pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.). Such a violation shall be deemed the unlicensed practice of architecture. However, the design of an engineering work by an unlicensed individual or unauthorized business association shall be disciplined by the State Board of Professional Engineers and Land Surveyors pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.). Such a violation shall be deemed the unlicensed practice of engineering.

c. No person, firm, partnership, association or corporation shall bring or maintain any action in the courts of this State for the collection of compensation for services constituting the practice of engineering or land surveying without alleging and proving that he was duly licensed in accordance with this chapter at the time the alleged cause of action arose.

d. The Superior Court shall have jurisdiction of actions for penalties under this act.

C.45:8-36.2 Retirement procedures; resuming practice after retirement.

3. A licensed professional engineer or land surveyor who has been licensed for a minimum of 25 years and is 62 years of age or older may apply to the board for retirement license status on a form furnished by the board. Upon receipt of the completed retired status application form and the board's determination that the licensee meets these requirements, the board shall declare the licensee retired and shall place the licensee on a retired status list. A person whose license is retired shall not offer or practice professional engineering or land surveying, or both, as the case may be, within the State.

A person on the retired status list who wants to resume the practice of professional engineering or land surveying, or both, as the case may be, shall make application in the manner determined by the board for reinstatement of licensure to the board as a professional engineer or land surveyor, as the case may be, and pay the prescribed reinstatement fee as required by regulation of the board. Any person who has been on the retired status list for five or more years shall furnish the board with satisfactory evidence of current knowledge, competency and skill in the practice of professional engineering or land surveying as required by law or any regulation of the board.

4. This act shall take effect immediately.

Approved March 7, 1995.

CHAPTER 37

AN ACT concerning certain emergency warning lights and amending P.L.1977, c.223.

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

1. Section 1 of P.L.1977, c.223 (C.39:3-54.7) is amended to read as follows:

C.39:3-54.7 Display of emergency warning lights.

1. An active member in good standing of a volunteer fire company or a volunteer first aid or rescue squad recognized by and rendering service in any municipality may display on any motor vehicle driven by him an emergency warning light or lights as provided in this act. The Director of Motor Vehicles shall not require the member to specify on which motor vehicles the emergency warning light or lights may be mounted.

2. Section 5 of P.L.1977, c.223 (C.39:3-54.11) is amended to read as follows:

C.39:3-54.11 Identification cards; issuance.

5. The Director of Motor Vehicles shall prepare suitable identification cards bearing the signature of the director which, upon the request of the mayor or chief executive officer of any municipality recognizing and being served by a volunteer fire company or a volunteer first aid or rescue squad on a form and in a manner prescribed by the director, shall be forwarded to the mayor or chief executive officer, to be countersigned and issued by the mayor or chief executive officer to the members in good standing of the volunteer fire company or first aid or rescue squad. Identification cards issued pursuant to this section shall be considered permits to display and operate emergency warning lights as provided for in this act and shall apply to any motor vehicle driven by the member of a volunteer fire company or a volunteer first aid or rescue squad. Emergency warning lights shall not be mounted prior to the issuance of the identification cards. Each member of a volunteer fire company or a volunteer first aid or rescue squad must carry the identification card while an emergency warning light or lights are displayed on his vehicle.

3. Section 7 of P.L. 1977, c.223 (C.39:3-54.13) is amended to read as follows:

C.39:3-54.13 Violation of act; penalty.

7. Any person authorized to display emergency warning lights pursuant to this act who wilfully displays or uses such emergency warning lights in violation of the provisions of this act shall be liable to a penalty of not more than $50.00 and his privilege to display such emergency warning lights may be suspended or revoked by the Director of Motor Vehicles. A person who is not authorized to display emergency warning lights who wilfully displays or uses such emergency warning lights shall be liable to a penalty of not more than $100.00.

4. This act shall take effect immediately.

Approved March 7, 1995.

CHAPTER 38

AN ACT concerning State contract bonding requirements, amending N.J.S.2A:44-143, and supplementing Title 52 of the Revised Statutes.

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

C.52:32-43 Bond amount percentage; definitions.

1. The amount of any bond required under a State contract may be established at any percentage, not exceeding 100%, of the amount bid, based upon the contracting agency's assessment of the risk presented to the State by the type of contract and other relevant factors, and the contracting agency may waive the bond requirement of this section entirely if the contract is for a sum not exceeding $200,000. The bond percentage required shall be identified in the State contract bid documents prior to the contract bidding date.

As used in this section:

"contracting agency" means the State or any board, commission, committee, authority or agency of the State; and

"State contract" means any purchase, contract or agreement the cost or contract price of which is to be paid, in whole or in part, with or out of State funds.

2. N.J.S.2A:44-143 is amended to read as follows:

Additional bond for payment of claims for labor, material, etc.; waiver, surety's obligation.

2A:44-143. a. When public buildings or other public works or improvements are about to be constructed, erected, altered or repaired under contract, at the expense of the State or any county, municipality or school district thereof, the board, officer or agent contracting on behalf of the State, county, municipality or school district, shall require the usual bond, as provided for by law, with good and sufficient sureties, with an additional obligation for the payment by the contractor, and by all subcontractors, for all labor performed or materials, provisions, provender or other supplies, teams, fuels, oils, implements or machinery used or consumed in, upon, for or about the construction, erection, alteration or repair of such buildings, works or improvements.

b. When such contract is to be performed at the expense of the State and is entered into by the Director of the Division of Building and Construction or State departments designated by the Director of the Division of Building and Construction, the director or the State departments may: (1) establish for that contract the amount of the bond at any percentage, not exceeding 100%, of the amount bid, based upon the director's or department's assessment of the risk presented to the State by the type of contract and other relevant factors, and: (2) waive the bond requirement of this section entirely if the contract is for a sum not exceeding $200,000.

c. When such a contract is to be performed at the expense of a county, municipality or school district, the board, officer or agent contracting on behalf of the county, municipality or school district may: (1) establish for that contract the amount of the bond at any percentage, not exceeding 100%, of the amount bid, based upon the board's, officer's or agent's assessment of the risk presented to the county, municipality or school district by the type of contract and other relevant factors, and (2) waive the bond requirement of this section entirely if the contract is for a sum not exceeding $100,000.

d. A surety's obligation shall not extend to any claim for damages based upon alleged negligence that resulted in personal injury, wrongful death, or damage to real or personal property,

and no bond shall in any way be construed as a liability insurance policy. Nothing herein shall relieve the surety's obligation to guarantee the contractor's performance of all conditions of the contract, including the maintenance of liability insurance if and as required by the contract. Only the obligee named on the bond, and any subcontractor performing labor or any subcontractor or materialman providing materials for the construction, erection, alteration or repair of the public building, work or improvement for which the bond is required pursuant to this section, shall have any claim against the surety under the bond.

3. This act shall take effect immediately.

Approved March 7, 1995.

CHAPTER 39

AN ACT concerning certain set-aside contracts for minority businesses and women's businesses and supplementing Title 52 of the Revised Statutes.

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

C.52:32-22.1 Minority, women's business set-asides; compliance, calculation.

1. a. Whenever any obligation is imposed by law upon a contracting agency to set aside a percentage of State contracts awarded by that agency for minority businesses or women's businesses, compliance with that requirement shall be calculated based, according to objective and verifiable standards as promulgated pursuant to administrative regulation, upon the dollar value of payments actually made each year to, and received by, minority businesses and women's businesses pursuant to State contracts awarded by that agency, or subcontracts thereto, compared to the total of all payments made to, and received by, all parties awarded State contracts by that agency.

Compliance with any such set-aside requirement shall not be calculated using statements made by bidders with respect to the portion of a contract which the bidder intends to subcontract to minority businesses or women's businesses.

b. As used in this section:

"contracting agency" means the State or any board, commission, committee, authority or agency of the State; and

"State contract" means any purchase, contract or agreement the cost or contract price of which is to be paid, in whole or in part, with or out of State funds.

2. This act shall take effect immediately.

Approved March 7, 1995.

CHAPTER 40

AN ACT prohibiting local regulation of biotechnology and supplementing chapter 48 of Title 40 of the Revised Statutes.

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

C.40:8C-1 Biotechnology defined.

1. As used in this act:

"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.

C.40:8C-2 Development of biotechnology, not regulated; nonapplicability of act.

2. a. A county, municipality, including a local health board, or other local subdivision shall not regulate the development of biotechnology or the use of materials and organisms created through the application of biotechnology.

b. This act shall not affect the powers of a county, municipality, including a local health board, or other local subdivision to otherwise regulate business, industry, construction, and public utilities, or to provide fire protection and other public safety services.

3. This act shall take effect immediately.

Approved March 7, 1995.

CHAPTER 41

AN ACT concerning municipal cemeteries and amending N.J.S.8A:4-12 and P.L.1971, c.198.

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

1. N.J.S.8A:4-12 is amended to read as follows:

Annual report; supplemental report and investigation; examination; fees.

8A:4-12. a. Every cemetery company that is not a municipality shall file with the New Jersey Cemetery Board on a form established by the board, an annual report showing the extent of and sources of augmentation of the maintenance and preservation fund and the manner of employment by said cemetery company of the income of the maintenance and preservation fund during the preceding year, which report shall also contain a list of the securities in which said trust funds are invested. If the report so filed is deemed inadequate to properly apprise the New Jersey Cemetery Board of the information it requires to effectively administer the provisions of this act, it shall request a supplemental report and in its discretion conduct an investigation of the operations of the cemetery company.

Officials, managers and trustees or employees of every cemetery company that is not a municipality shall exhibit its books, papers and securities to the board when required and otherwise facilitate any examination of said company. Any cemetery official or employee may be required to testify under oath as to the conditions and affairs of the cemetery company.

b. To defray the expenses of examination and administration, each cemetery company, except any municipality or religious corporation, shall, at the time of filing its accounting and report as to its maintenance and preservation fund, but not later than 120 days after the close of the cemetery company's fiscal year, pay to the cemetery board the sum of $2.00 per interment in excess of 25 interments for the preceding fiscal year.

c. The annual report required by this section shall be filed by the cemetery company that is not a municipality no later than 120 days after the close of the cemetery company's fiscal year.

2. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to read as follows:

C.40A:11-15 Duration of certain contracts.

15. All purchases, contracts or agreements for the performing of work or the furnishing of materials, supplies or services shall be made for a period not to exceed 12 consecutive months, except that contracts or agreements may be entered into for longer periods of time as follows:

(1) Supplying of:

(a) Fuel for heating purposes, for any term not exceeding in the aggregate, two years;

(b) Fuel or oil for use of airplanes, automobiles, motor vehicles or equipment for any term not exceeding in the aggregate, two years;

(c) Thermal energy produced by a cogeneration facility, for use for heating or air conditioning or both, for any term not exceeding 40 years, when the contract is approved by the Board of Public Utilities. For the purposes of this paragraph, "cogeneration" means the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam;

(2) (Deleted by amendment, P.L.1977, c.53.)

(3) The collection and disposal of municipal solid waste, the collection and disposition of recyclable material, or the disposal of sewage sludge, for any term not exceeding in the aggregate, five years;

(4) The collection and recycling of methane gas from a sanitary landfill facility, for any term not exceeding 25 years, when such contract is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and with the approval of the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection. The contracting unit shall award the contract to the highest responsible bidder, notwithstanding that the contract price may be in excess of the amount of any necessarily related administrative expenses; except that if the contract requires the contracting unit to expend funds only, the contracting unit shall award the contract to the lowest responsible bidder. The approval by the Division of Local Government Services of public bidding requirements shall not be required for those contracts exempted therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);

(5) Data processing service, for any term of not more than three years;

(6) Insurance, for any term of not more than three years;

(7) Leasing or servicing of automobiles, motor vehicles, machinery and equipment of every nature and kind, for a period not to exceed three years; provided, however, such contracts shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(8) The supplying of any product or the rendering of any service by a telephone company which is subject to the jurisdiction of the Board of Public Utilities for a term not exceeding five years;

(9) Any single project for the construction, reconstruction or rehabilitation of any public building, structure or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction;

(10) The providing of food services for any term not exceeding three years;

(11) On-site inspections undertaken by private agencies pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not more than three years;

(12) The performance of work or services or the furnishing of materials or supplies for the purpose of conserving energy in buildings owned by, or operations conducted by, the contracting unit, the entire price of which to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 10 years; provided, however, that such contracts shall be entered into only subject to and in accordance with rules and regulations promulgated by the Department of Environmental Protection establishing a methodology for computing energy cost savings;

(13) The performance of work or services or the furnishing of materials or supplies for the purpose of elevator maintenance for any term not exceeding three years;

(14) Leasing or servicing of electronic communications equipment for a period not to exceed five years; provided, however, such contract shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(15) Leasing of motor vehicles, machinery and other equipment primarily used to fight fires, for a term not to exceed seven years, when the contract includes an option to purchase, subject to and in accordance with rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(16) The provision of water supply services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility, or any component part or parts thereof, including a water filtration system, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et al.), except for those contracts otherwise exempted pursuant to subsection (30) or (31) of this section. For the purposes of this subsection, "water supply services" means any service provided by a water supply facility; "water filtration system" means any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, rehabilitated, or operated for the collection, impoundment, storage, improvement, filtration, or other treatment of drinking water for the purposes of purifying and enhancing water quality and insuring its potability prior to the distribution of the drinking water to the general public for human consumption, including plants and works, and other personal property and appurtenances necessary for their use or operation; and "water supply facility" means and refers to the real property and the plants, structures, interconnections between existing water supply facilities, machinery and equipment and other property, real, personal and mixed, acquired, constructed or operated, or to be acquired, constructed or operated, in whole or in part by or on behalf of a political subdivision of the State or any agency thereof, for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, or of conserving existing water resources, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering, conserving or transmitting of water and for the preservation and protection of these resources and facilities and providing for the conservation and development of future water supply resources;

(17) The provision of solid waste disposal services by a resource recovery facility, the furnishing of products of a resource recovery facility, the disposal of the solid waste delivered for disposal which cannot be processed by a resource recovery facility or the waste products resulting from the operation of a resource recovery facility, including hazardous waste and recovered metals and other materials for reuse, or the design,

financing, construction, operation or maintenance of a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection; and when the facility is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.).. For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(18) The sale of electricity or thermal energy, or both, produced by a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Board of Public Utilities, and when the facility is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(19) The provision of wastewater treatment services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a wastewater treatment system, or any component part or parts thereof, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection pursuant to P.L.1985, c.72 (C.58:27-1 et al.). For the purposes of this subsection, "wastewater treatment services" means any services provided by a wastewater treatment system, and "wastewater treatment system" means equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge, or for the final disposal of residues resulting from the treatment of wastewater,

including, but not limited to, pumping and ventilating stations, facilities, plants and works, connections, outfall sewers, interceptors, trunk lines, and other personal property and appurtenances necessary for their operation;

(20) The supplying of materials or services for the purpose of lighting public streets, for a term not to exceed five years, provided that the rates, fares, tariffs or charges for the supplying of electricity for that purpose are approved by the Board of Public Utilities;

(21) In the case of a contracting unit which is a county or municipality, the provision of emergency medical services by a hospital to residents of a municipality or county as appropriate for a term not to exceed five years;

(22) Towing and storage contracts, awarded pursuant to paragraph u. of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) for any term not exceeding three years;

(23) Fuel for the purpose of generating electricity for a term not to exceed eight years;

(24) The purchase of electricity or administrative or dispatching services related to the transmission of such electricity, from a public utility company subject to the jurisdiction of the Board of Public Utilities, a similar regulatory body of another state, or a federal regulatory agency, or from a qualifying small power producing facility or qualifying cogeneration facility, as defined by 16 U.S.C. §796, by a contracting unit engaged in the generation of electricity for retail sale, as of the date of this amendatory act, for a term not to exceed 40 years;

(25) Basic life support services, for a period not to exceed five years. For the purposes of this subsection, "basic life support" means a basic level of prehospital care, which includes but need not be limited to patient stabilization, airway clearance, cardiopulmonary resuscitation, hemorrhage control, initial wound care and fracture stabilization;

(26) Claims administration services, for any term not to exceed three years;

(27) The provision of transportation services to elderly, disabled or indigent persons for any term of not more than three years. For the purposes of this subsection, "elderly persons" means persons who are 60 years of age or older. "Disabled persons" means persons of any age who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, are unable, without special facilities or special planning or design to utilize mass transportation facilities

and services as effectively as persons who are not so affected. "Indigent persons" means persons of any age whose income does not exceed 100 percent of the poverty level, adjusted for family size, established and adjusted under section 673(2) of subtitle B, the "Community Services Block Grant Act," Pub.L.97-35 (42 U.S.C.§9902 (2));

(28) The supplying of liquid oxygen or other chemicals, for a term not to exceed five years, when the contract includes the installation of tanks or other storage facilities by the supplier, on or near the premises of the contracting unit;

(29) The performance of patient care services by contracted medical staff at county hospitals, correction facilities and long term care facilities, for any term of not more than three years;

(30) The acquisition of an equitable interest in a water supply facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or an agreement entered into pursuant to the "County and Municipal Water Supply Act," N.J.S.40A:31-1 et seq., if the agreement is entered into no more than six months after the effective date of this amendatory act, P.L.1994, c.71, for any term of not more than 40 years;

(31) The provision of water supply services or the financing, construction, operation or maintenance or any combination thereof, of a water supply facility or any component part or parts thereof, by a partnership or copartnership established pursuant to a contract authorized under section 2 of P.L.1993, c.381 (C.58:28-2) for a period not to exceed 40 years;

(32) Laundry service and the rental, supply and cleaning of uniforms for any term of not more than three years; and

(33) The supplying of any product or the rendering of any service, including consulting services, by a cemetery management company for the maintenance and preservation of a municipal cemetery operating pursuant to the "New Jersey Cemetery Act," N.J.S.8A:1-1 et seq., for a term not exceeding 15 years.

All multiyear leases and contracts entered into pursuant to this section, except contracts for the leasing or servicing of equipment supplied by a telephone company which is subject to the jurisdiction of the Board of Public Utilities, contracts involving the supplying of electricity for the purpose of lighting public streets and contracts for thermal energy authorized pursuant to subsection (1) above, construction contracts authorized pursuant to subsection (9) above, contracts and agreements for the provision of work or the supplying of equipment to promote energy conservation authorized pursuant to subsection (12) above, contracts for water supply services or for a water supply facility, or any com-

ponent part or parts thereof authorized pursuant to subsection (16) above, contracts for resource recovery services or a resource recovery facility authorized pursuant to subsection (17) above, contracts for the sale of energy produced by a resource recovery facility authorized pursuant to subsection (18) above, contracts for wastewater treatment services or for a wastewater treatment system or any component part or parts thereof authorized pursuant to subsection (19) above, and contracts for the purchase of electricity or administrative or dispatching services related to the transmission of such electricity authorized pursuant to subsection (24) above, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

The Division of Local Government Services shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the fiscal year.

3. This act shall take effect immediately.

Approved March 7, 1995.

CHAPTER 42

AN ACT appropriating $3,200,000 from the "Jobs, Education and Competitiveness Bond Act of 1988," P.L.1988, c.78, for the construction, reconstruction, development, extension, improvement and equipment of classrooms, academic buildings, libraries, computer facilities and other higher education buildings at New Jersey's public and private institutions of higher education.

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

1. There is appropriated to the Department of Higher Education from the "Jobs, Education and Competitiveness Fund" created pursuant to section 14 of the "Jobs, Education and Competitiveness Bond Act of 1988," P.L.1988, c.78, the sum of $3,200,000 for the purpose of constructing, reconstructing, developing, extending, improving and equipping classrooms, academic

buildings, libraries, computer facilities and other higher education buildings. The sum shall be allocated to the following institutions of higher education which shall provide funds to projects which have been approved by the State Board of Higher Education as provided below:

PROJECT	INSTITUTION FUNDS	P.L. 1988, c.78 BOND FUNDS
CONSTRUCTION OF HIGHER EDUCATION BUILDINGS AT INDEPENDENT INSTITUTIONS		
Conversion of Dental School at Fairleigh Dickinson University	$8,800,000	$3,200,000

2. The expenditure of the sums appropriated by this act are subject to the provisions and conditions of P.L.1988, c.78.

3. This act shall take effect immediately.

Approved March 7, 1995.

CHAPTER 43

AN ACT permitting certain charges with respect to retail installment and retail charge accounts and amending P.L.1960, c.40.

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

1. Section 42 of P.L.1960, c.40 (C.17:16C-42) is amended to read as follows:

C.17:16C-42 Delinquency or collection charge for default in payment; attorney's fees.

42. (a) The holder of any retail installment contract may collect a delinquency or collection charge for default in the payment of any such contract or any installment thereof, if provided for in the contract when such default shall have continued for a period of 10 days, such charge not to exceed $10. Such charge may be collected by the holder of the retail installment contract or charged to the buyer's retail installment contract account. If charged to the

buyer's retail installment contract account, such charge shall be made within 35 days from the date of such default and then a written notification that such charge has been made shall be mailed to the retail buyer within 5 days from the date when such charge was made.

(b) The holder of any retail charge account may collect a delinquency or collection charge in an amount not to exceed $10, if provided for in the retail charge account agreement, on any minimum payment which has not been paid in full for a period of 10 days after its due date, as originally scheduled.

(c) A delinquency or collection charge under this section may be collected only once on each minimum payment due however long it remains in default. A delinquency charge may be collected at the time it accrues or at any time afterward.

(d) The retail installment contract or retail charge account may provide for the payment of attorney's fees not exceeding 20% of the first $500.00 and 10% on any excess of the amount due and payable under such contract or account when referred to an attorney, not a salaried employee of the holder of the contract or account, for collection.

2. This act shall take effect on the 90th day following enactment.

Approved March 7, 1995.

CHAPTER 44

AN ACT concerning juries and revising various parts of the statutory law.

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

1. Four additional chapters, chapters 20, 21, 22, 23 are added to Title 2B of the New Jersey Statutes as follows:

TITLE 2B
CHAPTER 20
QUALIFICATIONS AND SELECTION OF JURORS

Qualifications of jurors.

2B:20-1. Qualifications of jurors.

Every person summoned as a juror:

a. shall be 18 years of age or older;

b. shall be able to read and understand the English language;

c. shall be a citizen of the United States;

d. shall be a resident of the county in which the person is summoned;

e. shall not be serving a sentence of imprisonment, or be on probation or parole, as a result of a conviction of any indictable offense under the laws of this State, another state, or the United States;

f. shall not have any mental or physical disability which will prevent the person from properly serving as a juror.

Source: 2A:69-1

Preparation of juror source list.

2B:20-2. Preparation of juror source list.

a. The names of persons eligible for jury service shall be selected from a single juror source list of county residents whose names and addresses shall be obtained from a merger of the following lists: registered voters, licensed drivers, filers of State gross income tax returns and filers of homestead rebate application forms. The county election board, the Division of Motor Vehicles and the State Division of Taxation shall provide these lists annually to the Assignment Judge of the county. The Assignment Judge may provide for the merger of additional lists of persons eligible for jury service that may contribute to the breadth of the juror source list. Merger of the lists of eligible jurors into a single juror source list shall include a reasonable attempt to eliminate duplication of names.

b. The juror source list shall be compiled once a year or more often as directed by the Assignment Judge.

c. The juror source list may be expanded by the Supreme Court as it deems appropriate.

Source: 2A:70-1, 2A:70-2, 2A:70-4, 2A:70-6

Questionnaires concerning qualifications.

2B:20-3. Questionnaires concerning qualifications.

a. The Assignment Judge may direct that questionnaires be sent to potential jurors, requesting that they provide pertinent information concerning their qualifications for jury service, and any claims for exemption or deferral.

b. Questionnaires may be sent to all persons on the juror source list, or to persons randomly selected from the juror source list, either before or with the service of a summons for jury service.

Source: 2A:70-5

Public and random selection of jurors.

2B:20-4. Public and random selection of jurors.

a. Before each session of the Superior Court, the Assignment Judge shall provide for the drawing of names from the juror source list of persons to be summoned for service as grand and petit jurors.

b. The Assignment Judge shall specify the number of panels of grand and petit jurors to be drawn, the number of names to be drawn for each panel and the form and manner of preparation of the lists of names drawn. The lists shall state the name and address and, if available, occupation of each juror to be summoned.

c. The Assignment Judge shall provide for the selection of additional panels of grand and petit jurors from the juror source list at any time when it appears that additional panels of jurors will be required.

d. Both the drawing of names and the assignment of selected names to panels shall be public and random.

e. The Assignment Judge may provide for the random selection of jurors, and their assignment to panels, by the use of electronic devices, if:

(1) the method of random selection is specified with particularity in the instructions of the assignment judge; and

(2) the specification of the method and any programs and procedures used to implement the method, including any computer programs which are utilized, are available for public inspection upon request.

Source: 2A:70-4a; 2A:71-3.1; 2A:71-4; 2A:71-8; 2A:71-10; 2A:71-12

Certification, filing and posting of juror lists.

2B:20-5. Certification, filing and posting of juror lists.

The list of names randomly selected from the juror source list shall be filed and publicly posted in the office of the County Clerk. The Assignment Judge shall certify on the list that the process specified for the selection of jurors and their assignment to panels has been followed.

Source: 2A:70-3

Designation of period of service for petit jury panels.

2B:20-6. Designation of period of service for petit jury panels.

a. The Assignment Judge shall designate the period of service of each panel of jurors selected from the juror source list.

b. A panel of jurors may be designated to serve during a portion of the then current session of the Superior Court, or during a portion of the next session of the Superior Court.

Source: 2A:71-9

Summoning of jurors.

2B:20-7. Summoning of jurors.

a. Upon receipt of a list of persons selected to serve on a panel of jurors, the sheriff shall, under the direction of the Assignment Judge, cause the persons to be summoned.

b. The sheriff shall make a return to the Assignment Judge of all of the jurors summoned.

Source: 2A:72-2,2A:72-4

Form and service of summons.

2B:20-8. Form and service of summons.

a. The summons for jury service shall be by written notice and shall state the date, time and place where the juror is to appear for service.

b. The summons shall be served at least 30 days prior to the date upon which the juror is to appear, by regular mail addressed to the juror's usual residence or business address unless service at another address is ordered by the Assignment Judge. Service of the summons shall be complete upon mailing.

c. If a sufficient number of jurors is unavailable due to a successful challenge or other unanticipated occurrence and new panels of jurors must be selected from the juror source list, the Assignment Judge may direct that the summons be served less than 30 days prior to the date upon which the jurors are to appear.

Source: 2A:72-5; 2A:71-11

Excuses and deferrals by Assignment Judge.

2B:20-9. Excuses and deferrals by Assignment Judge.

a. A person may be excused from jury service or may have jury service deferred only by the Assignment Judge of the county in which the person was summoned, or by the Assignment Judge's designee.

b. The Assignment Judge may require verification of any of the facts supporting the grounds for a request for excuse or deferral. Records shall be kept of all requests for excuses and deferrals, and of the granting of excuses and deferrals.

Source: 2A:78-1

Grounds for excuse from jury service.

2B:20-10. Grounds for excuse from jury service.

An excuse from jury service shall be granted only if:

a. The prospective juror is 75 years of age or older;

b. The prospective juror has served as a juror within the last three years in the county to which the juror is being summoned;

c. Jury service will impose a severe hardship due to circumstances which are not likely to change within the following year. Severe hardship includes the following circumstances:

(1) The prospective juror has a medical inability to serve which is verified by a licensed physician.

(2) The prospective juror will suffer a severe financial hardship which will compromise the juror's ability to support himself, herself, or dependents. In determining whether to excuse the prospective juror, the Assignment Judge shall consider:

(a) the sources of the prospective juror's household income; and

(b) the availability and extent of income reimbursement; and

(c) the expected length of service.

(3) The prospective juror has a personal obligation to care for another, including a sick, aged or infirm dependent or a minor child, who requires the prospective juror's personal care and attention, and no alternative care is available without severe financial hardship on the prospective juror or the person requiring care.

(4) The prospective juror provides highly specialized technical health care services for which replacement cannot reasonably be obtained.

(5) The prospective juror is a health care worker directly involved in the care of a mentally or physically handicapped person, and the prospective juror's continued presence is essential to the regular and personal treatment of that person.

(6) The prospective juror is a member of the full-time instructional staff of a grammar school or high school, the scheduled jury service is during the school term, and a replacement cannot reasonably be obtained. In determining whether to excuse the prospective juror or grant a deferral of service, the Assignment Judge shall consider:

(a) the impact on the school considering the number and function of teachers called for jury service during the current academic year; and

(b) the special role of certified special education teachers in providing continuity of instruction to handicapped students;

d. The prospective juror is a member of a volunteer fire department or fire patrol; or

e. The prospective juror is a volunteer member of a first aid or rescue squad.

Source: 2A:69-4; 2A:78-1

Deferral of jury service.

2B:20-11. Deferral of jury service.

Upon a request for deferral of jury service or upon the denial of a request for an excuse from jury service, the Assignment Judge may direct that the jury service of a prospective juror be deferred to another time within the next twelve months.

Source: 2A:78-1

Retention of records.

2B:20-12. Retention of records.

All records concerning the granting of excuses from and deferrals of jury service, and all juror questionnaires, shall be retained for a period of three years. All other records relating to the summoning, impaneling and charging of jurors shall be retained for five years.

Source: New

Discharge of unneeded jurors.

2B:20-13. Discharge of unneeded jurors.

If the number of jurors in attendance is greater than is necessary for the business of the court, the Assignment Judge may discharge the unneeded jurors before the expiration of the period for which they were summoned. The jurors discharged shall be selected randomly.

Source: 2A:78-3

Failure to respond to questionnaire or summons.

2B:20-14. Failure to respond to questionnaire or summons.

a. Persons who are sent questionnaires concerning their qualifications for jury service who fail to respond to the questionnaire without reasonable excuse shall be liable for a fine not to exceed $500, payable to the county from which the questionnaire was sent, or may be punished for contempt of court.

b. Persons summoned as jurors who, without reasonable excuse, either fail to appear for jury service or refuse to serve, shall be liable for a fine not to exceed $500, payable to the county in which the person was summoned, or may be punished for contempt of court.

Source: 2A:70-5; 2A:79-1

Notice and collection of fines.

2B:20-15. Notice and collection of fines.

a. The Assignment Judge may direct the sheriff to send written notice to a person who has failed to respond to a questionnaire concerning jury service, or who has failed to appear for jury service or has refused to serve, that a fine has been imposed. The notice shall state the amount of the fine, the manner of payment to be made to the sheriff, and the consequences of failure to pay

the fine within 30 days of the date specified in the notice. The notice shall be served in the same manner as a summons.

b. If a defaulting juror fails to pay the fine in response to the notice, the Assignment Judge may issue process directing the sheriff to recover the fine and costs by levy on the defaulting juror's personal property.

Source: 2A:79-2; 2A:79-3

Excuse from employment for jury duty; compensation.

2B:20-16. Excuse from employment for jury duty; compensation.

Any person employed full-time by any agency, independent authority, instrumentality or entity of the State or of any political subdivision of the State shall be excused from employment at all times the person is required to be present for jury service in any court of this State, any court of another state, or any federal district court or in the United States District Court for New Jersey, and shall be entitled to receive from the employer the person's usual compensation for each day the person is present for jury service, less the amount of per diem fee for each day of jury service as shown on a statement issued to the juror by the sheriff or other court officer making payment of juror fees.

Source: 2A:69-5; 2A:69-5

Employment protection.

2B:20-17. Employment protection.

a. An employer shall not penalize an employee with respect to employment, or threaten or otherwise coerce an employee with respect to that employment, because the employee is required to attend court for jury service.

b. An employer who violates subsection a. of this section is guilty of a disorderly persons offense.

c. If an employer penalizes an employee in violation of subsection a. of this section, the employee may bring a civil action for economic damages suffered as a result of the violation and for an order requiring the reinstatement of the employee. The action shall be commenced within 90 days from the date of the violation or the completion of jury service, whichever is later. If the employee prevails, the employee shall be entitled to a reasonable attorney's fee fixed by the court.

Source: New

Oath of allegiance.

2B:20-18. Oath of allegiance.

The following oath shall be administered to every person summoned for service as a juror who is not excused from service, before beginning service upon the panel:

"Do you swear or affirm that you will support the Constitution of the United States and the Constitution of this State?"

Source: 2A:69-1.1

CHAPTER 21
COUNTY GRAND JURIES

Number of grand juries.

2B:21-1. Number of grand juries.

The Assignment Judge for each county shall impanel one or more grand juries for that county, as the public interest requires. There shall be at least one grand jury serving in each county at all times.

Source: 2A:71-5; 2A:71-6; 2A:71-7

Impaneling grand jury.

2B:21-2. Impaneling grand jury.

a. A grand jury shall consist of not more than 23 persons selected from the panel of jurors summoned for service as grand jurors. The grand jurors shall be selected publicly and randomly, in the same manner as is provided by statute for the impaneling of petit jurors.

b. The Assignment Judge, or a Superior Court judge designated by the Assignment Judge, shall conduct the voir dire of members of the grand jury panel and shall decide all requests for excuse or deferral of service on the grand jury.

c. The Assignment Judge, or a Superior Court judge designated by the Assignment Judge, shall excuse any person from service on the grand jury if the person is a federal, State or local government police officer or prosecutor.

d. The prosecutor may object to the selection of any person as a grand juror on the basis of the person's inability to be impartial or on the grounds that the person does not meet the qualifications specified in N.J.S.2B:20-1. The objections by the prosecutor shall be made on the record and shall be decided by the Assignment Judge.

Source: 2A:73-1; 2A:78-6; new

Oath of grand jurors.

2B:21-3. Oath of grand jurors.

The following oath shall be administered to all of the members of the grand jury:

"Do you as a member of this grand jury of the State of New Jersey and county of (county) swear or affirm that you will sup-

port the Constitution of the United States and the Constitution of this State; that you will diligently inquire into all matters brought before you to the best of your skill, knowledge and understanding; that you will take no action through envy, hatred or malice nor for fear, favor or affection, or for reward or the hope of reward; that you will make a true presentment of all matters coming before you, and that you will keep secret the proceedings of the grand jury?"

Source: 2A:73-3

Vacancies in grand jury.

2B:21-4. Vacancies in grand jury.

A grand juror who becomes ill, dies or does not appear for service after having been sworn may be replaced at the direction of the Assignment Judge. The replacement grand juror shall be selected publicly and randomly and shall be sworn in the same manner as the grand juror being replaced.

Source: 2A:73-2

Selection of foreperson and deputy foreperson.

2B:21-5. Selection of foreperson and deputy foreperson.

The foreperson and the deputy foreperson of each grand jury shall be selected publicly and randomly from the persons impanelled as members of the grand jury. A person selected as the foreperson or deputy foreperson may freely decline to serve in the position, in which case another person shall be selected publicly and randomly to serve.

Source: New

Swearing of witnesses by foreperson.

2B:21-6. Swearing of witnesses by foreperson.

a. The foreperson of the grand jury shall administer the following oath to witnesses who give evidence before the grand jury:

"Do you swear or affirm that you will tell the truth, the whole truth, and nothing but the truth?"

b. The foreperson shall, before being discharged, certify to the court the names of the witnesses who have been sworn.

Source: 2A:73-4

Indictment.

2B:21-7. Indictment.

An indictment may be found only upon concurrence of 12 or more grand jurors who either were present during, or who have read or listened to the record of, all of the proceedings concerning the indictment and who have examined all exhibits presented with respect to the indictment.

Source: New

Record of proceedings.

2B:21-8. Record of proceedings.

The testimony of witnesses, comments by the prosecuting attorney, and colloquy between the prosecuting attorney and witnesses or members of the grand jury shall be recorded stenographically or electronically.

Source: 2A:73B-1

Statement of investigation.

2B:21-9. Statement of investigation.

a. A person who has been investigated by a grand jury and against whom no indictment has been returned, may request the grand jury to issue a statement indicating that a charge against the person was investigated and that the grand jury did not return an indictment from the evidence presented. The grand jury shall issue the statement upon the approval of the court which summoned the grand jury. The statement shall issue upon the completion of the investigation of the charge, but not beyond the end of the grand jury's term.

b. A person who has been called to appear before a grand jury for a purpose other than the investigation of a charge against the person, may request the grand jury to issue a statement indicating that the person was called only as a witness in an investigation, and that the investigation did not involve a charge against the person. The grand jury shall issue the statement upon the approval of the court which summoned the grand jury. The statement shall issue upon the completion of the investigation of the charge or a series of related charges, but not beyond the end of the grand jury's term.

Source: 2A:73B-2

Unauthorized disclosure of grand jury proceedings.

2B:21-10. Unauthorized disclosure of grand jury proceedings.

a. Any person who, with the intent to injure another, purposely discloses any information concerning the proceedings of a grand jury, other than as authorized or required by law, commits a crime of the fourth degree. A public officer or employee who is convicted of a violation of this subsection shall be dismissed from public office or employment.

b. A person injured as a result of a violation of subsection a. of this section may bring a civil action against the person convicted of the violation. The person convicted shall be liable to the person injured for actual damages, punitive damages of not less than $1,000.00 or more than $100,000.00, reasonable litigation costs and reasonable attorney fees.

Source: 2A:73B-3

CHAPTER 22
STATE GRAND JURIES

Impaneling State grand jury.

2B:22-1. Impaneling State grand jury.

a. There shall be at least one State grand jury with jurisdiction extending throughout the State serving at all times.

b. The State grand jury shall be impaneled by a judge of the Superior Court designated for that purpose by the Chief Justice.

c. The Attorney General or the Director of the Division of Criminal Justice may, when they determine it to be in the public interest, apply in writing to the designated judge requesting that one or more additional State grand juries be impaneled. The judge may, for good cause shown, order the impaneling of additional State grand juries.

Source: 2A:73A-2

Powers and duties of State grand jury.

2B:22-2. Powers and duties of State grand jury.

a. A State grand jury shall have the same powers and duties and shall function in the same manner as a county grand jury except that its jurisdiction shall extend throughout the State. The law applicable to county grand juries shall apply to State grand juries to the extent that it is consistent with the specific provisions relating to State grand juries.

b. The Supreme Court may promulgate rules to govern particularly the procedures of State grand juries.

Source: 2A:73A-3

Selection of State grand jurors.

2B:22-3. Selection of State grand jurors.

a. The Administrative Director of the Courts, upon receipt of an order directing the impaneling of a State grand jury, shall prepare a list of prospective jurors randomly drawn from the current jurors lists of the several counties. The list of prospective State grand jurors prepared by the Administrative Director of the Courts shall contain numbers of prospective jurors from each county in the same relative proportion as the population of each county bears to the total population of the State.

b. The designated judge shall impanel a State grand jury from the prospective jurors on the list. The selection of jurors for service on the State grand jury shall be public and random.

Source: 2A:73A-4

Summoning of State grand jurors.

2B:22-4. Summoning of State grand jurors.

The Administrative Director of the Courts shall transmit the names of the prospective jurors selected for service on the State grand jury to the sheriffs of the counties in which the prospective jurors reside. The sheriffs of the respective counties shall cause the prospective jurors resident in their counties to be summoned for service on the State grand jury.

Source: 2A:73A-5

Judicial supervision of State grand jury.

2B:22-5. Judicial supervision of State grand jury.

The judge designated by the Chief Justice shall maintain judicial supervision over the grand jury. All indictments, presentments and formal returns of any kind made by a State grand jury shall be returned to the designated judge.

Source:2A:73A-6

Presentation of evidence to State grand jury.

2B:22-6. Presentation of evidence to State grand jury.

The Attorney General or the designee of the Attorney General shall present evidence to the State grand jury.

Source: 2A:73A-7

Return of indictment or presentment.

2B:22-7. Return of indictment or presentment.

The judge who issues an order impaneling a State grand jury shall designate the county of venue for the purpose of trial of an indictment returned by the State grand jury. The judge may direct the consolidation of an indictment returned by a county grand jury with an indictment returned by a State grand jury and may fix the venue for trial of both indictments.

Source: 2A:73A-8

Expenses of State grand jury.

2B:22-8. Expenses of State grand jury.

a. The State shall pay the expenses of impaneling and operating a State grand jury out of funds appropriated for this purpose to the Division of Criminal Justice in the Department of Law and Public Safety.

b. The expenses incurred by a county for the prosecution and trial of a State grand jury indictment shall be paid by the State out of funds appropriated for this purpose to the Division of Criminal Justice in the Department of Law and Public Safety. The county treasurer shall make application for payment of the expenses to

the Assignment Judge of the county, and the Assignment Judge shall fix and certify the amount of the expenses.

Source: 2A:73A-9

CHAPTER 23
PETIT JURORS

Number of jurors.

2B:23-1. Number of jurors.

a. Juries in criminal cases shall consist of 12 persons. Except in trials of crimes punishable by death, the parties in criminal cases may stipulate in writing, before the verdict and with court approval, that the jury shall consist of fewer than 12 persons.

b. Juries in civil cases shall consist of 6 persons unless the court shall order a jury of 12 persons for good cause shown.

Source: New

Selection of trial jury from panel.

2B:23-2. Selection of trial jury from panel.

a. When a jury is required for trial, the names or identifying numbers of the jurors who constitute the panel or panels from which the jury is to be selected shall be placed on uniform pieces of paper or other uniform markers. The markers shall be deposited in a box.

b. The box containing the markers shall be shaken so as to mix the markers thoroughly and the officer designated by the court shall, at the direction of the court, publicly in open court, draw the markers from the box, one at a time, until the necessary number of persons is randomly selected. If any of the persons so selected is successfully challenged or excused from serving on that jury, the drawing shall be continued until the necessary number of persons is selected.

c. The Assignment Judge of the county may provide for the random selection of jurors for impaneling by the use of electronic or electro-mechanical devices, if:

(1) the method of random selection is specified with particularity in an order of the Assignment Judge; and

(2) the specification of the method and any programs and procedures used to implement the method, including the relevant computer programs or portions of computer programs which are utilized, are available for public inspection upon request.

Source: 2A:74-1; 2A:74-8

Impaneling of additional jurors.

2B:23-3. Impaneling of additional jurors.

The court may direct the impaneling of a jury with additional members having the same qualifications and impaneled and sworn in the same manner as a jury of 12 or 6. All the jurors shall hear the case, but the court for good cause may excuse any of them from service provided the number of jurors is not reduced to less than 12 or 6 in an appropriate civil case. If more than the prescribed number are left on the jury at the conclusion of the court's charge, the clerk of the court in its presence shall, by drawing names, randomly select that number of jurors' names as will reduce the jury to the required number.

Source: 2A:74-2

Names of selected trial jurors.

2B:23-4. Names of selected trial jurors.

The names of the jurors selected and sworn to try a case shall be made a part of the record of the case.

Source: 2A:74-4

Names of jurors drawn for trial jury replace in pool.

2B:23-5. Names of jurors drawn for trial jury replace in pool.

After a jury has been selected and sworn, the names or identifying numbers of jurors not sworn to try the case shall be returned to the general pool of eligible jurors before the drawing of another jury. The names or identifying numbers of those jurors shall be returned to the general pool of eligible jurors unless the Assignment Judge directs otherwise.

Source: 2A:74-5

Oath of jurors.

2B:23-6. Oath of jurors.

The following oath shall be administered to each juror:

"Do you swear or affirm that you will try the matter in dispute and give a true verdict according to the evidence?"

Source: 2A:74-6

Oath of officer attending jury.

2B:23-7. Oath of officer attending jury.

The following oath shall be administered to the officer appointed to attend the jury:

"Do you swear or affirm that you will do your best to keep every person sworn on this jury together in a private place, and that you will not allow any person to speak to them, nor speak to

them yourself, except by order of the court, and except to ask them if they have agreed on a verdict, until they have so agreed?"

Source: 2A:74-7

Jurors to serve beyond period for which drawn until completion of trial.

2B:23-8. Jurors to serve beyond period for which drawn until completion of trial.

When a jury does not complete its trial service during the session for which its members are to serve as jurors, the court may order that the jury shall serve until the completion of the trial even though such trial may extend into the next session or sessions.

Source: 2A:74-11

Juries drawn from other counties.

2B:23-9. Juries drawn from other counties.

a. When a court orders a trial by a jury drawn from outside the county in which the court is sitting, the order shall specify the number of jurors to be returned and shall be directed, and made returnable, to the sheriff of the county from which the jury is to be taken. The jurors shall be competent jurors in the county from which they are to be taken and shall be selected in the same manner as the general panel of jurors is selected.

b. The county in which the trial will be held shall pay the expense of summoning and returning the jurors and of their attendance at the court.

Source: 2A:76-1; 2A:76-2

Examination of jurors.

2B:23-10. Examination of jurors.

a. In the discretion of the court, parties to any trial may question any person summoned as a juror after the name is drawn and before the swearing, and without the interposition of any challenge, to determine whether or not to interpose a peremptory challenge or a challenge for cause. Such examination shall be permitted in order to disclose whether or not the juror is qualified, impartial and without interest in the result of the action. The questioning shall be conducted in open court under the trial judge's supervision.

b. The examination of jurors shall be under oath only in cases in which a death penalty may be imposed.

Source: 2A:78-4

Challenge to qualifications of jurors.

2B:23-11. Challenge to qualifications of jurors.

It shall be good cause for challenge to any person summoned as a juror that the person does not possess the qualifications required by N.J.S. 2B:20-1 or that the person's name does not appear on the jury lists prepared pursuant to N.J.S. 2B:20-4. If the challenge is verified according to law or on the person's oath the person shall be discharged.

Source: 2A:69-3; 2A:78-6

Interest in action by or against county or municipality.

2B:23-12. Interest in action by or against county or municipality.

In an action in which a county or municipality is or may be a party or otherwise has an interest in the action, it shall not be a ground for challenge to the jury panel that the court officers, court employees or jurors, solely because they are inhabitants of the county or municipality, are interested in the action or are taxed in the county.

Source: 2A:78-5

Peremptory challenges.

2B:23-13. Peremptory challenges.

Upon the trial of any action in any court of this State, the parties shall be entitled to peremptory challenges as follows:

a. In any civil action, each party, 6.

b. Upon an indictment for kidnapping, murder, aggravated manslaughter, manslaughter, aggravated assault, aggravated sexual assault, sexual assault, aggravated criminal sexual contact, aggravated arson, arson, burglary, robbery, forgery if it constitutes a crime of the third degree as defined by subsection b. of N.J.S.2C:21-1, or perjury, the defendant, 20 peremptory challenges if tried alone and 10 challenges if tried jointly and the State, 12 peremptory challenges if the defendant is tried alone and 6 peremptory challenges for each 10 afforded the defendants if tried jointly. The trial court, in its discretion, may, however, increase proportionally the number of peremptory challenges available to the defendant and the State in any case in which the sentencing procedure set forth in subsection c. of N.J.S.2C:11-3 might be utilized.

c. Upon any other indictment, defendants, 10 each; the State, 10 peremptory challenges for each 10 challenges allowed to the defendants. When the case is to be tried by a jury from another county, each defendant, 5 peremptory challenges, and the State, 5 peremptory challenges for each 5 peremptory challenges afforded the defendants.

Source: 2A:78-7

Trial of challenges to jurors.

2B:23-14. Trial of challenges to jurors.

All challenges to panels of jurors or to individual jurors shall be decided by the court.

Source: 2A:78-8

Time for making challenges.

2B:23-15. Time for making challenges.

a. Challenges to jurors may be made at any time before the juror is sworn to try the case.

b. No challenge to a juror may be made after the juror is sworn to try the case unless:

(1) the basis for the challenge could not reasonably have been known earlier to the person making the challenge; and

(2) the challenge is based upon the juror's inability to render a fair and impartial verdict.

Source: 2A:78-9

Jury of view.

2B:23-16. Jury of view.

a. At any time during trial the court may order that the jury view the lands, places or personal property in question to understand the evidence better. The court shall direct the viewing procedure. The order shall be directed to the proper officer, specifying the day and place in question. Neither side shall give evidence when the jury is viewing. The officer who executes the order shall, by a special return, certify that the view has occurred according to the order.

b. In a civil case, the court shall determine which party shall bear the expense of a view.

c. The trial shall proceed even though a view which was ordered has not taken place.

Source: 2A:77-1; 2A:77-3; 2A:77-2

Verdict by five-sixths of the jury.

2B:23-17. Verdict by five-sixths of the jury.

In any civil trial by jury, at least five-sixths of the jurors shall render the verdict unless the parties stipulate that a smaller majority of jurors may render the verdict.

Source: 2A:80-2

Disagreement of jurors.

2B:23-18. Disagreement of jurors.

If the jury does not agree on a verdict, the court may order a new trial.

Source: 2A:80-3

2. A new section is added to Title 2B of the New Jersey Statutes as follows:

Grand jury clerks.

2B:4-4. Grand jury clerks.

a. The assignment judge of each county may appoint and set the salary of a clerk for the grand jury. The salary of the grand jury clerk shall be paid by the county.

b. The assignment judge of each county may appoint and set the salary of such assistants to the clerk of the grand jury as may be necessary for the operation of the grand jury. The salary of the assistants to the clerk of the grand jury shall be paid by the county.

Source: 2A:73-5; 2A:73-6; 2A:73-7

Repealer.

3. a. The following are repealed:

N.J.S.2A:69-l;

Section 2 of P.L.1953, c.331 (C.2A:69-1.1);

N.J.S.2A:69-2 through N.J.S.2A:69-4;

Sections 1 and 2 of P.L.1971, c.403 (C.2A:69-5 and 2A:69-6);

N.J.S. 2A:70-2 and N.J.S. 2A:70-3;

Section 12 of P.L.1989, c.87 (C.2A:70-4a);

Section 2 of P.L.1979, c.271 (C.2A:70-4.1);

N.J.S.2A:70-5 and N.J.S.2A:70-6;

Section 1 of P.L.1958, c.54 (C.2A:71-3.1);

N.J.S.2A:71-4 through N.J.S.2A:71-14;

N.J.S.2A:72-1 and N.J.S.2A:72-2;

N.J.S.2A:72-4 through N.J.S.2A:72-8;

N.J.S.2A:73-1 through N.J.S.2A:73-7;

Sections 1 through 9 of P.L.1968, c.361 (C.2A:73A-1 through 2A:73A-9);

Section 1 of P.L.1981, c.475 (C.2A:73B-1);

Section 1 of P.L.1981, c.476 (C.2A:73B-2);

Section 1 of P.L.1981, c.477 (C.2A:73B-3);

N.J.S.2A:74-1 through N.J.S.2A:74-8;

N.J.S.2A:74-10 through N.J.S.2A:74-12:

N.J.S.2A:76-1 and N.J.S.2A:76-2;

N.J.S.2A:77-1 through N.J.S.2A:77-3;

N.J.S.2A:78-1 through N.J.S.2A:78-9;

N.J.S.2A:79-1 through N.J.S.2A:79-4;

N.J.S.2A:80-1 through N.J.S.2A:80-3.

b. The following are repealed on January 1, 1995:

N.J.S.2A:70-1 and N.J.S. 2A:70-4.

4. This act shall take effect on the 90th day after enactment, except that N.J.S.2B:20-2 shall take effect on January 1, 1995.

Approved March 7, 1995.

CHAPTER 45

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, 1995 and regulating the disbursement thereof," approved June 30, 1994 (P.L.1994, c.67).

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.1994, c.67, there is appropriated out of the General Fund the following sum for the purpose specified:

GRANTS-IN-AID
82 DEPARTMENT OF TREASURY
30 Educational, Cultural and Intellectual Development
36 Higher Educational Services

49-2155 Miscellaneous Higher
Education Programs..... $400,000
State Aid and Grants:
New Jersey Intercampus Network .... ($400,000)

The grant hereinabove for the New Jersey Intercampus Network shall be awarded in whole or in part by the Department of Treasury but only if the following conditions have been met: (1) the New Jersey Intercampus Network has consulted with and obtained the approval of the New Jersey Information Resources Management Commission; (2) the New Jersey Intercampus Network has submitted for approval to the State Treasurer a proposal for the development of a comprehensive Statewide plan for a data and multimedia network for intitutions of higher education, school districts, libraries, and other educational institutions; and, (3) the State Treasur-

er is satisfied that the efforts of the New Jersey Intercampus Network will be integrated with the efforts of other governmental and private entities in the development of such a plan.

2. This act shall take effect immediately.

Approved March 7, 1995.

CHAPTER 46

AN ACT concerning the requirements for public works manager examination and certification for certain persons and amending P.L.1991, c.258.

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

1. Section 1 of P.L.1991, c.258 (C.40A:9-154.6a) is amended to read as follows:

C.40A:9-154.6a Definitions.

1. As used in this act:

a. "Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

b. "Management responsibility" means the supervisory responsibility for planning, scheduling, directing, controlling and coordinating the daily and long term operations of public works activities, as applicable, including the utilization of manpower, equipment, materials, funds, and other available resources.

c. "Public Works Advisory Board" means that board appointed by the director to review the examination, assist in evaluating qualifications for granting certificates, review of municipal applications for exemption, and review of continuing education programs and other duties as the director may from time to time assign. The board shall meet at least one time each year.

d. "Public works activity" means maintenance of streets, drainage, public buildings and places, water and waste water, solid waste, motor vehicles, or similar items related to the physical plant and infrastructure of a municipality. For the purposes of this act, a municipal utilities authority shall not be considered a public works activity.

e. "Principal public works manager" means a certified public works manager who performs administrative and supervisory duties relating to installation, maintenance and repair of public works facilities, or assists in planning, organizing and directing all programs relating to a public works activity, or a combination thereof, who is appointed by the local governing body, its designated appointing authority or chief executive officer, and who is not an elected member of that governing body, who advises municipal elected officials and employees in proper compliance and administration of the various laws, regulations, technical practices, operations and management techniques with regard to public works activities conducted by the municipality. The designation principal public works manager shall not be considered a separate position or title within the municipality but shall signify the performance of duties by the person selected to advise municipal elected officials and employees.

f. "Public works manager" means a person who in at least 5 of the last 10 years, has served in a position of public or private public works, construction management or civil engineering position where no less than fifty percent of the person's work time was directly spent in daily, direct supervision of public works activities.

g. "Certified public works manager" means a public works manager who meets any one of the following criteria:

i. completes the requirements of section 2 of P.L.1991, c.258 (C.40A:9-154.6b);

ii. has a bachelor or greater degree in civil or related public works engineering, and is a licensed professional engineer in New Jersey;

iii. has served in one or more municipalities continuously for the five years prior to January 1, 1997, except that certification shall be limited to the municipality where the public works manager is employed at the time he applies for the certificate pursuant to section 3 of P.L.1991, c.258 (C.40A:9-154.6c);

iv. graduated as a certified public works manager from Rutgers, The State University prior to August 13, 1994.

2. Section 2 of P.L.1991, c.258 (C.40A:9-154.6b) is amended to read as follows:

C.40A:9-154.6b Public Works Advisory Board, appointment, terms; certification requirements for managers.

2. a. The director shall appoint nine persons who shall constitute the Public Works Advisory Board as follows: one designee from the Division of Local Government Services in the Department of Community Affairs, who shall serve as chair; one from

Rutgers, The State University of New Jersey, Center for Government Service; two public works managers who hold certified public works manager certificates and are members of the Public Works Association of New Jersey; one public works manager who has a certified public works manager certificate and a degree in engineering from a four-year institution of higher education, and is a member of the Public Works Association of New Jersey; one public works manager who has a certified public works manager certificate and is a member of the New Jersey Society of Municipal Engineers; one public works manager who has a certified public works manager certificate and is a member of the New Jersey Chapter of the American Public Works Association; and two representatives from the New Jersey State League of Municipalities. The terms of each of the appointments shall be for three years except that the initial term of one of the public works managers shall be for one year and a second shall serve an initial term of two years so that the terms of the public works managers shall be staggered. Any member of the Public Works Advisory Board may be reappointed to succeed himself. The director may dismiss any member of the Public Works Advisory Board for cause and then make another appointment to serve for the remainder of that term.

b. The director, with the advice of the Public Works Advisory Board, shall develop and hold examinations semi-annually, or at such times as he may determine appropriate, for qualification as a certified public works manager. An applicant for examination shall present to the director a written application on a form provided by the Division of Local Government Services, showing that the applicant is not less than 21 years of age, is a citizen of the United States, is of good moral character, has obtained a certificate or diploma issued after at least four years of study in an approved secondary school or has received an academic education considered and accepted by the Commissioner of Education of this State as fully equivalent, and has graduated as a public works manager from Rutgers, The State University of New Jersey. An applicant shall have a minimum of five years' experience as a public works manager.

3. Section 3 of P.L.1991, c.258 (C.40A:9-154.6c) is amended to read as follows:

C.40A:9-154.6c Issuance of public works manager certificate without examination; requirements.

3. The director shall issue, upon the payment of a fee, a public works manager certificate to any applicant who meets the defini-

tion of a certified public works manager or a public works manager who has successfully completed a certified public works manager program described in section 2 of this act, is not less than 21 years of age, is a citizen of the United States, is of good moral character, and has obtained a high school diploma as described in section 2 of this act.

4. Section 4 of P.L.1991, c.258 (C.40A:9-154.6d) is amended to read as follows:

C.40A:9-154.6d Application fee, examination.

4. Each completed application form for the examination shall be accompanied by a fee and shall be filed with the director at least 30 days prior to the date of examination. Examinations shall be written, or both written and oral, and shall be of such character as fairly to test and determine the ability of the person tested to perform the duties of a principal public works manager.

5. Section 5 of P.L.1991, c.258 (C.40A:9-154.6e) is amended to read as follows:

C.40A:9-154.6e Application for certificate.

5. Upon a finding by the director that an applicant has successfully completed the examination, the applicant may apply for a certificate pursuant to the provisions of section 3 of P.L.1991, c.258 (C.40A:9-154.6c).

6. Section 7 of P.L.1991, c.258 (C.40A:9-154.6g) is amended to read as follows:

C.40:9-154.6g Certificate required after January 1, 1997; exemptions, penalties.

7. a. Commencing January 1, 1997, the governing body or chief executive officer of each municipality, as appropriate, shall appoint a principal public works manager for that municipality.

b. No person shall be selected to perform the duties of a principal public works manager unless he holds a public works manager certificate issued pursuant to section 3 of P.L.1991, c.258 (C.40A:9-154.6c), which certificate has not been revoked or suspended in accordance with the provisions of subsection b. of section 6 of P.L.1991, c.258 (C.40A:9-154.6f).

c. When a vacancy occurs in a position in which the duties of principal public works manager are performed, the governing body or chief executive officer, as appropriate, may select, for a

period not to exceed one year and commencing on the date of the vacancy, a person who does not hold a certified public works manager certificate to perform on an interim basis, the duties of a principal public works manager. Any person so selected may be selected as principal public works manager for one additional year; provided, however, that no person shall perform on an interim basis, the duties of a temporary principal public works manager for more than two years in any municipality, and also provided that, in a municipality operating under the provisions of Title 11A, the Civil Service Act, no person so selected on an interim basis shall be required to perform out-of-title work.

d. Any municipality that conducts minimal or no public works activity may apply to the director for an exemption from this section. Such exemptions shall be valid for five years from the date of issuance, at which time the municipality must reapply for an exemption or select a person to perform the duties of a principal public works manager. Upon receipt of an application for exemption, the director shall have the public works advisory board review the application and make a recommendation to the director for approval or denial. If the director for good cause disagrees with the recommendation, he shall advise the public works advisory board of his decision and take any action he deems appropriate.

e. If a governing body or mayor fails or refuses to comply with this section, and has received an order from the director to do so, the members of a governing body or mayor who willfully fail or refuse to comply shall each be subject to a personal penalty of $25 for each day after the date fixed for final action that failure or refusal to comply continues. The amount for the penalty may be recovered by the director in the name of the State as a personal debt of the member of the governing body or mayor, and shall be paid, upon receipt, into the State Treasury.

7. Section 8 of P.L.1991, c.258 (C.40A:9-154.6h) is amended to read as follows:

C.40A:9-154.6h Renewal of certificates.

8. a. Commencing January 1, 1997, all public works manager certificates shall be renewed upon application, payment of the required fee, and verification that the applicant has met continuing education requirements, all as set forth in this section. Each renewal shall be for a period of three years. The renewal date shall be 30 days prior to the expiration date.

b. All public works manager certificates subject to renewal pursuant to this section that were issued prior to January 1, 1995 shall have an expiration date of December 31, 1998. All public works manager certificates issued on or after January 1, 1995 shall have an expiration date of either June 30 or December 31, whichever is sooner, of the third year following the year in which the certificates were originally issued, provided that no certificate shall expire sooner than December 31, 1998.

c. Each applicant for renewal of a public works manager certificate shall, on a form prescribed by the director, furnish proof of having earned at least two continuing education units in fields of study related to public works activity. For the purposes of this section, one continuing education unit equals 10 contact hours. Upon verification of this requirement, and upon payment of a fee, the director shall renew the public works manager certificate.

d. If the holder of a public works manager certificate has allowed the certificate to lapse by failing to renew the certificate, a new application and certificate shall be required. If application is made within six months of the expiration of the lapsed certificate, then application may be made in the same manner as a renewal, but the application shall be accompanied by the fee for a new application.

C.40A:9-154.6i Fees established.

8. The director shall establish fees, that shall not exceed those charges for similar programs charged for similar programs administered by the Division of Local Government Services, for the purposes of issuing a new or renewed certified public works manager certificate pursuant to sections 3 and 8 of P.L.1991, c.258 (C.40A:9-154.6c and C.40A:9-154.6h, respectively), and for filing an application for the certified public works manager examination pursuant to section 4 of P.L.1991, c.258 (C.40A:9-154.6d).

9. This act shall take effect immediately.

Approved March 7, 1995.

CHAPTER 47

AN ACT concerning retirement benefits under the Police and Firemen's Retirement System of New Jersey and amending P.L.1944, c.255.

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

1. Section 9 of P.L.1944, c.255 (C.43:16A-9) is amended to read as follows:

C.43:16A-9 Death of member in active service.

9. (1) Upon the receipt of proper proof of the death of a member in active service on account of which no accidental death benefit is payable under section 10 there shall be paid to such member's beneficiary:

(a) The member's aggregate contributions at the time of death and

(b) An amount equal to 3 1/2 times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

(2) a. For the purposes of this section and section 10 (5), a member of the Police and Firemen's Retirement System shall be deemed to be an active member for a period of no more than 93 days while on official leave of absence without pay when such leave is due to any reason other than illness, and for a period of not more than one year in the event of an official leave (a) due to the member's maternity, or (b) to fulfill a residency requirement for an advanced degree, or (c) as a full-time student at an institution of higher education, and (1) while he is disabled due to sickness or injury arising out of or in the course of his employment as a member to whom this act applies, is not engaged in any gainful occupation, and is receiving or entitled to receive periodic benefits (including any commutation of, or substitute for, such benefits) for loss of time on account of such disability under or by reason of workmen's compensation law, occupational disease law or similar legislation and has not retired or terminated his membership; or (2) for a period of no more than two years while on official leave of absence without pay if satisfactory evidence is presented to the retirement system that such leave of absence without pay is due to the member's personal illness other than an illness to which (1) above applies.

b. If a member dies within 30 days after the date of retirement or the date of board approval, whichever is later, a death benefit shall be payable only if he is deemed to be an active member in accordance with this section; provided, however, a member applying for disability benefits shall be deemed an active member if he was covered by the death benefit provisions of the act at the termination of employment, filed the application for disability retirement with the retirement system within 30 days following

such termination of employment and dies within 30 days after the date of retirement or the date of board approval, whichever is later. If a member files an application for disability retirement while in service and otherwise meets the requirements for disability retirement, but dies before the retirement takes effect, the retirement shall be considered effective.

2. This act shall take effect immediately and shall be retroactive to filings for retirement received by the retirement system on or after January 1, 1992.

Approved March 17, 1995.

CHAPTER 48

AN ACT concerning investments by fiduciaries and amending N.J.S.3B:20-1 and N.J.S.3B:20-13.

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

1. N.J.S.3B:20-1 is amended to read as follows:

Definitions.

3B:20-1. Definitions. As used in this chapter:

a. "Trust instrument" means and includes a will, deed, agreement, court order or other instrument pursuant to which money or other property is entrusted to a fiduciary;

b. "Fiduciary" means an individual or corporation that is authorized to act as or acts as a trustee, personal representative, conservator, guardian, and every other person or corporation charged with the duty of administering a trust estate;

c. "Trust estate" means money or other property entrusted to a fiduciary pursuant to a trust instrument, will, estate of an intestate decedent or the estate of a minor or mentally incompetent person being administered by a guardian;

d. "Investments" means and includes property of every nature, real, personal and mixed, tangible and intangible, and specifically includes, solely by way of description and not by way of limitation, bonds, debentures and other corporate obligations, direct and

indirect investment in equity real estate mortgages and other direct or indirect interests in real estate or investments secured by real estate, capital stocks, common stocks, preferred stocks, diversified pools of venture capital which otherwise could be made consistently with the standard of care required by N.J.S.3B:20-13, common trust funds as defined in and regulated by article 9, "Common Trust Funds," P.L.1948, c.67 (C.17:9A-36 et seq.), repurchase agreements, securities loan transactions secured by cash, securities issued by the United States government or its agencies, irrevocable bank letters of credit, whether directly or through a bank or similar financial institution acting as agent or trustee, mutual funds, and any other security issued by an investment company or investment trust, whether managed or not by third parties, registered under the "Investment Company Act of 1940," 15 U.S.C.§800-1 et seq., as from time to time amended. No investment that is otherwise permissible under this subsection shall be considered to be unlawful solely because the investment is made indirectly through a partnership, trust, or other legal entity.

2. N.J.S.3B:20-13 is amended to read as follows:

Standard of care required of fiduciary.

3B:20-13. Standard of care required of fiduciary. In investing and reinvesting money and property of a trust and in acquiring, retaining, selling, exchanging and managing investments, a fiduciary shall exercise the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. In making each investment, a fiduciary may, depending on the nature and objectives of the portfolio, consider the whole portfolio, provided that, in making each investment, a fiduciary shall act with the reasonable expectation that the return on each investment shall be commensurate with the risk associated with each investment. If the fiduciary has special skills or is named as the fiduciary on the basis of representations of special skills or expertise, he is under a duty to exercise those skills. The fiduciary shall be under a duty to manage and invest the portfolio solely in the interests of the trust beneficiaries and for the exclusive purpose of providing financial benefits to trust participants.

3. This act shall take effect immediately.

Approved March 17, 1995.

CHAPTER 49

AN ACT concerning accountants' liability and supplementing Title 2A of the New Jersey Statutes.

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

C.2A:53-25 Definitions; accountants' liability.

1. a. As used in this act:

(1) "Accountant" means a person who is registered as a certified public accountant pursuant to the provisions of P.L.1977, c.144 (C.45:2B-1 et seq.), or an accounting firm which is organized for the practice of public accounting pursuant to the provisions of P.L.1977, c.144 (C.45:2B-1 et seq.) and P.L.1969, c.232 (C.14A:17-1 et seq.).

(2) "Bank" means a State or federally chartered bank, savings bank, savings and loan association, credit union, a group of such institutions or its affiliates, subsidiaries, co-lenders, successors or assigns.

(3) "Client" means the party directly engaging an accountant to perform a professional accounting service.

(4) "Professional accounting service" includes, but is not limited to, the compilation, review, certification, or audit of, or the expression of a professional opinion or other reporting on, a financial statement or other information covering a specified period of time.

(5) "Specified transaction" means a particular transaction between a client and a claimant.

b. Notwithstanding the provisions of any other law, no accountant shall be liable for damages for negligence arising out of and in the course of rendering any professional accounting service unless:

(1) The claimant against the accountant was the accountant's client; or

(2) The accountant:

(a) knew at the time of the engagement by the client, or agreed with the client after the time of the engagement, that the professional accounting service rendered to the client would be made available to the claimant, who was specifically identified to the accountant in connection with a specified transaction made by the claimant;

(b) knew that the claimant intended to rely upon the professional accounting service in connection with that specified transaction; and

(c) directly expressed to the claimant, by words or conduct, the accountant's understanding of the claimant's intended reliance on the professional accounting service; or

(3) In the case of a bank claimant, the accountant acknowledged the bank's intended reliance on the professional accounting service and the client's knowledge of that reliance in a written communication.

2. This act shall take effect immediately and apply to transactions entered into on or after the effective date of this act.

Approved March 17, 1995.

CHAPTER 50

AN ACT concerning eligibility for small employer health insurance and amending P.L.1992, c.162.

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

1. Section 7 of P.L.1992, c.162 (C.17B:27A-23) is amended to read as follows:

C.17B:27A-23 Policies, contracts renewable; exceptions.

7. Every policy or contract issued to small employers in this State pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.) shall be renewable with respect to all eligible employees or dependents at the option of the policy or contract holder, or small employer except under the following circumstances:

a. Nonpayment of the required premiums by the policyholder, contract holder, or employer;

b. Fraud or misrepresentation of the policyholder, contract holder, or employer or, with respect to coverage of eligible employees or dependents, the enrollees or their representatives;

c. The number of employees covered under the health benefits plan is less than the number or percentage of employees required by participation requirements under the health benefits policy or contract;

d. Noncompliance with a carrier's employment contribution requirements;

e. Any carrier doing business pursuant to the provisions of this act ceases doing business in the small employer market, if the following conditions are satisfied:

(1) The carrier gives notice to cease doing business in the small employer market to the commissioner not later than eight months prior to the date of the planned withdrawal from the small group market, during which time the carrier shall continue to be governed by this act with respect to business written pursuant to this act. For the purposes of this subsection, "date of withdrawal" means the date upon which the first notice to small employers is sent by the carrier pursuant to paragraph (2) of this subsection;

(2) No later than two months following the date of the notification to the commissioner that the carrier intends to cease doing business in the small employer market, the carrier shall mail a notice to every small business employer insured by the carrier that the policy or contract of insurance will be terminated. This notice shall be sent by certified mail to the small business employer not less than six months in advance of the effective date of the cancellation date of the policy or contract;

(3) Any carrier that ceases to do business pursuant to this act shall be prohibited from writing new business in the small employer market for a period of five years from the date of notice to the commissioner;

f. In the case of policies or contracts issued in connection with membership in an association or trust of employers, an employer ceases to maintain its membership in the association or trust; or

g. (Deleted by amendment, P.L.1995, c.50).

2. This act shall take effect immediately.

Approved March 17, 1995.

CHAPTER 51

AN ACT concerning the sale of motor fuels, and amending P.L.1938, c.163.

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

1. Section 201 of P.L.1938, c.163 (C.56:6-2) is amended to read as follows:

C.56:6-2 Motor fuel price signs; minimum price; no rebates or games of chance; brand name or trademark.

201. (a) Every retail dealer shall publicly display and maintain, in the manner regulated by the Director of the Division of Taxation, a sign stating the price per gallon if sold by the gallon, and per gallon and per liter if sold by the liter of the motor fuel sold by said dealer. All taxes, State and Federal, imposed with respect to the manufacture or sale of motor fuel shall be included in the price shown on said sign, but said sign shall contain a statement of the amount of taxes included in said price, or, without specifying the amount thereof, said sign shall state that taxes are included in said price. A retail dealer shall not sell at any other price than the price, including tax, so posted. Any such price when posted shall remain posted and in effect for a period of not less than twenty-four (24) hours.

(b) No retail dealer shall sell motor fuel at a price which is below the net cost of such motor fuel to the retail dealer plus all selling expenses.

(c) No other price signs of motor fuel so dispensed, or signs relating to the price of such fuel shall be used or displayed on or about the premises where motor fuel is sold at retail, other than the signs provided by section 3 of P.L.1952, c.258 (C.56:6-2.3).

(d) No advertising or sign other than that provided for in section 3 of P.L.1952, c.258 (C.56:6-2.3), which directly or indirectly contains a statement of, or an implied reference to the price of motor fuel shall be displayed at any place where motor fuel is dispensed at retail. Any advertising of the retail price of motor fuel through any other medium which contains a reference to the per gallon or per liter price thereof, shall include all taxes in the price stated, and there shall be included in such advertising a statement that such price includes taxes, or a statement of the amount of taxes which are included in such price. Such advertising shall be identified by the name of the product, and the letters of the name shall be not less than one-half the size of the figures used in the price.

(e) No rebates, allowances, concessions or benefits shall be given, directly or indirectly, so as to permit any person to obtain motor fuels from a retail dealer below the posted price or at a net price lower than the posted price applicable at the time of the sale, except that credits earned through purchases on a credit card may be utilized by a person to receive a rebate in the purchase of motor fuels.

(f) It shall be unlawful for any retail dealer to use lotteries, prizes, wheels of fortune, punchboards or other games of chance, in connection with the sale of motor fuels.

(g) All above-ground equipment for storing or dispensing motor fuel operated by a retail dealer shall bear, in a conspicuous place, the name or trade-mark of the product stored therein or dispensed therefrom, and no retail dealer shall permit delivery into underground or above-ground containers, tanks or equipment of any motor fuel other than the brand represented or designated by the name or trade-mark appearing on such container or dispensing equipment attached thereto. No retail dealer shall be a party to the substitution of one grade of motor fuel for another.

(h) If the motor fuel stored in or dispensed from any above-ground equipment by a retail dealer shall not have a brand name or trade-mark, such container or dispensing equipment shall have conspicuously displayed thereon the words "No Brand."

2. This act shall take effect immediately.

Approved March 17, 1995.

CHAPTER 52

AN ACT concerning municipalities that have been required to defer certain amounts from their municipal purposes property tax levies.

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

1. Any municipality that was required to defer certain amounts from the municipal purposes property tax levy pursuant to section 13 of P.L.1991, c.63 may annually defer from the municipal purposes property tax levy the percentage of the remainder of the amount allowable to be deferred, as determined by the Director of the Division of Local Government Services, that the governing body of the municipality determines to be in the best interests of the municipality, subject to the approval of the director.

2. a. Any municipality that was required to defer certain amounts from the municipal purposes property tax levy pursuant to section 13 of P.L.1991, c.63 may, subject to prior approval of the Local Finance Board, adopt an ordinance authorizing special emergency appropriations in order to maintain the basic level of services provided prior to the effective date of that act and minimize property tax increases which might otherwise occur because of the exhaustion of the amounts allowable to be deferred as determined by the Director of the Division of Local Government Services in the Department of Community Affairs. A copy of the ordinance as adopted shall be filed with the director.

b. A municipality may finance such appropriation from surplus funds available or borrow money in the manner hereinafter prescribed. Where any appropriation is financed from surplus funds available, at least 1/5 of the amount thereof shall be included in each annual budget until the appropriation has been fully provided for.

c. After the adoption of an ordinance for special emergency appropriations and issuance of an approval from the Local Finance Board pursuant to subsection a. of this section, the municipality may by 2/3 vote of the full governing body adopt a resolution:

(1) setting forth the amount appropriated, and

(2) making provision for the borrowing of money and the issuance of "Special Emergency Notes" which may be renewed from time to time, but at least 1/5 of all such notes, and the renewals thereof, shall mature and be paid in each year, so that all notes and renewals shall have matured and have been paid not later than the last day of the fifth year following the date of the special emergency resolution. The provisions of chapter 4 of Title 40A of the New Jersey Statutes relating to tax anticipation notes shall apply to special emergency notes issued pursuant to this subsection.

d. A copy of the resolution provided for in subsection c. of this section shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs and shall not be valid unless it is approved by the director.

3. Any municipality that was required to defer certain amounts from the municipal purposes property tax levy pursuant to section 13 of P.L.1991, c.63 may, by ordinance, make application to the Director of the Division of Local Government Services in the Department of Community Affairs for the authority to take whatever measures are determined necessary by the local governing body in order to maintain the basic level of services provided

prior to the effective date of that act and to minimize property tax increases which might otherwise occur because of the exhaustion of the amounts allowable to be deferred as determined by the Director of the Division of Local Government Services in the Department of Community Affairs. The director may approve any such measures determined by the director to be in the best interests of the municipality.

4. This act shall take effect immediately and shall expire one year thereafter.

Approved March 17, 1995.

CHAPTER 53

AN ACT concerning licensed lenders and amending various parts of statutory law.

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

1. R.S.17:10-3 is amended to read as follows:

Applications; fees.

17:10-3. Application for the license shall be in writing, under oath or affirmation, and in the form prescribed by the commissioner. It shall state the name and address both of the residence and place of business of the applicant, and if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof. It shall also state the address or addresses where the business is to be conducted and any other information the commissioner requires. The applicant, at the time of making the application, shall pay to the commissioner, in an amount to be prescribed by rule or regulation of the commissioner, an application fee, not to exceed $500 at the time of initial application, an initial investigation fee, not to exceed $1,000, for investigating the application, a fee, not to exceed $1,000, for investigating additional locations of licensees, and a biennial license fee, not to exceed $2,000. The license issued for each location shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the licensing fee for the biennial licensing period.

In addition to the biennial license fee every licensee hereunder will pay to the commissioner the actual cost of each examination of his business as provided for in R.S.17:10-11.

Every applicant shall, in writing, and in due form to be prescribed by the commissioner, file with the application a duly executed instrument constituting the commissioner and his successors in office the true and lawful agent and attorney of the applicant in this State, upon whom all original process in any action or legal proceeding, caused by the operation of a consumer loan business under this chapter, against the applicant or licensee may be served, except the notices prescribed in R.S.17:10-7 and R.S.17:10-10. The applicant shall agree therein that any original process or legal proceeding, except as above stated, against the applicant or licensee shall be of the same force and effect as if served on the applicant or licensee personally. The commissioner shall keep a record of such process, showing the date and hour of service.

Every applicant shall also prove in form satisfactory to the commissioner, that the applicant has a net worth of at least $100,000, and has available for the purpose of making loans under this chapter, at the location or locations specified in the application, liquid assets of at least $100,000.

2. R.S.17:10-8 is amended to read as follows:

Place of business; separate license required for each; change of location.

17:10-8. Not more than one place of business shall be maintained under the same license, but the commissioner may issue more than one license to the same licensee upon compliance with all the provisions of this chapter governing an original issuance of a license, for each new license.

Whenever a licensee desires to change his place of business to another location, the licensee shall notify the commissioner of the new address and the date such change will be made at least 30 days in advance thereof, and the commissioner shall issue a certificate identifying the new location and the date of change, which certificate shall be attached to the license and shall be authority for the operation of the business under the license at the new location.

3. R.S.17:10-14 is amended to read as follows:

Interest rate; increases, decreases; fees.

17:10-14. Notwithstanding the provisions of R.S.31:1-1 or any other law to the contrary, every licensee hereunder may loan any sum of money not exceeding $15,000 repayable in installments, and

may charge, contract for and receive thereon interest at an annual percentage rate or rates agreed to by the licensee and the borrower.

A closed-end loan contract may provide for a variation in the rate of interest in which adjustments to the interest rate shall correspond directly to the movement of an interest rate index which is readily available to and verifiable by the borrower and is beyond the control of the lender. No increase during the entire loan term shall result in an interest rate of more than 6% per annum over the rate applicable initially, nor shall the rate be raised more than 3% per annum during any 12-month period. The lender shall not be obligated to decrease the interest rate more than 6% over the term of the loan, nor more than 3% per annum during any 12-month period. If a rate increase is applied to the loan, the lender shall also be obligated to adopt and implement uniform standards for decreasing the rate. If the contract provides for the possibility of an increase or decrease, or both, in the rate, that fact shall be clearly described in plain language, in at least 8-point bold face type on the face of the contract. No rate increase shall take effect during the first three years of the term of the loan, or thereafter, (a) unless at least 90 days prior to the effective date of the first such increase, or 30 days prior to the effective date of any subsequent increase, a written notice has been mailed or delivered to the borrower that clearly and conspicuously describes such increase, and (b) unless at least 365 days have elapsed without any increase in the rate. No increase during the entire loan shall result in an interest rate of more than 6% per annum over the rate applicable initially, nor shall the rate be raised more than 3% per annum during any 12-month period. Where the loan contract so provides for an increase or decrease in the rate of interest, the provision of R.S.17:10-13 requiring that no installment be substantially greater in amount than any preceding installment shall not apply.

An open-end loan agreement may provide that the lender may at any time, or from time to time, change the terms of the agreement, including the terms governing the periodic interest rate, calculation of interest or the method of computing the required amount of periodic installment payments, provided however, that:

a. the periodic interest rate shall not be changed more than once in each billing cycle;

b. any change in the periodic interest rate shall correspond to the movement of a market interest rate index specified in the agreement which is readily verifiable by the borrower and beyond the control of the lender;

c. a change in any term of the agreement, including the periodic interest rate, may be permitted to apply to any then-outstanding unpaid indebtedness in the borrower's account including any indebtedness which shall have arisen from advances obtained prior to the effective date of the change, provided that fact is clearly and conspicuously disclosed in the agreement;

d. if the agreement provides for the possibility of change in any term of the agreement including the rate, that fact shall be clearly described in plain language, in at least 8-point bold face type on the face of the written notice; and

e. no change in any term of the agreement or of the index specified in the agreement shall be effective unless: (1) at least 30 days prior to the effective date of the change, a written notice has been mailed or delivered to the borrower that clearly and conspicuously describes the change and the indebtedness to which it applies and states that the incurrence by the borrower or another person authorized by him of any further indebtedness under the law to which the agreement relates on or after the effective date of the change specified in the notice shall constitute acceptance of the change; and (2) either the borrower agrees in writing to the change or the borrower or another person authorized by him incurs such further indebtedness on or after the effective date of the change stated in such notice, which indebtedness may include outstanding balances.

The lender shall notify each affected borrower of any change in the manner set forth in the closed-end and open-end agreement governing the plan and in compliance with the requirements of the federal Truth in Lending Act (15 U.S.C.§1601 et seq.) and regulations promulgated thereunder, as in effect from time to time, if applicable.

The interest and periodic payments for loans at these rates shall be computed from standard tables based on the actuarial or annuity method which conforms to the so-called "United States Rule of Partial Payments," which provides that interest shall be calculated whenever a payment is made and the payment shall be first applied to the payment of interest and if it exceeds the interest due, the balance is to be applied to diminish principal. If the payment is insufficient to pay the entire amount of interest, the balance of interest due shall not be added to principal, so as to produce interest thereon.

No interest shall be paid, deducted, or received in advance. Interest shall not be compounded and shall be computed only on unpaid principal balances. For the purpose of computing interest, all installment payments shall be applied on the date of receipt,

and interest shall be charged for the actual number of days elapsed at the daily rate of 1/365 of the yearly rate.

No licensee shall induce or permit any person nor any husband and wife, jointly or severally, to become obligated, directly or contingently or both, under more than one contract of loan at the same time for the purpose of obtaining a higher rate of interest than would otherwise be permitted by this section. This prohibition shall not apply to any loan made pursuant to any other law of this State.

In addition to the interest herein provided for, no further or other charge, or amount whatsoever for any examination, service, brokerage, commission, expense, fee, or bonus or other thing or otherwise shall be directly or indirectly charged, contracted for, or received, except for any amount actually paid by a licensee to a public official for the recording of a security interest in connection with security given for the loan and (1) amounts for insurance obtained or provided by the licensee in accordance with the provisions of this chapter; (2) on actual sale of the security in foreclosure proceedings or upon the entry of judgment; (3) a returned check fee not to exceed $20 which the licensee may charge the borrower if a check of the borrower is returned to the licensee uncollected due to insufficient funds in the borrower's account; and (4) an annual fee on open-end accounts which may not exceed an amount equal to one percent of the line of credit or $50, whichever is less. If any interest, consideration or charges in excess of those permitted by this chapter are charged, contracted for or received, except as the result of a good faith error, the contract of loan shall be void and the licensee shall have no right to collect or receive any principal, interest, or charges whatsoever, and the borrower shall be entitled to recover from the lender any such sums paid or returned to the lender by the borrower on account of or in connection with the loan.

4. Section 1 of P.L.1962, c.159 (C.17:10-14.1) is amended to read as follows:

C.17:10-14.1 Credit life, involuntary unemployment insurance with small loans.

1. a. When the borrower or borrowers consent thereto in writing, a licensee may obtain or provide:

(1) Insurance on the life and on the health or disability, or both, of one borrower, and on the lives, health or disability of two borrowers pursuant to the provisions of N.J.S.17B:29-1 et seq.; and

(2) Credit involuntary unemployment insurance in accordance with forms and rates filed and approved by the Commissioner of Insurance pursuant to applicable regulations.

b. If a licensee obtains or provides any credit insurance for a borrower or borrowers pursuant to subsection a. of this section, a licensee may deduct from the principal of a loan and retain an amount equal to the premium lawfully charged by the insurance company. The amount so deducted and retained shall not be considered a prohibited charge or amount of any examination, service, brokerage, commission, expense, fee or bonus or other thing or otherwise.

c. If a borrower or borrowers obtain such insurance from or through a licensee, the statement required by R.S.17:10-15 shall show the amount of the charge therefor, and the licensee shall cause to be delivered to the borrower or borrowers a copy of the policy, certificate or other evidence of such insurance when the loan is made. Nothing in the "Consumer Loan Act" shall prohibit the licensee, or any employee, affiliate, subsidiary or associate of the licensee, from collecting the premium or identifiable charge for insurance permitted by this section and from receiving and retaining any dividend, or any other gain or advantage resulting from such insurance, nor shall the sale or provision of such insurance be deemed to require prior authorization under the provisions of R.S.17:10-13.

5. Section 5 of P.L.1979, c.493 (C.17:10-14.2) is amended to read as follows:

C.17:10-14.2 Definitions; open-end loans.

5. a. As used in this amendatory and supplementary act:

(1) "Open-end loan" means a loan made by a licensee pursuant to an agreement between the licensee and the borrower whereby:

(i) The licensee may permit the borrower to obtain advances of money from the licensee from time to time or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower;

(ii) The amount of each advance and permitted interest and charges are debited to the borrower's account and payments and other credits are credited to the same account;

(iii) Interest is computed on the unpaid principal balance or balances of the account from time to time;

(iv) The borrower has the privilege of paying the account in full at any time or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement; and

(v) The agreement expressly states that it covers open-end loans pursuant to this chapter.

(2) "Billing Cycle" means the time interval between periodic billing dates. A billing cycle shall be considered monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from such date.

b. Open-end loans shall be subject to the following:

(1) A licensee may make open-end loans and may contract for and receive thereon interest as set forth in R.S.17:10-14 of this chapter.

(2) A licensee shall not compound interest by adding any unpaid interest authorized by this section to the unpaid principal balance of the borrower's account; provided, however, the unpaid principal balance may include the additional charges authorized by R.S.17:10-14 and P.L.1962, c.159 (C.17:10-14.1).

(3) Interest authorized by this section shall be deemed not to exceed the maximum interest permitted by this chapter if such interest is computed in each billing cycle by any of the following methods:

(i) By converting each yearly rate to a daily rate and multiplying such daily rate by the applicable portion of the daily unpaid principal balance of the account, in which case each daily rate is determined by dividing each yearly rate by 365; or

(ii) By multiplying one-twelfth of each yearly rate by the applicable portion of the average daily unpaid principal balance of the account in the billing cycle, in which case the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle; or

(iii) By converting each yearly rate to a daily rate and multiplying such daily rate by the applicable portion of the average daily unpaid principal balance of the account in the billing cycle, in which case each daily rate is determined by dividing each yearly rate by 365, and the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle.

(4) For all of the above methods of computation, the billing cycle shall be monthly and the unpaid principal balance on any day shall be determined by adding to any balance unpaid as of the beginning of that day all advances and other permissible amounts charged to the borrower and deducting all payments and other credits made or received that day.

c. The borrower may at any time pay all or any part of the unpaid balance in his account; or, if the account is not in default, the borrower

may pay the unpaid principal balance in monthly installments, subject to minimum payment requirements set forth in this subsection.

Minimum monthly payments shall be in such amount as would result in the full repayment of the initial loan advance, exclusive of any interest, within the maximum term set forth for other loans of the same amount in section 6 of P.L.1979, c.493 (C.17:10-14.3), except that the minimum payment for any initial advance not exceeding $2,500 shall be in such amount as would result in full repayment of the initial loan advance within the maximum term of 48 months and 15 days set for loans in excess of $1,000 but not exceeding $2,500 in subsection b. of section 6 of P.L.1979, c.493 (C.17:10-14.3). This minimum payment shall continue at that amount until such time as an additional advance to the borrower is made, other than for permitted charges, at which time the minimum monthly payment shall be determined and shall be in such amount as would result in the full repayment of the unpaid principal balance of the loan, after the advance and including the advance, within the maximum term set forth for the other loans of the same amount, except that if the principal balance of the loan, after the advance and including the advance, does not exceed $2,500, the minimum payment shall be in such amount as to result in full repayment of the principal balance of the loan within the maximum term of 48 months and 15 days set for loans in excess of $1,000 but not exceeding $2,500 pursuant to subsection b. of section 6 of P.L.1979, c.493 (C.17:10-14.3). Minimum payments after each subsequent advance shall be determined in the same manner. No minimum payment shall exceed the amount required to pay the balance in full, including unpaid interest and charges to date.

d. In addition to the interest permitted under subsection b., a licensee may contract for and receive the other charges permitted by this chapter on other loans, subject to all the conditions and restrictions set forth in those sections with the following variations:

(1) If credit life, disability or involuntary unemployment insurance is provided and if the insured dies or becomes disabled or involuntarily unemployed when there is an outstanding open-end loan indebtedness, the insurance shall be sufficient to pay the total balance of the loan due on the date of the borrower's death in the case of credit life insurance, all minimum payments which become due on the loan during the covered period of disability in the case of credit disability insurance or all covered minimum payments which become due on the loan during the covered period of involuntary unemployment in the case of involuntary

unemployment insurance. The additional charge for credit life insurance, credit disability insurance or credit involuntary unemployment insurance shall be calculated in each billing cycle by applying the current monthly premium rate for such insurance, as the rate may be determined by the Commissioner of Insurance, to the unpaid balances in the borrower's account, using any of the methods specified in subsection b.(3) for the calculation of interest.

(2) No credit life, disability or involuntary unemployment insurance written in connection with an open-end loan shall be cancelled by the licensee because of delinquency of the borrower in the making of the required minimum payments on the loan unless one or more of the payments is past due for a period of 90 days or more; and the licensee shall advance to the insurer the amounts required to keep the insurance in force during that period, which amounts may be debited to the borrower's account.

e. A licensee may take a security interest in personal property to secure an open-end loan. Any security interest may be retained until the open-end account is terminated, provided that if the security interest covers consumer goods, then within one month or within 10 days following written demand by the borrower after there is no outstanding balance in the account and no commitment by the licensee to make advances, the licensee shall release the security interest. If the security interest covers personal property other than consumer goods, whenever there is no outstanding balance in the account and no commitment by the licensee to make advances, the licensee shall within 10 days following written demand by the borrower release the security interest. If a security interest is taken, the open-end loan agreement shall state the nature and extent of such security interest.

f. R.S.17:10-15 shall not apply to open-end loans made under this chapter, except that no licensee shall take any confession of judgment or power of attorney in connection with an open-end loan, or take any instrument in which blanks are left to be filled in after the loan is made.

g. The record-keeping systems used by licensees for open-end loans shall be reviewed on an individual basis to determine whether the records are adequate for the purposes of R.S.17:10-12.

6. Section 5 of P.L.1981, c.18 (C.17:11B-5) is amended to read as follows:

C.17:11B-5 License fees.

5. The license fee for each mortgage banker's or mortgage broker's license, and any branch office license, for a 2-year period or any part thereof ending the second June 30 from date of issuance, shall be prescribed by rule or regulation of the commissioner, not to exceed $2,000. Such license shall run from the date of issuance to the end of the biennial licensing period. When the initial license is issued in the second year of the biennial licensing period, the license fee shall not exceed $1,000.

7. Section 7 of P.L.1981, c.18 (C.17:11B-7) is amended to read as follows:

C.17:11B-7 Place of business.

7. A licensed mortgage banker or mortgage broker shall have and maintain a place of business in the State for the transaction of business. A license shall specify the address of the place of business of the mortgage banker or mortgage broker and shall be conspicuously displayed therein. If a mortgage banker or mortgage broker also maintains a branch office or offices, one of the offices will be designated as the principal office. Any application for a new branch office shall be submitted in accordance with subsection a. of section 4 of P.L.1981, c.18 (C.17:11B-4). A mortgage banking and mortgage brokerage office or branch thereof shall be operated under the full control and supervision of an individual licensed under this act and employed at the office or branch on a regular and full-time basis to supervise and perform mortgage banking and mortgage brokerage services. No such individual may be in charge of more than one office. In case the address of the principal place of business or of any branch office is changed, the commissioner shall endorse the change of address on the license.

8. Section 26 of P.L.1960, c.40 (C.17:16C-26) is amended to read as follows:

C.17:16C-26 Payment of time balances, terms; exceptions.

26. Every retail installment contract shall provide for the payment of the time balance in substantially equal amounts on dates separated by substantially equal payment-periods; except that the retail seller may defer the initial installment for any period of time up to one year from the date of the execution of the retail installment contract; and, provided further, that when appropriate for the purpose of facilitating payment, in accordance with a retail

buyer's intermittent income, a contract may provide for payment on a schedule which reduces or omits payments over a period or periods not in excess of 93 days in any 12-month period or a contract may provide an installment schedule which reduces or omits payments over any period or periods of time during which period or periods the retail buyer's income is reduced or suspended. When a retail installment contract provides for unequal or irregular installments, the time price differential shall not exceed the effective rate provided in section 41 of P.L.1960, c.40 (C.17:16C-41), having due regard for the schedule of installments. When in any retail installment contract the purchase of goods is combined with the purchase of food, the time balance on which is stated as one amount, that part of the time balance on the sale of goods shall be subject to the provisions of this section, but that part of the time balance on the purchase of food may be payable in a shorter time and added to the equal payment installment on goods.

9. Section 42 of P.L.1960, c.40 (C.17:16C-42) is amended to read as follows:

C.17:16C-42 Delinquency or collection charge for default; attorney's fees; return check fee.

42. (a) The holder of any retail installment contract may collect a delinquency or collection charge for default in the payment of any such contract or any installment thereof, if provided for in the contract when such default shall have continued for a period of 10 days, such charge not to exceed $10. Such charge may be collected by the holder of the retail installment contract or charged to the buyer's retail installment contract account. If charged to the buyer's retail installment contract account, such charge shall be made within 35 days from the date of such default and then a written notification that such charge has been made shall be mailed to the retail buyer within 5 days from the date when such charge was made.

(b) The holder of any retail charge account may collect a delinquency or collection charge in an amount not to exceed $10, if provided for in the retail charge account agreement, on any minimum payment which has not been paid in full for a period of 10 days after its due date, as originally scheduled.

(c) A delinquency or collection charge under this section may be collected only once on each minimum payment due however long it remains in default. A delinquency charge may be collected at the time it accrues or at any time afterward.

(d) The retail installment contract or retail charge account may provide for the payment of attorney's fees not exceeding 20% of the first $500.00 and 10% on any excess of the amount due and payable under such contract or account when referred to an attorney, not a salaried employee of the holder of the contract or account, for collection.

(e) The retail installment contract or retail charge account may provide for a return check fee not to exceed $20 which the holder of the contract may charge the buyer if a check of the buyer is returned to the holder uncollected due to insufficient funds in the buyer's account.

10. This act shall take effect immediately.

Approved March 17, 1995.

CHAPTER 54

AN ACT concerning certain fees required under the "Municipal Land Use Law," amending P.L.1991, c.256 and P.L.1975, c.217, and supplementing P.L.1993, c.32 (C.40:55D-40.1 et seq.).

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

1. Section 13 of P.L.1991, c.256 (C.40:55D-53.2) is amended to read as follows:

C.40:55D-53.2 Municipal payments to professionals for services rendered; determination.

13. a. The chief financial officer of a municipality shall make all of the payments to professionals for services rendered to the municipality or approving authority for review of applications for development, review and preparation of documents, inspection of improvements or other purposes under the provisions of P.L.1975, c.291 (C.40:55D-1 et seq.). Such fees or charges shall be based upon a schedule established by resolution. The application review and inspection charges shall be limited only to professional charges for review of applications, review and preparation of documents and inspections of developments under construction and review by outside consultants when an application is of a nature beyond the scope of the expertise of the

professionals normally utilized by the municipality. The only costs that shall be added to any such charges shall be actual out-of-pocket expenses of any such professionals or consultants including normal and typical expenses incurred in processing applications and inspecting improvements. The municipality or approving authority shall not bill the applicant, or charge any escrow account or deposit authorized under subsection b. of this section, for any municipal clerical or administrative functions, overhead expenses, meeting room charges, or any other municipal costs and expenses except as provided for in this section, nor shall a municipal professional add any such charges to his bill. If the salary, staff support and overhead for a municipal professional are provided by the municipality, the charge shall not exceed 200% of the sum of the products resulting from multiplying (1) the hourly base salary, which shall be established annually by ordinance, of each of the professionals by (2) the number of hours spent by the respective professional upon review of the application for development or inspection of the developer's improvements, as the case may be. For other professionals the charge shall be at the same rate as all other work of the same nature by the professional for the municipality when fees are not reimbursed or otherwise imposed on applicants or developers.

b. If the municipality requires of the developer a deposit toward anticipated municipal expenses for these professional services, the deposit shall be placed in an escrow account pursuant to section 1 of P.L.1985, c.315 (C.40:55D-53.1). The amount of the deposit required shall be reasonable in regard to the scale and complexity of the development. The amount of the initial deposit required shall be established by ordinance. For review of applications for development proposing a subdivision, the amount of the deposit shall be calculated based on the number of proposed lots. For review of applications for development proposing a site plan, the amount of the deposit shall be based on one or more of the following: the area of the site to be developed, the square footage of buildings to be constructed, or an additional factor for circulation-intensive sites, such as those containing drive-through facilities. Deposits for inspection fees shall be established in accordance with subsection h. of section 41 of P.L.1975, c.291 (C.40:55D-53).

c. Each payment charged to the deposit for review of applications, review and preparation of documents and inspection of improvements shall be pursuant to a voucher from the professional, which voucher shall identify the personnel performing the service, and for each date the services performed, the hours spent

to one-quarter hour increments, the hourly rate and the expenses incurred. All professionals shall submit vouchers to the chief financial officer of the municipality on a monthly basis in accordance with schedules and procedures established by the chief financial officer of the municipality. If the services are provided by a municipal employee, the municipal employee shall prepare and submit to the chief financial officer of the municipality a statement containing the same information as required on a voucher, on a monthly basis. The professional shall send an informational copy of all vouchers or statements submitted to the chief financial officer of the municipality simultaneously to the applicant. The chief financial officer of the municipality shall prepare and send to the applicant a statement which shall include an accounting of funds listing all deposits, interest earnings, disbursements, and the cumulative balance of the escrow account. This information shall be provided on a quarterly basis, if monthly charges are $1,000 or less, or on a monthly basis if monthly charges exceed $1,000. If an escrow account or deposit contains insufficient funds to enable the municipality or approving authority to perform required application reviews or improvement inspections, the chief financial officer of the municipality shall provide the applicant with a notice of the insufficient escrow or deposit balance. In order for work to continue on the development or the application, the applicant shall within a reasonable time period post a deposit to the account in an amount to be agreed upon by the municipality or approving authority and the applicant. In the interim, any required health and safety inspections shall be made and charged back against the replenishment of funds.

d. The following close-out procedure shall apply to all deposits and escrow accounts established under the provisions of P.L.1975, c.291 (C.40:55D-1 et seq.) and shall commence after the approving authority has granted final approval and signed the subdivision plat or site plan, in the case of application review escrows and deposits, or after the improvements have been approved as provided in section 41 of P.L.1975, c.291 (C.40:55D-53), in the case of improvement inspection escrows and deposits. The applicant shall send written notice by certified mail to the chief financial officer of the municipality and the approving authority, and to the relevant municipal professional, that the application or the improvements, as the case may be, are completed. After receipt of such notice, the professional shall render a final bill to the chief financial officer of the municipality within 30 days, and shall send a copy simultaneously to the applicant.

The chief financial officer of the municipality shall render a written final accounting to the applicant on the uses to which the deposit was put within 45 days of receipt of the final bill. Any balances remaining in the deposit or escrow account, including interest in accordance with section 1 of P.L.1985, c.315 (C.40:55D-53.1), shall be refunded to the developer along with the final accounting.

e. All professional charges for review of an application for development, review and preparation of documents or inspection of improvements shall be reasonable and necessary, given the status and progress of the application or construction. Review fees shall be charged only in connection with an application for development presently pending before the approving authority or upon review of compliance with conditions of approval, or review of requests for modification or amendment made by the applicant. A professional shall not review items which are subject to approval by any State governmental agency and not under municipal jurisdiction except to the extent consultation with a State agency is necessary due to the effect of State approvals in the subdivision or site plan. Inspection fees shall be charged only for actual work shown on a subdivision or site plan or required by an approving resolution. Professionals inspecting improvements under construction shall charge only for inspections that are reasonably necessary to check the progress and quality of the work and such inspections shall be reasonably based on the approved development plans and documents.

f. If the municipality retains a different professional or consultant in the place of the professional originally responsible for development, application review, or inspection of improvements, the municipality or approving authority shall be responsible for all time and expenses of the new professional to become familiar with the application or the project, and the municipality or approving authority shall not bill the applicant or charge the deposit or the escrow account for any such services.

2. Section 15 of P.L.1991, c.256 (C.40:55D-53.4) is amended to read as follows:

C.40:55D-53.4 Municipal engineer to estimate cost of installation of improvements.

15. The cost of the installation of improvements for the purposes of section 41 of P.L.1975, c.291 (C.40:55D-53) shall be estimated by the municipal engineer based on documented construction costs for public improvements prevailing in the general area of the municipality. The developer may appeal the municipal engineer's estimate to the county construction board of appeals established under section 9 of P.L.1975, c.217 (C.52:27D-127).

C.40:55D-53.2a Applicant notification to dispute charges; appeals; rules, regulations.

3. a. An applicant shall notify in writing the governing body with copies to the chief financial officer, the approving authority and the professional whenever the applicant disputes the charges made by a professional for service rendered to the municipality in reviewing applications for development, review and preparation of documents, inspection of improvements, or other charges made pursuant to the provisions of P.L.1975, c.291 (C.40:55D-1 et seq.). The governing body, or its designee, shall within a reasonable time period attempt to remediate any disputed charges. If the matter is not resolved to the satisfaction of the applicant, the applicant may appeal to the county construction board of appeals established under section 9 of P.L.1975, c.217 (C.52:27D-127) any charge to an escrow account or a deposit by any municipal professional or consultant, or the cost of the installation of improvements estimated by the municipal engineer pursuant to section 15 of P.L.1991, c.256 (C.40:55D-53.4). An applicant or his authorized agent shall submit the appeal in writing to the county construction board of appeals. The applicant or his authorized agent shall simultaneously send a copy of the appeal to the municipality, approving authority, and any professional whose charge is the subject of the appeal. An applicant shall file an appeal within 45 days from receipt of the informational copy of the professional's voucher required by subsection c. of section 13 of P.L.1991, c.256 (C.40:55D-53.2), except that if the professional has not supplied the applicant with an informational copy of the voucher, then the applicant shall file his appeal within 60 days from receipt of the municipal statement of activity against the deposit or escrow account required by subsection c. of section 13 of P.L.1991, c.256 (C.40:55D-53.2). An applicant may file an appeal for an ongoing series of charges by a professional during a period not exceeding six months to demonstrate that they represent a pattern of excessive or inaccurate charges. An applicant making use of this provision need not appeal each charge individually.

b. The county construction board of appeals shall hear the appeal, render a decision thereon, and file its decision with a statement of the reasons therefor with the municipality or approving authority not later than 10 business days following the submission of the appeal, unless such period of time has been extended with the consent of the applicant. The decision may approve, disapprove, or modify the professional charges appealed

from. A copy of the decision shall be forwarded by certified or registered mail to the party making the appeal, the municipality, the approving authority, and the professional involved in the appeal. Failure by the board to hear an appeal and render and file a decision thereon within the time limits prescribed in this subsection shall be deemed a denial of the appeal for purposes of a complaint, application, or appeal to a court of competent jurisdiction.

c. The county construction board of appeals shall provide rules for its procedure in accordance with this section. The board shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, and the provisions of the "County and Municipal Investigations Law," P.L.1953, c.38 (C.2A:67A-1 et seq.) shall apply.

d. During the pendency of any appeal, the municipality or approving authority shall continue to process, hear, and decide the application for development, and to inspect the development in the normal course, and shall not withhold, delay, or deny reviews, inspections, signing of subdivision plats or site plans, the reduction or the release of performance or maintenance guarantees, the issuance of construction permits or certificates of occupancy, or any other approval or permit because an appeal has been filed or is pending under this section. The chief financial officer of the municipality may pay charges out of the appropriate escrow account or deposit for which an appeal has been filed. If a charge is disallowed after payment, the chief financial officer of the municipality shall reimburse the deposit or escrow account in the amount of any such disallowed charge or refund the amount to the applicant. If a charge is disallowed after payment to a professional or consultant who is not an employee of the municipality, the professional or consultant shall reimburse the municipality in the amount of any such disallowed charge.

e. The Commissioner of Community Affairs 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 purposes of this section. Within two years of the effective date of P.L.1995, c.54 (C.40:55D-53.2a et al.), the commissioner shall prepare and submit a report to the Governor, the President of the Senate, and the Speaker of the General Assembly. The report shall describe the appeals process established by section 3 of P.L.1995, c.54 (C.40:55D-53.2a) and shall make recommendations for legislative or administrative action necessary to provide a fair and efficient appeals process.

4. Section 9 of P.L.1975, c.217 (C.52:27D-127) is amended to read as follows:

C.52:27D-127 Construction board of appeals.

9. Construction board of appeals.

a. There shall be a construction board of appeals for each county to hear appeals from decisions by the enforcing agency provided that any municipality may establish its own construction board of appeals to hear appeals from decisions by the enforcing agency and further provided that where two or more municipalities have combined to appoint a construction official and subcode officials such combined municipalities may establish a joint construction board of appeals. Any such municipal or joint board shall hear appeals from the decisions of the municipal or joint enforcing agency, as the case may be, instead of the county board.

Every construction board of appeals shall consist of five members. Each member of the board shall be qualified by experience or training to perform the duties of members of the construction board of appeals. In addition to the five regular members, each construction board of appeals shall include two special members, one of whom shall be a licensed professional engineer with municipal construction experience, and one of whom shall be a builder. The special members shall serve as additional members of the board in any case involving an appeal of municipal fees pursuant to P.L.1995, c.54 (C.40:55D-53.2 et al.). Board members shall be appointed for a term of four years by the appointing authority of the county or municipality in question or, in the case of a joint municipal board, by means mutually determined by the governing bodies of such municipalities. For the members first appointed, the appointing authority shall designate the appointees' terms so that one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and two for a term of four years. Vacancies on the board shall be filled for the unexpired term. Members may be removed by the authority appointing them for cause. A person may serve on more than one construction board of appeals.

b. When an enforcing agency refuses to grant an application or refuses to act upon application for a construction permit, or when the enforcing agency makes any other decision, pursuant or related to this act or the code, an owner, or his authorized agent, may appeal in writing to the county or municipal or joint board, whichever is appropriate. The board shall hear the appeal, render a decision thereon and file its decision with a statement of the reasons therefor with the enforcing agency from which the appeal has been taken not later than 10 business days following the submis-

sion of the appeal, unless such period of time has been extended with the consent of the applicant. Such decision may affirm, reverse or modify the decision of the enforcing agency or remand the matter to the enforcing agency for further action. A copy of the decision shall be forwarded by certified or registered mail to the party taking the appeal. Failure by the board to hear an appeal and render and file a decision thereon within the time limits prescribed in this subsection shall be deemed a denial of the appeal for purposes of a complaint, application or appeal to a court of competent jurisdiction. A record of all decisions made by the board, properly indexed, shall be kept by the enforcing agency and shall be subject to public inspection during business hours. The board shall provide rules for its procedure in accordance with this act and regulations established by the commissioner.

5. This act shall take effect 180 days after enactment, except that a municipality may implement these policies prior thereto.

Approved March 17, 1995.

CHAPTER 55

AN ACT denying certain parental rights in cases involving rape and supplementing Title 9 of the New Jersey Statutes.

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

C.9:2-4.1 Person convicted of sexual assault, custody of, visitation to minor child; denied, exceptions.

1. Notwithstanding any provision of law to the contrary, a person convicted of sexual assault under N.J.S.2C:14-2 shall not be awarded the custody of or visitation rights to a minor child who was born as a result of or was the victim of the sexual assault, except upon a showing by clear and convincing evidence that it is in the best interest of the child for custody or visitation rights to be awarded. A denial of custody or visitation under this section shall not by itself terminate the parental rights of the person denied visitation or custody, nor shall it affect the obligation of the person to support the minor child. In any proceeding for

establishment or enforcement of such an obligation of support the victim shall not be required to appear in the presence of the obligor and the victim's and child's whereabouts shall be kept confidential.

2. This act shall take effect immediately.

Approved March 17, 1995.

CHAPTER 56

AN ACT creating a task force to study the problems of special education and making an appropriation therefor.

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

1. The Legislature finds and declares that while public school enrollments have declined over the last decade, there has been a dramatic increase in the number of special education students; that State aid for special education has been frozen since the 1992-93 school year despite skyrocketing costs, especially the costs for out-of-district residential placements; that in a time of limited funding and increasing costs, there is a growing tension in the State between the needs of regular education and the needs of special education; and that the Education Funding Review Commission, having recognized these critical problems, recommended the formation of a task force to study the funding of special education.

2. There is created a task force to be known as the "Task Force on Special Education." The task force shall consist of 16 members selected as follows: two members to be appointed by the President of the Senate, which members shall not be of the same political party and one of whom shall be the parent of a public school student receiving special education services; two members to be appointed by the Speaker of the General Assembly, which members shall not be of the same political party and one of whom shall be the parent of a public school student receiving special education services; three members to be appointed by the Governor, no more than two of whom shall be members of the same political party and one of whom shall be a representative of a county special services school district; the Commissioner of Educa-

tion, or his designee; and one member each to be appointed by the Arc of New Jersey; the New Jersey Developmental Disabilities Council; the New Jersey Association of School Administrators; the New Jersey Association of School Business Officials; the New Jersey Education Association; the New Jersey Parent-Teacher Association; the New Jersey Principals and Supervisors Association; and the New Jersey School Boards Association.

3. All appointments shall be made within 30 days after the effective date of this act. Vacancies in the membership of the task force shall be filled in the same manner as the original appointments were made. Members of the task force shall serve without compensation.

4. The task force shall organize within 30 days after the appointment of its members and shall select a chairperson and a vice chairperson from among its members and a secretary who need not be a member of the task force.

5. It shall be the duty of the task force to study the issues associated with the funding and delivery of services for special education.

6. Staff and related support services shall be provided to the task force by the Department of Education. The task force shall also be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes.

7. The task force may meet and hold hearings at the place or places it designates during the sessions or recesses of the Legislature and shall issue a final report of its findings and recommendations, including any recommended legislation, to the Governor, the Legislature, and the Joint Committee on the Public Schools no later than 120 days following its organizational meeting.

8. There is appropriated $5,000 from the General Fund to the task force to effectuate the purposes of this act.

9. This act shall take effect immediately and shall expire 30 days after the submission of the final report.

Approved March 17, 1995.

CHAPTER 57

AN ACT to provide certain county executives with the power to disapprove or reduce individual budget appropriations and to approve certain public contracts.

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

1. The Legislature hereby finds, determines and declares that:

a. significant debt burden on the part of counties sap the economic strength of those units of government;

b. in those counties which are relatively poor, the resources required to pay off accumulated debt may compromise the ability of those units of government to meet the ongoing service demands of the public without prudent and accountable financial management;

c. given the relatively slow pace of economic recovery in New Jersey, it is unlikely that economic growth will help those counties struggling to meet these crushing economic demands to meet those burdens in the foreseeable future;

d. the structure of the existing "county executive plan" form of government set forth in the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), in which executive and legislative powers are separated, is conducive for modification in order to determine if increasing the accountability of elected officials for spending and public contracting decisions will benefit property taxpayers;

e. it is appropriate for the Legislature to experiment with modifications to the "county executive plan" form of government in order to determine whether vesting greater accountability in the county executive for budget decision making and public contracting will be effective in helping a county meet its outstanding debt obligations without seriously compromising its ability to perform necessary services;

f. as the county with the highest equalized tax rate for county purposes combined with the highest debt service per capita among the counties governed by the "county executive plan" form of government, Essex county provides a fitting laboratory for a test, on a temporary basis, of modifications to the statutory powers and duties of a county executive that are designed to achieve greater fiscal prudence on the part of county government.

2. Upon adoption of the budget pursuant to N.J.S.40A:4-10 by the Essex county board of chosen freeholders, the clerk of the board shall, within three business days, present the adopted budget to the Essex county executive for review. The Essex county executive may disapprove, or may reduce, any item of appropriation in the annual budget, other than items of appropriation required for payment of debt service, while approving other items of appropriation.

Based on any objections or reductions made, the county executive shall also adjust the amount to be collected by property taxes to reflect those objections or reductions. In the case of a disapproval or reduction, the Essex county executive shall append to the budget a statement of each item which has been disapproved or reduced, and, except as otherwise provided in this section, each such item shall not take effect or shall take effect as reduced, as appropriate. The budget shall be returned to the board of chosen freeholders no later than five business days following receipt thereof by the county executive.

If, not later than five business days following receipt of the budget from the county executive pursuant to this section, the board of chosen freeholders reapproves an item of appropriation as originally approved by the board, and adjusts the amount to be collected by property taxes accordingly, by a vote of not less than two-thirds of the full membership of the board, the item as originally approved and amounts to be collected by property taxes shall become part of the final budget, notwithstanding the disapproval of the county executive. The budget shall then be transmitted to the Director of the Division of Local Government Services pursuant to N.J.S.40A:4-10.

3. Within three business days of the passage by the Essex county board of chosen freeholders of any resolution approving a contract involving an expenditure of over $10,000, the clerk of the board shall present the resolution to the Essex county executive for review. The executive may approve or disapprove any such resolution and shall return the resolution to the board of chosen freeholders within 10 business days of passage together with a written statement of objections to the resolution in the event of disapproval. If the executive takes no action within 10 business days of passage, the resolution shall be deemed to be approved. The board may override an executive's disapproval by a two-thirds vote of the full membership of the board and the resolution shall thereupon take effect.

4. Within six months after the third county budget submitted to the county executive pursuant to this act, the Director of the Division of Local Government Services in the Department of Community Affairs shall submit a report to the Governor, the Senate, the General Assembly, the Essex county board of chosen freeholders, and the Essex county executive evaluating the experience of Essex county with the powers granted to the executive pursuant to this act and recommending whether the test period should be extended or if these powers should be granted to other county executives.

5. This act shall take effect immediately and shall expire upon the submission of the director's report required under section 4 of this act.

Approved March 17, 1995.

CHAPTER 58

AN ACT concerning health insurance coverage pursuant to a child support order amending and supplementing Title 2A of the New Jersey Statutes.

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

C.2A:34-23c Child support order; medical coverage provisions.

1. Any order for child support issued pursuant to the provisions of N.J.S.2A:34-23 shall include provisions indicating the party responsible for maintaining medical support coverage for the child and the terms and conditions by which that coverage is to be maintained.

2. Section 2 of P.L.1981, c.417 (C.2A:17-56.8) is amended to read as follows:

C.2A:17-56.8 Enforcement of child support orders.

2. Every complaint, notice or pleading for the entry or modification of an order of a court entered or modified which includes child support shall include a written notice to the obligor stating that the child support provision of the order shall, and the medical support provision may, as appropriate, be enforced by an income withholding upon the current or future income due from the obligor's employer or successor employers and upon the

unemployment compensation benefits due the obligor and against debts, income, trust funds, profits or income from any other source due the obligor except as provided in section 3 of P.L.1981, c.417 (C.2A:17-56.9). The written notice shall also state that the amount of a IV-D child support order and the provisions for medical support coverage shall be reviewed and updated, as necessary, at least every three years.

The court shall ensure that in the case of each obligor against whom a support order is or has been issued or modified, the obligor's income shall be withheld to comply with the order. An amount shall be withheld to pay the support obligation and it shall include an amount to be applied toward liquidation of arrearages reduced to judgments, payments for paternity testing procedures and provisions for medical support coverage when applicable. The income withholding provisions shall also be applicable to all orders issued on or before the effective date of this act.

3. Section 5 of P.L.1981, c.417 (C.2A:17-56.11) is amended to read as follows:

C.2A:17-56.11 Notice to payor; binding effect.

5. An income withholding made under this act and provisions for medical support coverage shall be binding upon the payor and successor payors immediately after service upon the payor by the probation department of a copy of the income withholding and an order for the provision of medical support coverage, by registered or certified mail with return receipt requested until further order. The payor is to pay the withheld amount to the probation department at the same time the obligor is paid. The payor shall implement withholding and the provisions for medical support coverage no later than the first pay period that ends immediately after the date the notice was postmarked. For each payment, other than payment received from the unemployment compensation fund, the payor may receive $1.00, which shall be deducted from the obligor's income in addition to the amount of the support order.

Notice to the payor shall include, but not be limited to, instructions for the provisions for medical support coverage, the amount to be withheld from the obligor's income and a statement that the amount actually withheld for support and other purposes may not be in excess of the maximum amount permitted under section 303 (b) of the federal Consumer Credit Protection Act (15 U.S.C.§1673 (b)); that the payor shall send the amount to the pro-

bation department at the same time the obligor is paid, unless the probation department directs that payment be made to another individual or entity; that the payor may deduct a fee of $1.00 in addition to the amount of the support order except when the payment is received from the unemployment compensation fund; that withholding is binding on the payor until further notice by the probation department; that the payor is subject to a fine for discharging an obligor from employment, refusing to employ, or taking disciplinary action against an obligor because of the withholding; that if the payor fails to take appropriate action with regard to the provisions for medical support coverage or withhold wages in accordance with the provisions of the notice, the payor is liable for any medical expenses incurred by the children subject to the provisions for medical support coverage and any amount up to the accumulated amount the payor should have withheld from the obligor's income; that the withholding shall have priority over any other legal process under State law against the same wages; that the payor may combine withheld amounts from the obligor's wages in a single payment to each appropriate agency requesting withholding and separately identify the portion of the single payment which is attributable to each individual obligor; that if there is more than one support order for withholding against a single obligor, the payor shall withhold the payments on a pro rata basis to fully comply with the support orders, to the extent that the total amount withheld does not exceed the limits imposed under section 303 (b) of the federal Consumer Credit Protection Act (15 U.S.C.§1673 (b)); that the payor shall implement withholding no later than the first pay period that ends immediately after the date the notice was postmarked; and that the payor shall notify the probation department promptly upon the termination of the obligor's employment benefits and provide the obligor's last known address and the name and address of the obligor's new payor, if known.

4. This act shall take effect immediately.

Approved March 31, 1995.

CHAPTER 59

AN ACT concerning programs in bilingual education and amending P.L.1974, c.197.

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

1. Section 4 of P.L.1974, c.197 (C.18A:35-18) is amended to read as follows:

C.18A:35-18 Programs in bilingual education; establishment; number of pupils; waiver.

4. a. When, at the beginning of any school year, there are within the schools of the district 20 or more pupils of limited English-speaking ability in any one language classification, the board of education shall establish, for each such classification, a program in bilingual education for all the pupils therein; provided, however, that a board of education may establish a program in bilingual education for any language classification with less than 20 children therein.

b. The Commissioner of Education may waive the requirement that a board of education establish a full time bilingual education program when the board is able to demonstrate that due to the age range, grade span or geographic location of the eligible pupils it would be impractical to provide a full time bilingual education program. The waiver shall permit the district to implement a special alternative instructional program for as long as the conditions exist that justified the waiver.

2. This act shall take effect immediately.

Approved March 31, 1995.

CHAPTER 60

AN ACT appropriating $10,000,000 from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and $7,675,000 from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, for farmland preservation, approving certain farmland preservation projects as eligible for funding therefrom, and appropriating $6,900 from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, for soil and water conservation projects.

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

1. a. There is appropriated to the State Agriculture Development Committee from the "1989 Farmland Preservation Fund," established pursuant to section 22 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the sum of $10,000,000 for the purpose of: (1) providing grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland, provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements; and (2) providing for up to 100% of the cost of acquisition of development easements under such emergency conditions as the State Agriculture Development Committee determines, for projects approved as eligible for such funding pursuant to section 2 of this act, section 1 of P.L.1995, c.61, or section 1 of P.L.1995, c.62.

b. There is appropriated to the State Agriculture Development Committee from the "1992 Farmland Preservation Fund," established pursuant to section 24 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the sum of $7,675,000 for the purpose of: (1) providing grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland, provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements; and (2) providing for up to 100% of the cost of acquisition of development easements under such emergency conditions as the State Agriculture Development Committee determines, for projects approved as eligible for such funding pursuant to section 2 of this act, section 1 of P.L.1995, c.61, or section 1 of P.L.1995, c.62.

2. The following projects are eligible for funding with the monies appropriated pursuant to section 1 of this act:

Project (farm)	County	Municipality	Acres (+/-)	Amount of Grant Not to Exceed
Knigge	Hunterdon	Bethlehem	144	$325,000
Weeden III	Hunterdon	East Amwell	80	$175,000
duFosse	Hunterdon	East Amwell	136	$425,000
Burjan	Hunterdon	Readington	103	$525,000
Palmer	Morris	Washington	47	$325,000

Liebenzell	Morris	Washington	106	$600,000
Beemer	Sussex	Wantage	196	$475,000
Kuperus	Sussex	Wantage	310	$750,000
Schnetzer	Warren	Franklin	125	$375,000
Cummins	Warren	Independence	104	$375,000
Terpstra	Warren	Knowlton	109	$275,000
Millheim	Warren	Knowlton	162	$400,000
Makarevich	Warren	Knowlton	195	$500,000

3. There is appropriated to the State Agriculture Development Committee from the "1989 Farmland Preservation Fund," established pursuant to section 22 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the sum of $6,900 for the purpose of providing grants to landowners for up to 50% of the cost of soil and water conservation projects.

The following projects are eligible for funding with the monies appropriated pursuant to this section:

Project (farm)	County	Municipality	SADC ID#	Amount of Grant Not to Exceed
Stevens	Hunterdon	E. Amwell	01M-15	$3,300
Jones	Hunterdon	Readington	01M-03	$3,600

4. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1989, c.183 or P.L.1992, c.88, as appropriate.

5. This act shall take effect immediately.

Approved March 31, 1995.

CHAPTER 61

AN ACT approving certain farmland preservation projects as eligible for funding from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and appropriating $55,700 from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, for soil and water conservation projects.

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

1. The following projects are eligible for funding with monies made available from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and appropriated to the State Agriculture Development Committee pursuant to section 1 of P.L.1995, c.60:

Project (farm)	County	Municipality	Acres (+/-)	Amount of Grant Not to Exceed
Croshaw	Burlington	Mansfield	126	$325,000
Haines	Burlington	Southampton	99	$300,000
Mottola	Burlington	Springfield	94	$200,000
Shinn	Burlington	Springfield	99	$325,000
Mount	Mercer	Lawrence	55	$325,000
Greenberg	Middlesex	Cranbury	104	$575,000
Peddie	Middlesex	Cranbury	135	$750,000
Hostetler	Middlesex	Plainsboro	107	$625,000
Dey	Middlesex	S. Brunswick	205	$1,150,000
Reed Jr. & C..	Monmouth	U. Freehold	72	$250,000
Reed Jr.	Monmouth	U. Freehold	99	$350,000
Mon.Cons.F.	Monmouth	U. Freehold	112	$400,000
Hendrickson	Monmouth	U. Freehold	112	$500,000
Osborn	Monmouth	U. Freehold	137	$600,000
Reed Sr.	Monmouth	U. Freehold	160	$600,000
Faber	Monmouth	U. Freehold	177	$725,000
Lee	Ocean	Plumsted	29	$50,000
Kessler	Ocean	Plumsted	189	$200,000

2. There is appropriated to the State Agriculture Development Committee from the "1989 Farmland Preservation Fund," established pursuant to section 22 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the sum of $55,700 for the purpose of providing grants to landowners for up to 50% of the cost of soil and water conservation projects.

The following projects are eligible for funding with the monies appropriated pursuant to this section:

Project (farm)	County	Municipality	SADC ID#	Amount of Grant Not to Exceed
Tassone	Burlington	Shamong	04F-01	$8,800
Haines	Burlington	Southampton	01M-03	$2,900

McDaniel	Burlington	Springfield	01M-06	$14,800
Poinsett	Burlington	Woodland	02F-01	$19,900
Stults	Middlesex	Cranbury & Plainsboro	01M-01	$5,800
Bullock	Monmouth	U. Freehold	11M-01	$3,500

3. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1989, c.183 or P.L.1992, c.88, as appropriate.

4. This act shall take effect immediately.

Approved March 31, 1995.

CHAPTER 62

AN ACT approving certain farmland preservation projects as eligible for funding from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, appropriating $93,600 from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, for soil and water conservation projects, and appropriating $5,000,000 from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, for the acquisition of fee simple absolute titles to farmland.

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

1. The following projects are eligible for funding with monies made available from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and appropriated to the State Agriculture Development Committee pursuant to section 1 of P.L.1995, c.60:

Project (farm)	County	Municipality	Acres (+/-)	Amount of Grant Not to Exceed
Bohm	Cape May	Dennis	148	$125,000
Hazlett	Cape May	Middle	28	$75,000
Wheeler	Cape May	Middle	45	$100,000

Ale	Cumberland	Hopewell	78	$150,000
Connor	Cumberland	Hopewell	126	$225,000
DeCou	Cumberland	Hopewell	289	$550,000
Hampton	Cumberland	Stow Creek	128	$225,000
Eachus	Cumberland	U. Deerfield	87	$150,000
Johnson	Cumberland	U. Deerfield	264	$500,000
Brock	Cumberland	U. Deerfield	331	$625,000
Pioppi	Gloucester	Franklin	163	$175,000
Bramell	Gloucester	Harrison	165	$275,000
Ware, P.	Salem	Elsinboro	156	$150,000
Ware, C.	Salem	Elsinboro	153	$150,000
Allen	Salem	Quinton	211	$200,000
Gardner	Salem	U. Pittsgrove	157	$225,000

2. There is appropriated to the State Agriculture Development Committee from the "1989 Farmland Preservation Fund," established pursuant to section 22 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the sum of $93,600 for the purpose of providing grants to landowners for up to 50% of the cost of soil and water conservation projects.

The following projects are eligible for funding with the monies appropriated pursuant to this section:

Project (farm)	County	Municipality	SADC ID#	Amount of Grant Not to Exceed
Formisano	Atlantic	Buena Boro	O1F-02	$7,600
Hensel	Atlantic	Buena Vista	09F-01	$4,200
Augustine	Atlantic	Galloway	02F-04	$4,000
Wuillermin	Atlantic	Hammonton	11F-01	$1,000
Walker	Atlantic	Mullica	15F-01	$9,300
Curcio	Camden	Winslow	01F-01	$11,000
Mattera	Cape May	Lower	O1F-01	$8,300
Ferrari	Cumberland	Vineland	03S-01	$6,000
String	Gloucester	Woolwich	01F-01	$28,400
Wood	Salem	Lower Alloway Creek & Quinton	01F-01	$13,800

3. There is appropriated to the State Agriculture Development Committee from the "1992 Farmland Preservation Fund," established pursuant to section 24 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the sum of $5,000,000 for the purpose of providing for the cost of acquisition of fee simple absolute titles to farmland.

4. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1989, c.183 or P.L.1992, c.88, as appropriate.

5. This act shall take effect immediately.

Approved March 31, 1995.

CHAPTER 63

AN ACT concerning tuition bills of public institutions of higher education and supplementing chapter 62 of Title 18A of the New Jersey Statutes.

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

C.18A:62-22 Student tuition, fees, certain; collection method, "optional fee" defined.

1. The governing body of any public institution of higher education shall not allow funds for legislative agents or organizations as defined in chapter 13C of Title 52 of the New Jersey Statutes which attempt to influence legislation to be assessed on student tuition bills, except that optional fees for non-partisan organizations which employ legislative agents or attempt to influence legislation shall be collected by the governing body whenever students at the institution have authorized an optional fee for such organizations by a majority vote of those students voting in an official student referendum. For the purposes of this section "optional fee" shall mean any amount payable on a student tuition bill, appearing as a separately assessed item, but not a mandatory charge or a waivable fee. Optional fees shall be accompanied by a statement as to the nature of the item, and that the item is not a charge required to be paid by the student but rather the student may add the charge to the total amount due, and that the item appears on the bill at the request of the student body, and does not necessarily reflect the endorsement of the governing body.

2. This act shall take effect immediately, and shall first apply to tuition bills for the 1995-96 school year.

Approved March 31, 1995.

CHAPTER 64

AN ACT concerning the distribution of the parimutuel pool applicable to horse racing at Garden State Park and amending P.L.1982, c.201.

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

1. Section 5 of P.L.1982, c.201 (C.5:5-98) is amended to read as follows:

C.5:5-98 Garden State Racetrack.

5. The permitholder shall distribute the sums deposited in parimutuel pools to winners thereof in accordance with section 44 of P.L.1940, c.17 (C.5:5-64) and shall dispose of the deposits remaining undistributed as follows:

a. In the case of harness races:

(1) Hold and set aside in an account designated as a special trust account 1% of such total contributions in all pools, to be used and distributed as hereinafter provided and as provided in section 5 of P.L.1967, c.40 (C.5:5-88), for the following purposes and no other:

(a) 42 1/2% thereof to increase purses and grant awards for starting horses, as provided or as may be provided by rules of the New Jersey Racing Commission, with payment to be made in the same manner as payment of other purses and awards;

(b) 49% thereof for the establishment of a Sire Stakes Program for standardbred horses, with payment to be made to the Department of Agriculture for administration as provided;

(c) 5 1/2% thereof for contributions and awards designed to improve and promote the standardbred breeding industry in New Jersey through payment of awards to owners and breeders of New Jersey bred horses, which are registered with the Standardbred Breeders' and Owners' Association of New Jersey and which earn portions of purses in open events on New Jersey tracks, and to owners of stallions posted on the official stallion roster of the Standardbred Breeders' and Owners' Association of New Jersey, which sire such registered New Jersey bred money earners;

(d) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

Payment of the sums held and set aside pursuant to subparagraphs (c) and (d) shall be made to the commission every seventh day of any and every race meeting in the amount then due, as

determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.

(2) Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 5.1175%, or in the case of races on a charity racing day 5%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.5% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the permitholder. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the permitholder shall distribute as purse money 5.6175%, or in the case of races on a charity racing day 5.5%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 7.1175%, or in the case of races on a charity racing day 7%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, the permitholder shall retain out of the 7.1175% or 7% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(3) In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen .1175% of such total contributions.

(4) In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses .02% of such total contributions.

(5) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

b. In the case of running races:

(1) Hold and set aside in an account designated as a special trust account 5% of 1% of such total contributions, to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(2) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association 4.475%, or in the case of races on a charity racing day 4.24%, of such total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association shall not exceed 2.9% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horseman's Benevolent Association and the permitholder. Notwithstanding the foregoing, for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 7.475%, or in the case of races on a charity racing day 7.24%, of the total contributions.

(3) 60% of 1% of all pools shall be deducted and set aside in the special trust account established pursuant to section 46b.(1)(e) and 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66). The commission may, however, reduce this amount for a period of time to be determined by the commission upon a request by the permitholder and a determination by the commission that the payment of that amount would cause extreme financial hardship for the permitholder. In no event shall the commission reduce the amount to less than 10% of 1% of total contributions to all parimutuel pools at running race meetings at the racetrack. The permitholder may request an extension of the period of reduction or a further reduction or, subsequent to any restoration of the amount specified above, another reduction.

(4) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .02% of such total contributions.

(5) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

For pools where a patron is required to select three or more horses, 50% of 1% of the total contributions shall be held and set

aside in the special trust account established pursuant to section 46b.(1)(e) and 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66).

Payment of the sums held and set aside pursuant to paragraphs (1) and (3) of this subsection shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.

In addition to the amounts above, in the case of races on a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1992, c.113 (C.5:5-44.7), or P.L.1993, c.15 (C.5:5-44.8), an amount equal to 1/2 of 1% of all parimutuel pools shall be paid to the commission at the time and in the manner prescribed by the commission.

All amounts remaining in parimutuel pools, including the breaks, after the distribution and payments required by this section shall constitute revenues of the permitholder. Except as otherwise provided in this section, the permitholder shall not be required to make any payments to the commission or others in connection with contributions to parimutuel pools.

2. This act shall take effect immediately.

Approved March 31, 1995.

CHAPTER 65

AN ACT concerning the adoption, readoption or amendment of rules and regulations and supplementing P.L.1968, c. 410 (52:14B-1 et seq.).

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

C.52:14B-22 State policy to reduce confusion, costs in complying with State regulations.

1. It is the declared policy of the State to reduce, wherever practicable, confusion and costs involved in complying with State regulations. Confusion and costs are increased when there are

multiple regulations of various governmental entities imposing unwarranted differing standards in the same area of regulated activity. It is in the public interest that State agencies consider applicable federal standards when adopting, readopting or amending regulations with analogous federal counterparts and determine whether these federal standards sufficiently protect the health, safety and welfare of New Jersey citizens.

C.52:14B-23 Administrative agency standards, statement relative to federal requirements.

2. On or after the effective date of this act, each administrative agency that adopts, readopts or amends any rule or regulation described in section 3 of this act shall, in addition to all the requirements imposed by existing law and regulation, include as part of the initial publication and all subsequent publications of such rule or regulation, a statement as to whether the rule or regulation in question contains any standards or requirements which exceed the standards or requirements imposed by federal law. Such statement shall include a discussion of the policy reasons and a cost-benefit analysis that supports the agency's decision to impose the standards or requirements and also supports the fact that the State standard or requirement to be imposed is achievable under current technology, notwithstanding the federal government's determination that lesser standards or requirements are appropriate.

C.52:14B-24 Applicability of act relative to federal requirements.

3. This act shall apply to any rule or regulation that is adopted, readopted or amended under the authority of or in order to implement, comply with or participate in any program established under federal law or under a State statute that incorporates or refers to federal law, federal standards or federal requirements.

4. This act shall take effect 60 days from the date of enactment.

Approved April 6, 1995.

CHAPTER 66

AN ACT concerning social work and amending P.L.1991, c.134.

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

1. Section 3 of P.L.1991, c.134 (C.45:15BB-3) is amended to read as follows:

C.45:15BB-3 Definitions.

3. As used in this act:

"Board" means the State Board of Social Work Examiners, established in section 10 of this act.

"Certified social worker" means a person who holds a current, valid certificate issued pursuant to subsection c. of section 6 or subsection c. of section 8 of this act.

"Clinical social work" means the professional application of social work methods and values in the assessment and psychotherapeutic counseling of individuals, families, or groups. Clinical social work services shall include, but shall not be limited to: assessment; psychotherapy; client-centered advocacy; and consultation.

"Director" means the Director of the Division of Consumer Affairs.

"Licensed clinical social worker" means a person who holds a current, valid license issued pursuant to subsection a. of section 6 or subsection a. or d. of section 8 of this act.

"Licensed social worker" means a person who holds a current, valid license issued pursuant to subsection b. of section 6 or subsection b. of section 8 of this act.

"Psychotherapeutic counseling" means the ongoing interaction between a social worker and an individual, family or group for the purpose of helping to resolve symptoms of mental disorder, psychosocial stress, relationship problems or difficulties in coping with the social environment, through the practice of psychotherapy.

"Social work" means the activity directed at enhancing, protecting or restoring a person's capacity for social functioning, whether impaired by physical, environmental, or emotional factors. The practice of social work shall include, but shall not be limited to: policy and administration; clinical social work; social work counseling; planning and community organization; social work education; and research.

"Social work counseling" means the professional application of social work methods and values in advising and providing guidance to individuals, families or groups for the purpose of enhancing, protecting or restoring the capacity for coping with the social environment, exclusive of the practice of psychotherapy.

"Supervision" means the direct review of a supervisee for the purpose of teaching, training, administration, accountability or clinical review by a supervisor in the same area of specialized practice.

2. Section 5 of P.L.1991, c.134 (C.45:15BB-5) is amended to read as follows:

C.45:15BB-5 Nonapplicability of act.

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

a. A person authorized by the laws of this State to practice medicine and surgery, psychology, marriage counselling, chiropractic, acupuncture, physical therapy, occupational therapy, speech pathology and audiology, nursing or any other profession licensed by the State, when acting within the scope of the person's profession or occupation and doing work of a nature consistent with the person's training, if the person does not hold himself out to the public as possessing a license or certificate issued pursuant to this act;

b. A student enrolled in an educational program accredited, or in candidacy for accreditation, by the Council on Social Work Education, if the student is practicing as part of a supervised course of study and is clearly designated by the title "social work intern;"

c. A primary, middle or secondary school social worker certified as a school social worker by the State Department of Education, but only in the course of this employment and only when designated by the title "school social worker;"

d. A rabbi, priest, minister, Christian Science practitioner or clergyman of any religious denomination or sect, when engaging in activities, which are within the scope of the performance of the person's regular or specialized ministerial duties and for which no separate charge is made, or when these activities are performed, with or without charge, for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination, or sect, and when the person rendering services remains accountable to the established authority thereof;

e. A person engaged in the practice of alcohol or drug abuse intervention, prevention, or treatment if the person does not advertise or use any title, name, or description, the use of which is restricted by section 4 of this act;

f. An employee of the State or a political subdivision thereof which is subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, but only in the course of this employment;

g. An employee of a nonprofit organization with a master's degree in a mental health discipline other than social work, who performs psychotherapeutic counseling under the supervision of a licensed clinical social worker or other State-licensed mental health professional; and

h. An employee or volunteer of a nonprofit organization who performs any social work service other than psychotherapeutic counseling, but only in the course of this employment or volunteer activity, and if the person does not advertise or use any title or name the use of which is restricted by section 4 of P.L.1991, c.134 (C.45:15BB-4).

3. Section 6 of P.L.1991, c.134 (C.45:15BB-6) is amended to read as follows:

C.45:15BB-6 Licensing of "licensed clinical social worker," "licensed social worker;" certification of social worker.

6. a. The board shall issue a license as a "licensed clinical social worker" to an applicant who has:

(1) Received a master's degree in social work from an educational program accredited, or in candidacy for accreditation, by the Council on Social Work Education, or a doctorate in social work from an accredited institution of higher education;

(2) Had at least two years of full-time experience in the practice of clinical social work under the supervision of a clinical social worker licensed by this State or who, by virtue of the supervisor's education and experience, is eligible for licensure in this State as a licensed clinical social worker, or any other supervisor who may be deemed acceptable to the board;

(3) Satisfactorily completed minimum course requirements established by the board to ensure adequate training in methods of clinical social work practice; and

(4) Passed an appropriate examination provided by the board for this purpose.

b. The board shall issue a license as a "licensed social worker" to an applicant who has:

(1) Received a master's degree in social work from an educational program accredited, or in candidacy for accreditation, by

the Council on Social Work Education or a doctorate in social work from an accredited institution of higher education; and

(2) Passed an appropriate examination provided by the board for this purpose.

c. The board shall certify an applicant who has:

(1) received a baccalaureate degree in social work from an educational program accredited, or in candidacy for accreditation, by the Council on Social Work Education; or

(2) on or before the effective date of this act, acquired a baccalaureate degree in a field related to human services from an accredited institution of higher education and has engaged in full-time social work for at least one year prior to the effective date of P.L.1995, c.66.

4. This act shall take effect immediately.

Approved April 6, 1995.

CHAPTER 67

AN ACT concerning the taking of seed oysters from the Delaware Bay, and amending R.S.50:3-8 and R.S.50:3-9.

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

1. R.S.50:3-8 is amended to read as follows:

Season for taking oysters.

50:3-8. Season for taking oysters. Except in that area known as Section "E" as defined in R.S. 50:1-23, no oysters shall be dredged for, caught or taken from any of the lands lying under the tidal waters of the Delaware river, Delaware bay or Maurice river cove, above the southwest line, except from and including April 1 to and including June 30 of each year.

2. R.S.50:3-9 is amended to read as follows:

Possession or sale of oysters taken out of season.

50:3-9. Possession or sale of oysters taken out of season. No person shall possess, sell or offer for sale any oysters caught or taken from any natural oyster bed or ground where oysters natu-

rally spawn and grow under the tidal waters of the Delaware river, Delaware bay or Maurice river cove above the southwest line, except from and including April first to and including June thirtieth of each year.

3. This act shall take effect immediately.

Approved April 6, 1995.

CHAPTER 68

AN ACT concerning construction standards for school buildings, supplementing chapter 18A of Title 18A of the New Jersey Statutes and P.L.1975, c.217 (C.52:27D-119 et seq.).

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

C.18A:18A-16.1 Regulation, policy adoption, restriction.

1. The State Board of Education shall adopt no regulation or policy which requires as a condition for approval of plans and specifications for the erection, alteration, improvement or repair of a public school facility capacity requirements which exclude space occupied by movable furniture, equipment and other items when calculating net square footage.

C.52:27D-123.5 Building code, development.

2. The Commissioner of the Department of Community Affairs, in consultation with the State Board of Education, is directed to develop a building code specifically designed to foster cost-effective school building construction, while ensuring through its provisions that necessary health and safety requirements are met. The code shall be designed for use throughout the State and shall supplement the State Uniform Construction Code, P.L.1975, c.217 (C.52:27D-119 et seq.). The commissioner may promulgate this code as a separate document from the State Uniform Construction Code, or may, if the commissioner finds it feasible and useful, incorporate its provisions directly into, and make them an integral part of, that code.

C.52:27D-123.6 Code conditions.

3. The code adopted by the Commissioner of Community Affairs pursuant to section 2 of this act shall not require as a condition for approval of plans and specifications for the erection, alteration, improvement or repair of a public school facility:

a. refurbishment of a school facility based upon an automatic threshold, involving percentage increases in square footage or the relative costs of the building addition, beyond that necessary to meet the requirements of the appropriate building code which directly impact on the health and safety of students; or

b. refurbishment of a newly reopened school facility beyond that necessary to meet the requirements of the appropriate building code which directly impact on the health and safety of the students.

4. This act shall take effect immediately.

Approved April 10, 1995.

CHAPTER 69

AN ACT concerning the practice of medicine and surgery and supplementing Chapter 9 of Title 45 of the Revised Statutes.

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

C.45:9-19.16 Physicians, report out-of-State licensure disciplinary 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 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.

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).

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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.

2. This act shall take effect on the 60th day after enactment.

Approved April 10, 1995.

CHAPTER 70

AN ACT concerning motor vehicles and amending R.S.39:4-1, R.S.39:4-96 and R.S.39:4-97.

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

1. R.S.39:4-1 is amended to read as follows:

Application of chapter.

39:4-1. The provisions of this chapter applicable to the drivers of vehicles on the highways shall also apply to the drivers of all vehicles owned or operated by this State, the United States, any territorial or Federal district, any other State or any county, municipality or any other political subdivision thereof, subject to such specific exceptions as are set forth in this chapter.

The provisions of this chapter shall apply to the owners and drivers of vehicles on highways, roadways, driveways, parking areas or upon any grounds owned and maintained by the State of New Jersey, or any State department or agency, the counties, the municipalities and the school district boards of education of this State.

This chapter shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work on the surface of a highway, but shall apply to such persons and vehicles when traveling to or from the work.

2. R.S.39:4-96 is amended to read as follows:

Reckless driving; punishment.

39:4-96. A person who drives a vehicle heedlessly, in willful or wanton disregard of the rights or safety of others, in a manner so as to endanger, or be likely to endanger, a person or property,

shall be guilty of reckless driving and be punished by imprisonment in the county or municipal jail for a period of not more than 60 days, or by a fine of not less than $50.00 or more than $200.00, or both.

On a second or subsequent conviction he shall be punished by imprisonment for not more than three months, or by a fine of not less than $100 or more than $500, or both.

3. R.S.39:4-97 is amended to read as follows:

Careless driving.

39:4-97. A person who drives a vehicle carelessly, or without due caution and circumspection, in a manner so as to endanger, or be likely to endanger, a person or property, shall be guilty of careless driving.

4. This act shall take effect immediately.

Approved April 10, 1995.

CHAPTER 71

AN ACT concerning certain county pension funds and amending and supplementing P.L.1956, c.169.

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

1. Section 1 of P.L.1956, c.169 (C.43:15A-111) is amended to read as follows:

C.43:15A-111 Extension of Public Employees' Retirement System to members of another pension; date operative.

1. This act shall become operative with regard to a pension fund, other than the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund and a county pension fund established pursuant to R.S.43:10-1 et seq. for employees of a county of the first class having a population of less than 800,000 according to the 1980 federal decennial census, supported in whole or in part by the State or by 1 or more counties, municipalities, or school districts, 60 days after a majority of the members of such pension fund qualified to vote in a referendum as required by 218(d)(3) of the Social Security Act shall have voted to be

covered under the terms of that act, provided that the conditions for holding such referendum as set forth in P.L.1951, c. 253, as amended and supplemented have been met.

C.43:15A-112.1 Pension, two divisions.

2. If a referendum is held pursuant to section 6 of P.L.1955, c.38 (C.43:22-12) and if a majority of the members of a county pension fund established pursuant to R.S.43:10-1 et seq. for employees of a county of the first class having a population of less than 800,000 according to the 1980 federal decennial census qualified to vote in the referendum vote to be covered under the terms of the federal Social Security Act, the pension fund shall not be terminated and members shall remain in the pension fund. The pension fund shall be divided into two divisions, one to be composed of positions of members who desire Social Security coverage and the other to be composed of positions of members who do not desire that coverage.

3. This act shall take effect immediately.

Approved April 10, 1995.

CHAPTER 72

AN ACT concerning the licensing and regulation of the solid and hazardous waste industries, and amending P.L.1983, c.392.

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

1. Section 2 of P.L.1983, c.392 (C.13:1E-127) is amended to read as follows:

C.13:1E-127 Definitions.

2. As used in the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.) and P.L.1991, c.269 (C.13:1E-128.1 et al.):

a. "Applicant" means any business concern which has filed a disclosure statement with the department and the Attorney General and is seeking an initial license, provided that the business concern has furnished the department and the Attorney General with any information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et al.).

b. "Application" means the forms and accompanying documents filed in connection with an applicant's or permittee's request for a license.

c. "Business concern" means any corporation, association, firm, partnership, sole proprietorship, trust or other form of commercial organization.

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

e. "Disclosure statement" means a statement submitted to the department and the Attorney General by an applicant or a permittee, which statement shall include:

(1) The full name, business address and social security number of the applicant or the permittee, as the case may be, and of any officers, directors, partners, or key employees thereof and all persons holding any equity in or debt liability of that business concern, or, if the applicant or permittee is a publicly traded corporation, all persons holding more than 5% of the equity in or the debt liability of that business concern, except that where the debt liability is held by a chartered lending institution, the applicant or permittee need only supply the name and business address of the lending institution;

(2) The full name, business address and social security number of all officers, directors, or partners of any business concern disclosed in the disclosure statement and the names and addresses of all persons holding any equity in or the debt liability of any business concern so disclosed, or, if the business concern is a publicly traded corporation, all persons holding more than 5% of the equity in or the debt liability of that business concern, except that where the debt liability is held by a chartered lending institution, the applicant or permittee need only supply the name and business address of the lending institution;

(3) The full name and business address of any business concern which collects, transports, treats, stores, transfers or disposes of solid waste or hazardous waste in which the applicant or the permittee holds an equity interest;

(4) A description of the experience and credentials in, including any past or present licenses for, the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste possessed by the applicant or the permittee, as the case may be, and by the key employees, officers, directors, or partners thereof;

(5) A listing and explanation of any notices of violation or prosecution, administrative orders or license revocations issued by this State or any other state or federal authority, in the 10 years immediately preceding the filing of the application or disclosure statement, whichever is later, which are pending or have resulted in a finding or a settlement of a violation of any law or rule and regulation relating to the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste by the applicant or the permittee, as the case may be, or by any key employee, officer, director, or partner thereof;

(6) A listing and explanation of any judgment of liability or conviction which was rendered, pursuant to the laws of this State, or any other state or federal statute or local ordinance, against the applicant or the permittee, as the case may be, or against any key employee, officer, director, or partner thereof, except for any violation of Title 39 of the Revised Statutes other than a violation of the provisions of P.L.1983, c.102 (C.39:5B-18 et seq.), P.L.1983, c.401 (C.39:5B-25 et seq.) or P.L.1985, c.415 (C.39:5B-30 et seq.);

(7) A listing of all labor unions and trade and business associations in which the applicant or the permittee was a member or with which the applicant or the permittee had a collective bargaining agreement during the 10 years preceding the date of the filing of the application or disclosure statement, whichever is later;

(8) A listing of any agencies outside of New Jersey which had regulatory responsibility over the applicant or the permittee, as the case may be, in connection with the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste; and

(9) Any other information the Attorney General or the department may require that relates to the competency, reliability or integrity of the applicant or the permittee.

The provisions of paragraphs (1) through (9) of this subsection to the contrary notwithstanding, if an applicant or a permittee is a secondary business activity corporation, "disclosure statement" means a statement submitted to the department and the Attorney General by an applicant or a permittee, which statement shall include:

(a) The full name, primary business activity, office or position held, business address, home address, date of birth and federal employer identification number of the applicant or the permittee, as the case may be, and of all officers, directors, partners, or key employees of the business concern; and of all persons holding more than 5% of the equity in or debt liability of that business concern, except that where the debt liability is held by a chartered

lending institution, the applicant or permittee need only supply the name and business address of the lending institution. The Attorney General or the department may request the social security number of any individual identified pursuant to this paragraph;

(b) The full name, business address and federal employer identification number of any business concern in any state, territory or district of the United States, which collects, transports, treats, stores, recycles, brokers, transfers or disposes of solid waste or hazardous waste on a commercial basis, in which the applicant or the permittee holds an equity interest of 25% or more, and the type, amount and dates of the equity held in such business concern;

(c) A listing of every license, registration, permit, certificate of public convenience and necessity, uniform tariff approval or equivalent operating authorization held by the applicant or permittee within the last five years under any name for the collection, transportation, treatment, storage, recycling, processing, transfer or disposal of solid waste or hazardous waste on a commercial basis in any state, territory or district of the United States, and the name of every agency issuing such operating authorization;

(d) If the applicant or the permittee is a subsidiary of a parent corporation, or is the parent corporation of one or more subsidiaries, or is part of a group of companies in common ownership, as the case may be, a chart, or, if impractical or burdensome, a list showing the names, federal employer identification numbers and relationships of all parent, sister, subsidiary and affiliate corporations, or members of the group;

(e) A listing and explanation of any notices of violation or prosecution, administrative orders or license revocations issued by this State or any other state or federal authority to the applicant or permittee in the 10 years immediately preceding the filing of the application or disclosure statement, whichever is later, which are pending or have resulted in a finding or a settlement of a violation of any law or rule or regulation relating to the collection, transportation, treatment, storage, recycling, processing, transfer or disposal of solid waste or hazardous waste by the applicant or permittee;

(f) A listing and explanation of any judgment, decree or order, whether by consent or not, issued against the applicant or permittee in the 10 years immediately preceding the filing of the application, and of any pending civil complaints against the applicant or permittee pertaining to a violation or alleged violation of federal or state antitrust laws, trade regulations or securities regulations;

(g) A listing and explanation of any conviction issued against the applicant or permittee for a felony resulting in a plea of nolo contendere, or any conviction in the 10 years immediately preceding the filing of the application, and of any pending indictment, accusation, complaint or information for any felony issued to the applicant or the permittee pursuant to any state or federal statute; and

(h) A completed personal history disclosure form shall be submitted to the department and the Attorney General by every person required to be listed in this disclosure statement, except for those individuals who are exempt from the personal history disclosure requirements pursuant to paragraph (5) of subsection a. of section 3 of P.L.1983, c.392 (C.13:1E-128).

f. "Key employee" means any individual employed by the applicant, the permittee or the licensee in a supervisory capacity or empowered to make discretionary decisions with respect to the solid waste or hazardous waste operations of the business concern but shall not include employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste.

g. "License" means the initial approval and first renewal by the department of any registration statement or engineering design pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.), for the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste in this State.

A "license" shall not include any registration statement or engineering design approved for:

(1) Any State department, division, agency, commission or authority, or county, municipality or agency thereof;

(2) Any person solely for the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste generated by that person;

(3) Any person for the operation of a hazardous waste facility, if at least 75% of the total design capacity of that facility is utilized to treat, store or dispose of hazardous waste generated by that person;

(4) Any person for the operation of a hazardous waste facility which is considered as such solely as the result of the reclamation, recycling or refining of hazardous wastes which are or contain any of the following precious metals: gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium, or copper;

(5) Any person solely for the transportation of hazardous wastes which are or contain precious metals to a hazardous waste

facility described in paragraph (4) of this subsection for the purposes of reclamation.

A "license" shall include any registration statement approved for any person who transports any other hazardous waste in addition to hazardous wastes which are or contain precious metals;

(6) Any person solely for the collection, transportation, treatment, storage or disposal of granular activated carbon used in the adsorption of hazardous waste; or

(7) Any regulated medical waste generator for the treatment or disposal of regulated medical waste at any noncommercial incinerator or noncommercial facility in this State that accepts regulated medical waste for disposal.

h. "Licensee" means any business concern which has completed the requirements of section 3 of P.L.1983, c.392 (C.13:1E-128) and whose application for the issuance or renewal of a license has been approved by the department pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133).

i. "Permittee" means and shall include:

(1) Any business concern which has filed a disclosure statement with the department and the Attorney General and to which a valid registration statement or engineering design approval for the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.) has been given by the department prior to June 14, 1984;

(2) Any business concern which has filed a disclosure statement with the department and the Attorney General and to which a temporary license has been approved, issued or renewed by the department pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135), but which has not otherwise completed the requirements of section 3 of P.L.1983, c.392 (C.13:1E-128) and whose application for a license has not been approved by the department pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), provided that the temporary license remains valid, and provided further that the business concern has furnished the department and the Attorney General with any information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et al.);

(3) Any business concern which has filed a disclosure statement with the department and the Attorney General and to which a valid registration statement or engineering design approval for the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.)

has been given by the department between February 20, 1985 and January 23, 1986, inclusive, provided that the registration statement or engineering design approval remains valid, and provided further that the business concern has furnished the department and the Attorney General with any information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et al.); or

(4) Any business concern to which a temporary approval of registration has been given by the department at any time after January 23, 1986 pursuant to statute or rule and regulation, provided that such temporary approval of registration, statute, or rule and regulation remains valid, and provided further that the business concern has furnished the department and the Attorney General with any information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et al.) and filed a disclosure statement with the department and the Attorney General.

j. "Person" means any individual or business concern.

k. "Secondary business activity corporation" means any business concern which has derived less than 5% of its annual gross revenues in each of the three years immediately preceding the one in which the application for a license is being made from the collection, transportation, treatment, storage, recycling, processing, transfer or disposal of solid waste or hazardous waste, whether directly or through other business concerns partially or wholly owned or controlled by the applicant or the permittee, as the case may be, and which (1) has one or more classes of security registered pursuant to section 12 of the "Securities Exchange Act of 1934," as amended (15 U.S.C.§781), or (2) is an issuer subject to subsection (d) of section 15 of the "Securities Exchange Act of 1934," as amended (15 U.S.C.§780).

2. Section 3 of P.L.1983, c.392 (C.13:1E-128) is amended to read as follows:

C.13:1E-128 Disclosure statement.

3. In addition to any other procedure, condition or information required pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1981, c.279 (C.13:1E-49 et seq.) or any other law:

a. (1) Every applicant and permittee shall file a disclosure statement with the department and the Attorney General;

(2) Any person required to be listed in the disclosure statement shall be fingerprinted for identification and investigation purposes in accordance with procedures therefor established by the Attorney General;

(3) The Attorney General shall, upon the receipt of the disclosure statement from an applicant for an initial license or from a permittee, prepare and transmit to the department an investigative report on the applicant or the permittee, as the case may be, based in part upon the disclosure statement. In preparing this report, the Attorney General may request and receive criminal history information from the State Commission of Investigation or the Federal Bureau of Investigation;

(4) In conducting a review of the application, the department shall include a review of the disclosure statement and investigative report;

(5) An applicant or permittee may file a limited disclosure statement pursuant to the provisions of paragraphs (a) through (h) of subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127); and a person required to be listed in the disclosure statement is exempt from the fingerprint and personal history disclosure requirements; if:

(a) The applicant or permittee is a secondary business activity corporation; and

(b) The person required to be listed in the disclosure statement is (i) a director or chief executive officer; or (ii) an individual who does not have any responsibility for, or control of, the commercial solid waste or hazardous waste operations of the applicant, permittee or licensee conducted in New Jersey, and who will not exercise any such responsibility or control upon the issuance of a license by the department.

b. All applicants, permittees and licensees shall have the continuing duty to provide any assistance or information requested by the department or the Attorney General, and to cooperate in any inquiry or investigation conducted by the Attorney General or the State Commission of Investigation and any inquiry, investigation, or hearing conducted by the department. Except as otherwise determined by the Superior Court pursuant to subsection d. of this section, if, upon issuance of a formal request to answer any inquiry or produce information, evidence or testimony, any applicant, permittee or licensee refuses to comply, the application of the business concern for a license may be denied, or the license of that business concern may be revoked by the department.

c. If any of the information required to be included in the disclosure statement changes, or if any information provided concerning the applicability of an exemption under subsection d. of this section changes, or if any additional information should be added to the disclosure statement after it has been filed, the applicant, permittee or licensee shall provide that information to the

department and the Attorney General, in writing, within 30 days of the change or addition.

d. The provisions of paragraph (5) of subsection a. of this section to the contrary notwithstanding, the Attorney General may at any time require any person required to be listed in the disclosure statement to file a completed personal history disclosure form and a full disclosure statement with the department and the Attorney General pursuant to paragraphs (1) through (9) of subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), or to be fingerprinted for identification and investigation purposes pursuant to paragraph (2) of subsection a. of this section, if the Attorney General determines that there exists a reasonable suspicion that the additional information is likely to lead to information relevant to a determination regarding the approval of a license pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation of a license pursuant to section 9 of P.L.1983, c.392 (C.13:1E-134), or the severance of a disqualifying person pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135).

If the Attorney General requires any or all of this information, a written request for the additional information shall be served upon the applicant, permittee or licensee. Within 60 days of receipt of a written request for additional information, the applicant, permittee or licensee may seek review of the Attorney General's determination in the Superior Court. If the applicant, permittee or licensee fails to provide the additional information to the Attorney General within 60 days of receipt of the written request, the Attorney General may file with the Superior Court a petition for an order requiring the applicant, permittee or licensee to provide the additional information. In a proceeding brought by either party, the applicant, permittee or licensee shall demonstrate that the additional information requested is not likely to lead to information relevant to a determination regarding the approval of a license pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation of a license pursuant to section 9 of P.L.1983, c.392 (C.13:1E-134), or the severance of a disqualifying person pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135). For good cause shown, the court may review in camera the submission of the Attorney General or the applicant, permittee or licensee, or any part thereof.

3. This act shall take effect immediately.

Approved April 10, 1995.

CHAPTER 73

AN ACT concerning the approval of forms for life and health insurance and health maintenance organizations and revising various parts of the statutory law.

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

1. This act shall be known and may be cited as the "Life and Health Insurance and Health Maintenance Organization Form Approval Reform Act."

2. The Legislature finds and declares that:

a. The New Jersey Department of Insurance has completed an internal restructuring aimed at significantly improving the life and health insurance form approval process.

b. The results of this restructuring would be further improved by the passage of supporting legislation aimed at codifying certain reform procedures.

c. Positive economic and consumer benefits can be realized through the combination of an internal departmental restructuring and a complimentary legislative reform effort.

d. It is in the public's best interest to phase in a file and use system under which certain standard policies, contracts and related forms would receive immediate file and use status, while more complex and detailed policies, contracts and related forms would receive consideration for file and use status upon further review and as determined by the Commissioner of Insurance.

C.17:48-8.1 Hospital service corporation contract; compliance.

3. No hospital service corporation contract subject to the provisions of P.L.1938, c.366 (C.17:48-1 et seq.), or application for that contract, if a written application is required and is to be made a part of that contract, or a printed rider or an endorsement for use with that contract, shall be delivered or issued for delivery in this State unless its provisions comply with all of the applicable requirements of P.L.1938, c.366 (C.17:48-1 et seq.) and any regulations adopted or guidelines published by the Commissioner of Insurance consistent with the requirements thereof. Any contract, application, rider, or endorsement issued or delivered in this State that is not in compliance with that law or regulations or guidelines shall be deemed to be in compliance with the requirements

and shall be interpreted by the courts and among the persons affected by the contract as if that contract form were in compliance with the requirements; except that this provision shall not relieve the hospital service corporation from any penalty that may be imposed for violation of this act or any other applicable provision of P.L.1938, c.366 (C.17:48-1 et seq.).

C.17:48-8.2 Filing of contract or related form.

4. a. Except as otherwise provided in P.L.1992, c.161 (C.17B:27A-2 et seq.) and P.L.1992, c.162 (C.17B:27A-17 et seq.), any contract subject to the provisions of P.L.1938, c.366 (C.17:48-1 et seq.), including any application, rider, or endorsement which is made a part of that contract, shall be filed with the commissioner for approval as provided in this section. Any such contract, and any related form, except those certified pursuant to section 5 of this act, shall be filed with the commissioner for approval pursuant to this section.

b. Any contract or related form filed with the commissioner for approval pursuant to this section shall be deemed approved upon the expiration of 60 days after the submission of the form unless disapproved in writing by the commissioner within that time. Any such disapproval shall be based only on the specific provisions of applicable statutes, regulations adopted by the commissioner, or guidelines published by the commissioner as of the effective date of this act, with regard to forms of that type. A disapproved contract or related form may be resubmitted.

c. Any contract or related form submitted for approval pursuant to this section and disapproved by the commissioner before the expiration of 60 days after its submission shall be deemed withdrawn at the expiration of 60 days after the transmittal of the commissioner's specific objections unless the filer submits a complete written response to all of the commissioner's objections regarding the submission within the 60 day period.

d. A contract or related form, resubmitted in response to the commissioner's objections pursuant to subsection b. of this section, shall be deemed approved upon the expiration of 30 days after its resubmission unless disapproved in writing by the commissioner within that time. No disapproval by the commissioner of a resubmission shall be based on any objection not specified by the commissioner in his initial disapproval of the filing, except that the commissioner may disapprove such form based upon any new provisions introduced in the resubmission or if in addressing

the specified objections cited in the commissioner's disapproval transmission, the hospital service corporation changes or modifies any substantive provisions of the form. Any contract or related form resubmitted for approval pursuant to this section and disapproved by the commissioner before the expiration of 30 days after its submission shall be deemed withdrawn at the expiration of 30 days after the transmittal of the commissioner's specific objections, unless the filer submits a complete written response to all of the commissioner's objections regarding the submission within the 30-day period.

e. With respect to all types of contracts or related forms required to be filed pursuant to this section and currently on file with and approved by the commissioner upon enactment of this act, the commissioner shall propose regulations, which may be amended or modified by the commissioner from time to time after adoption, concerning any actuarial or form requirements consistent with applicable statutory provisions but not specified therein, not later than 180 days after enactment of this act. Any such regulation shall be adopted not later than 180 days after it is proposed. With respect to any type of form not then on file with the commissioner but filed subsequent to the enactment of this act, the commissioner shall propose regulations, which may be amended or modified by the commissioner from time to time after adoption, concerning any actuarial or form requirements consistent with applicable statutory provisions but not specified therein, within 120 days after the form is approved or deemed approved by the commissioner pursuant to this section. Any such regulation shall be adopted not later than 180 days after it is proposed. The commissioner may issue bulletins which are interpretive of existing regulations consistent with statutory provisions, with respect to any type of form that may be certified pursuant to section 5 of this act. Nothing in this section shall preclude a hospital service corporation from filing a certifiable contract or related form for approval by the commissioner.

f. Any such form which is filed with the commissioner or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder, becomes final in accordance therewith.

g. For purposes of this section, "days" means calendar days, except that when the last day of any specified time period is a Saturday, Sunday, or State holiday, then the time period shall end

on the next following business day. With respect to any specified time period pertaining to correspondence between a hospital service corporation and the commissioner, the time period shall commence on the date that such correspondence is postmarked or submitted to a private delivery service.

C.17:48-8.3 Contract forms; certification memorandum.

5. a. Pursuant to the provisions of this section, a hospital service corporation authorized to do business in this State may file with the commissioner and use, in accordance with subsection d. of this section, any contract, endorsement or related form that is stipulated by the commissioner to be of a kind or type eligible for file and use pursuant to subsection b. of this section. The form shall be accompanied by a certification memorandum which includes a statement that it is filed in accordance with the provisions of this section, and which is executed by a responsible officer of the hospital service corporation who certifies that the form being filed is in conformance with the law or regulation applicable to that type or kind of form as specified in a certification form to be determined by the commissioner. If the commissioner determines that the form being filed does not conform with the law or regulation applicable to that type or kind of form, the commissioner shall notify the hospital service corporation of his objections in writing and may disapprove that form for further use in New Jersey.

b. Contract forms, including related endorsements, riders and application forms, eligible for certification pursuant to this section shall include, but not be limited to, certain categories of individual and group hospital service corporation contracts which the commissioner shall define by regulation.

c. The certification memorandum shall be signed and acknowledged by a responsible officer of the hospital service corporation. The acknowledgment by that officer shall be done in the same manner in which documents for recording instruments conveying or affecting interests in real estate in this State must be acknowledged to be eligible for recording, or in such other manner as specified by the commissioner by regulation from time to time.

d. Upon receipt of an acknowledgment from the commissioner that the form and a certification memorandum which conforms to the requirements of this section have been received, the form so submitted may be used by the hospital service corporation.

e. (1) Improper certification shall subject a hospital service corporation submitting such improper certification to a fine not to

exceed $50,000 and, in addition, a maximum penalty of $1,000 per contract issued on a form determined to be improperly certified pursuant to the provisions of this section. The commissioner shall promulgate a schedule of penalties to be applied pursuant to this section. In determining the amount of any penalty to be imposed, the commissioner shall consider the severity of the violation based upon the potential adverse impact to the public and whether it is the filer's first violation of this section.

(2) If, after notice and a hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a hospital service corporation is found by the commissioner to be in violation of this section, the form may be disapproved, and in addition to any other penalties that may be imposed under P.L.1938, c.366 (C.17:48-1 et seq.), the commissioner may bar that hospital service corporation from participating in the certification process pursuant to this section for a period not to exceed one year.

f. The commissioner shall hold a hearing annually, or more often, for the purpose of adopting regulations to define the specific forms eligible for certification pursuant to this section. Initial regulations shall be adopted pursuant to this section no later than 180 days after enactment of this act.

g. For purposes of this section:

(1) "a responsible officer of the hospital service corporation" means a corporate officer of the level of vice president or higher, or of equivalent title within the hospital service corporation's structure, who is either the actuary of the hospital service corporation with responsibility for the type of form filed, or the individual with responsibility for managing the form filing process for the hospital service corporation with regard to the type of form filed; and

(2) "improper certification" means providing any misrepresentation or false statement material to a certification form required pursuant to subsection a. of this section.

6. Section 51 of P.L.1991, c.187 (C.17:48-6.14) is amended to read as follows:

C.17:48-6.14 Basic health care contract; provisions.

51. a. A basic health care contract offered pursuant to section 50 of P.L.1991, c.187 (C.17:48-6.13) shall provide:

(1) Basic hospital expense coverage for a period of 21 days in a benefit year for each covered person for expenses incurred for

medically necessary treatment and services rendered as a result of injury or sickness, including:

(a) Daily hospital room and board, including general nursing care and special diets;

(b) Miscellaneous hospital services, including expenses incurred for charges made by the hospital for services and supplies which are customarily rendered by the hospital and provided for use only during any period of confinement;

(c) Hospital outpatient services consisting of hospital services on the day surgery is performed; hospital services rendered within 72 hours after accidental injury; and X-ray and laboratory tests to the extent that benefits for such services would have been provided if rendered to an inpatient of the hospital;

(2) Basic medical-surgical expense coverage for each covered person for expenses incurred for medically necessary services for treatment of injury or sickness for the following:

(a) Surgical services;

(b) Anesthesia services consisting of administration of necessary general anesthesia and related procedures in connection with covered surgical services rendered by a physician other than the physician performing the surgical services;

(c) In-hospital services rendered to a person who is confined to a hospital for treatment of injury or sickness other than that for which surgical care is required;

(3) Maternity benefits, including cost of delivery and prenatal care;

(4) Out-of-hospital physical examination, including related x-rays and diagnostic tests, on the following basis:

(a) For covered minors of less than two years of age, up to six examinations during the first two years of life; for covered minors of two years of age or older, one examination at age 3, 6, 9, 12, 15 and 18 years;

(b) For covered adults of less than 40 years of age, one examination every five years; for covered adults 40 or more years of age but less than 60 years of age, one examination every three years; and for covered adults 60 years of age or older, one examination every two years.

Notwithstanding the provisions of this section to the contrary, a hospital service corporation may provide alternative benefits or services from those required by this subsection if they are approved by the Commissioner of Insurance and are within the intent of this act.

b. (1) No person who is eligible for coverage under Medicare pursuant to Pub. L. 89-97 (42 U.S.C. §1395 et seq.) shall be a

covered person under a contract required to be offered pursuant to section 50 of P.L.1991, c.187 (C.17:48-6.13).

(2) A hospital service corporation shall not sell a contract required to be offered pursuant to section 50 of P.L.1991, c.187 (C.17:48-6.13) to a group which was covered by health benefits or health insurance any time during the 12-month period immediately preceding the effective date of coverage.

c. (1) Contracts required to be offered pursuant to section 50 of P.L.1991, c.187 (C.17:48-6.13) may contain or provide for coinsurance or deductibles, or both; except that no deductible shall be payable in excess of a total of $250 by an individual or family unit during any benefit year, no coinsurance shall be payable in excess of a total of $500 by an individual or family unit during any benefit year, and neither coinsurance nor deductibles shall apply to physical examinations or maternity benefits covered pursuant to paragraphs (3) or (4) of subsection a. of this section.

(2) Managed care systems may be utilized for coverages required to be offered pursuant to this section, subject to the review and approval of the Commissioner of Insurance.

d. Notwithstanding any other law to the contrary, a hospital service corporation shall file copies of all forms of contracts required to be offered pursuant to section 50 of P.L.1991, c.187 (C.17:48-6.13) for approval with the Commissioner of Insurance in accordance with the provisions of section 4 of P.L.1995, c.73, (C.17:48-8.2), provided, however, that contract forms shall be effective only with respect to those contract form filings which are accompanied by an explanation and identification of the changes being made on a form prescribed by the commissioner.

Contract forms shall not be unfair, inequitable, misleading or contrary to law, nor shall they produce rates that are excessive, inadequate or unfairly discriminatory.

e. Notwithstanding any other law to the contrary, a hospital service corporation shall file all rates and supplementary rate information and all changes and amendments thereof for the contracts required to be offered pursuant to section 50 of P.L.1991, c.187 (C.17:48-6.13) for approval with the commissioner at least 60 days prior to becoming effective. Unless disapproved by the commissioner prior to their effective date specifying in what respects the filing is not in compliance with the standards set forth in this subsection, any such rates, supplementary rate information, changes or amendments filed with the commissioner shall be deemed approved

as of their effective date. In his discretion, the commissioner may waive the 60-day waiting period or any portion thereof.

Rates shall not be excessive, inadequate or unfairly discriminatory.

f. The commissioner shall issue regulations to establish minimum standards for loss ratios under contracts required to be offered pursuant to section 50 of P.L.1991, c.187 (C.17:48-6.13).

g. Notwithstanding any provision of law to the contrary, a hospital service corporation shall not be required, in regard to contracts required to be offered pursuant to section 50 of P.L.1991, c.187 (C.17:48-6.13), to provide mandatory health care benefits or provide benefits for services rendered by providers of health care services as otherwise required by law.

h. The commissioner shall, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to effectuate the purposes of this section and section 50 of P.L.1991, c.187 (C.17:48-6.13), including standards for terms and conditions of contracts required to be offered pursuant to this section and section 50 of P.L.1991, c.187 (C.17:48-6.13) and schedules of benefits for coverages provided for in subsection a. of this section.

i. Every hospital service corporation shall report annually on or before March 1 to the Department of Insurance the number of individual and group contracts required to be offered pursuant to section 50 of P.L.1991, c.187 (C.17:48-6.13) that were sold in the preceding calendar year and the number of persons covered under each type of contract. The department shall compile and analyze this information and shall report annually on or before July 1 its findings and any recommendations it may have to the Governor and the Legislature.

C.17:48A-9.1 Medical service corporation contract; compliance.

7. No medical service corporation contract subject to the provisions of P.L.1940, c.74, (C.17:48A-1 et seq.) or application for that contract, if a written application is required and is to be made a part of that contract, or a printed rider or an endorsement for use with that contract, shall be delivered or issued for delivery in this State unless its provisions comply with all of the applicable requirements of P.L.1940, c.74, (C.17:48A-1 et seq.) and any regulations adopted or guidelines published by the Commissioner of Insurance consistent with the requirements thereof. Any contract, application, rider, or endorsement issued or delivered in this State that is not in compliance with that law or regulations or guidelines shall be deemed to be in compliance with the requirements

and shall be interpreted by the courts and among the persons affected by the contract as if that contract form were in compliance with the requirements; except that this provision shall not relieve the medical service corporation from any penalty that may be imposed for violation of this act or any other applicable provision of P.L.1940, c.74 (C.17:48A-1 et seq.).

C.17:48A-9.2 Filing of contract or related forms.

8. a. Except as otherwise provided in P.L.1992, c.161 (C.17B:27A-2 et seq.) and P.L.1992, c.162 (C.17B:27A-17 et seq.), any contract subject to the provisions of P.L.1940, c.74 (C.17:48A-1 et seq.), including any application, rider, or endorsement which is made a part of that contract, shall be filed with the commissioner for approval as provided in this section. Any such contract, and any related form, except those certified pursuant to section 9 of this act, shall be filed with the commissioner for approval pursuant to this section.

b. Any contract or related form filed with the commissioner for approval pursuant to this section shall be deemed approved upon the expiration of 60 days after the submission of the form unless disapproved in writing by the commissioner within that time. Any such disapproval shall be based only on the specific provisions of applicable statutes, regulations adopted by the commissioner, or guidelines published by the commissioner as of the effective date of this act, with regard to forms of that type. A disapproved contract or related form may be resubmitted.

c. Any contract or related form submitted for approval pursuant to this section and disapproved by the commissioner before the expiration of 60 days after its submission shall be deemed withdrawn at the expiration of 60 days after the transmittal of the commissioner's specific objections unless the filer submits a complete written response to all of the commissioner's objections regarding the submission within the 60 day period.

d. A contract or related form, resubmitted in response to the commissioner's objections pursuant to subsection b. of this section, shall be deemed approved upon the expiration of 30 days after its resubmission unless disapproved in writing by the commissioner within that time. No disapproval by the commissioner of a resubmission shall be based on any objection not specified by the commissioner in his initial disapproval of the filing, except that the commissioner may disapprove such form based upon any new provisions introduced in the resubmission or if in addressing

the specified objections cited in the commissioner's disapproval transmission, the medical service corporation modifies any substantive provisions of the form. Any contract or related form resubmitted for approval pursuant to this section and disapproved by the commissioner before the expiration of 30 days after its submission shall be deemed withdrawn at the expiration of 30 days after the transmittal of the commissioner's specific objections, unless the filer submits a complete written response to all of the commissioner's objections regarding the submission within the 30-day period.

e. With respect to all types of contracts or related forms required to be filed pursuant to this section and currently on file with and approved by the commissioner upon enactment of this act, the commissioner shall propose regulations, which may be amended or modified by the commissioner from time to time after adoption, concerning any actuarial or form requirements consistent with applicable statutory provisions but not specified therein, not later than 180 days after enactment of this act. Any such regulation shall be adopted not later than 180 days after it is proposed. With respect to any type of form not then on file with the commissioner but filed subsequent to the enactment of this act, the commissioner shall propose regulations, which may be amended or modified by the commissioner from time to time after adoption, concerning any actuarial or form requirements consistent with applicable statutory provisions but not specified therein, within 120 days after the form is approved or deemed approved by the commissioner pursuant to this section. Any such regulation shall be adopted not later than 180 days after it is proposed. The commissioner may issue bulletins which are interpretive of existing regulations consistent with statutory provisions, with respect to any type of form that may be certified pursuant to section 9 of this act. Nothing in this section shall preclude a medical service corporation from filing a certifiable contract or related form for approval by the commissioner.

f. Any such form which is filed with the commissioner or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder, becomes final in accordance therewith.

g. For purposes of this section, "days" means calendar days, except that when the last day of any specified time period is a Saturday, Sunday, or State holiday, then the time period shall end

on the next following business day. With respect to any specified time period pertaining to correspondence between a medical service corporation and the commissioner, the time period shall commence on the date that such correspondence is postmarked or submitted to a private delivery service.

C.17:48A-9.3 Contract forms; certification memorandum.

9. a. Pursuant to the provisions of this section, a medical service corporation authorized to do business in this State may file with the commissioner and use, in accordance with subsection d. of this section, any contract, endorsement or related form that is stipulated by the commissioner to be of a kind or type eligible for file and use pursuant to subsection b. of this section. The form shall be accompanied by a certification memorandum which includes a statement that it is filed in accordance with the provisions of this section, and which is executed by a responsible officer of the medical service corporation who certifies that the form being filed is in conformance with the law or regulation applicable to that type or kind of form as specified in a certification form to be determined by the commissioner. If the commissioner determines that the form being filed does not conform with the law or regulation applicable to that type or kind of form, the commissioner shall notify the medical service corporation of his objections in writing and may disapprove that form for further use in New Jersey.

b. Contract forms, including related endorsements, riders and application forms, eligible for certification pursuant to this section shall include, but not be limited to, certain categories of individual and group medical service corporation contracts which the commissioner shall define by regulation.

c. The certification memorandum shall be signed and acknowledged by a responsible officer of the medical service corporation. The acknowledgment by that officer shall be done in the same manner in which documents for recording instruments conveying or affecting interests in real estate in this State must be acknowledged to be eligible for recording, or in such other manner as specified by the commissioner by regulation from time to time.

d. Upon receipt of an acknowledgment from the commissioner that the form and a certification memorandum which conforms to the requirements of this section have been received, the form so submitted may be used by the medical service corporation.

e. (1) Improper certification shall subject a medical service corporation submitting such improper certification to a fine not to

exceed $50,000 and, in addition, a maximum penalty of $1,000 per contract issued on a form determined to be improperly certified pursuant to the provisions of this section. The commissioner shall promulgate a schedule of penalties to be applied pursuant to this section. In determining the amount of any penalty to be imposed, the commissioner shall consider the severity of the violation based upon the potential adverse impact to the public and whether it is the filer's first violation of this section.

(2) If, after notice and a hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a medical service corporation is found by the commissioner to be in violation of this section, the form may be disapproved, and in addition to any other penalties that may be imposed under P.L.1940, c.74 (C.17:48A-1 et seq.), the commissioner may bar that medical service corporation from participating in the certification process pursuant to this section for a period not to exceed one year.

f. The commissioner shall hold a hearing annually, or more often, for the purpose of adopting regulations to define the specific forms eligible for certification pursuant to this section. Initial regulations shall be adopted pursuant to this section no later than 180 days after enactment of this act.

g. For purposes of this section:

(1) "a responsible officer of the medical service corporation" means a corporate officer of the level of vice president or higher, or of equivalent title within the medical service corporation's structure, who is either the actuary of the medical service corporation with responsibility for the type of form filed, or the individual with responsibility for managing the form filing process for the medical service corporation with regard to the type of form filed; and

(2) "improper certification" means providing any misrepresentation or false statement material to a certification form required pursuant to subsection a. of this section.

10. Section 53 of P.L.1991, c.187 (C.17:48A-6.9) is amended to read as follows:

C.17:48A-6.9 Basic health care contract; provisions.

53. a. A basic health care contract offered pursuant to section 52 of P.L.1991, c.187 (C.17:48A-6.8) shall provide:

(1) Basic hospital expense coverage for a period of 21 days in a benefit year for each covered person for expenses incurred for

medically necessary treatment and services rendered as a result of injury or sickness, including:

(a) Daily hospital room and board, including general nursing care and special diets;

(b) Miscellaneous hospital services, including expenses incurred for charges made by the hospital for services and supplies which are customarily rendered by the hospital and provided for use only during any period of confinement;

(c) Hospital outpatient services consisting of hospital services on the day surgery is performed; hospital services rendered within 72 hours after accidental injury; and X-ray and laboratory tests to the extent that benefits for such services would have been provided if rendered to an inpatient of the hospital;

(2) Basic medical-surgical expense coverage for each covered person for expenses incurred for medically necessary services for treatment of injury or sickness for the following:

(a) Surgical services;

(b) Anesthesia services consisting of administration of necessary general anesthesia and related procedures in connection with covered surgical services rendered by a physician other than the physician performing the surgical services;

(c) In-hospital services rendered to a person who is confined to a hospital for treatment of injury or sickness other than that for which surgical care is required;

(3) Maternity benefits, including cost of delivery and prenatal care;

(4) Out-of-hospital physical examination, including related X-rays and diagnostic tests, on the following basis:

(a) For covered minors of less than two years of age, up to six examinations during the first two years of life; for covered minors of two years of age or older, one examination at age 3, 6, 9, 12, 15 and 18 years;

(b) For covered adults of less than 40 years of age, one examination every five years; for covered adults 40 or more years of age but less than 60 years of age, one examination every three years; and for covered adults 60 years of age or older, one examination every two years.

Notwithstanding the provisions of this section to the contrary, a medical service corporation may provide alternative benefits or services from those required by this subsection if they are approved by the Commissioner of Insurance and are within the intent of this amendatory and supplementary act.

b. (1) No person who is eligible for coverage under Medicare pursuant to Pub. L. 89-97 (42 U.S.C. §1395 et seq.) shall be a covered person under a contract required to be offered pursuant to section 52 of P.L.1991, c.187 (C.17:48A-6.8).

(2) A medical service corporation shall not sell a contract required to be offered pursuant to section 52 of P.L.1991, c.187 (C.17:48A-6.8) to a group which was covered by health benefits or health insurance anytime during the 12-month period immediately preceding the effective date of coverage.

c. (1) Contracts required to be offered pursuant to section 52 of P.L.1991, c.187 (C.17:48A-6.8) may contain or provide for coinsurance or deductibles, or both; except that no deductible shall be payable in excess of a total of $250 by an individual or family unit during any benefit year, no coinsurance shall be payable in excess of a total of $500 by an individual or family unit during any benefit year, and neither coinsurance nor deductibles shall apply to physical examinations or maternity benefits covered pursuant to paragraphs (3) or (4) of subsection a. of this section.

(2) Managed care systems may be utilized for coverages required to be offered pursuant to this section, subject to the review and approval of the Commissioner of Insurance.

d. Notwithstanding any other law to the contrary, a medical service corporation shall file copies of all forms of contracts required to be offered pursuant to section 52 of P.L.1991, c.187 (C.17:48A-6.8) for approval with the Commissioner of Insurance in accordance with the provisions of section 8 of P.L.1995, c.73 (C.17:48A-9.2), provided, however, that contract forms shall be effective only with respect to those contract form filings which are accompanied by an explanation and identification of the changes being made on a form prescribed by the commissioner.

Contract forms shall not be unfair, inequitable, misleading or contrary to law, nor shall they produce rates that are excessive, inadequate or unfairly discriminatory.

e. Notwithstanding any other law to the contrary, a medical service corporation shall file all rates and supplementary rate information and all changes and amendments thereof for the contracts required to be offered pursuant to section 52 of P.L.1991, c.187 (C.17:48A-6.8) for approval with the commissioner at least 60 days prior to becoming effective. Unless disapproved by the commissioner prior to their effective date specifying in what respects the filing is not in compliance with the standards set forth in this subsection, any such rates, supplementary rate information, changes or

amendments filed with the commissioner shall be deemed approved as of their effective date. In his discretion, the commissioner may waive the 60-day waiting period or any portion thereof.

Rates shall not be excessive, inadequate or unfairly discriminatory.

f. The commissioner shall issue regulations to establish minimum standards for loss ratios under contracts required to be offered pursuant to section 52 of P.L.1991, c.187 (C.17:48A-6.8).

g. Notwithstanding any provision of law to the contrary, a medical service corporation shall not be required, in regard to contracts required to be offered pursuant to section 52 of P.L.1991, c.187 (C.17:48A-6.8), to provide mandatory health care benefits or provide benefits for services rendered by providers of health care services as otherwise required by law.

h. The commissioner shall, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to effectuate the purposes of this section and section 52 of P.L.1991, c.187 (C.17:48A-6.8), including standards for terms and conditions of contracts required to be offered pursuant to this section and section 52 of P.L.1991, c.187 (C.17:48A-6.8) and schedules of benefits for coverages provided for in subsection a. of this section.

i. Every medical service corporation shall report annually on or before March 1 to the Department of Insurance the number of individual and group contracts required to be offered pursuant to section 52 of P.L.1991, c.187 (C.17:48A-6.8) that were sold in the preceding calendar year and the number of persons covered under each type of contract. The department shall compile and analyze this information and shall report annually on or before July 1 its findings and any recommendations it may have to the Governor and the Legislature.

C.17:48E-13.1 Health service corporation contract; compliance.

11. No health service corporation contract subject to the provisions of P.L.1985, c.236 (C.17:48E-1 et seq.) or application for that contract, if a written application is required and is to be made a part of that contract, or a printed rider or an endorsement for use with that contract, shall be delivered or issued for delivery in this State unless its provisions comply with all of the applicable requirements P.L.1985, c.236 (C.17:48E-1 et seq.) and any regulations adopted or guidelines published by the commissioner consistent with the requirements thereof. Any contract, application, rider, or endorsement issued or delivered in this State that is

not in compliance with that law or regulations or guidelines shall be deemed to be in compliance with the requirements and shall be interpreted by the courts and among the persons affected by the contract as if that contract form were in compliance with the requirements; except that this provision shall not relieve the health service corporation from any penalty that may be imposed for violation of this act or any other applicable provision of P.L.1985, c.236 (C.17:48E-1 et seq.).

C.17:48E-13.2 Filing of contract or related form.

12. a. Except as otherwise provided in P.L.1992, c.161 (C.17B:27A-2 et seq.) and P.L.1992, c.162 (C.17B:27A-17 et seq.), any contract subject to the provisions of P.L.1985, c.236 (C.17:48E-1 et seq.), including any application, rider, or endorsement which is made a part of that contract, shall be filed with the commissioner for approval as provided in this section. Any such contract, and any related form, except those certified pursuant to section 13 of this act, shall be filed with the commissioner for approval pursuant to this section.

b. Any contract or related form filed with the commissioner for approval pursuant to this section shall be deemed approved upon the expiration of 60 days after the submission of the form unless disapproved in writing by the commissioner within that time. Any such disapproval shall be based only on the specific provisions of applicable statutes, regulations adopted by the commissioner, or guidelines published by the commissioner as of the effective date of this act, with regard to forms of that type. A disapproved contract or related form may be resubmitted.

c. Any contract or related form submitted for approval pursuant to this section and disapproved by the commissioner before the expiration of 60 days after its submission shall be deemed withdrawn at the expiration of 60 days after the transmittal of the commissioner's specific objections unless the filer submits a complete written response to all of the commissioner's objections regarding the submission within the 60 day period.

d. A contract or related form, resubmitted in response to the commissioner's objections pursuant to subsection b. of this section, shall be deemed approved upon the expiration of 30 days after its resubmission unless disapproved in writing by the commissioner within that time. No disapproval by the commissioner of a resubmission shall be based on any objection not specified by the commissioner in his initial disapproval of the filing, except

that the commissioner may disapprove such form based upon any new provisions introduced in the resubmission or if in addressing the specified objections cited in the commissioner's disapproval transmission, the health service corporation changes or modifies any substantive provisions of the form. Any contract or related form resubmitted for approval pursuant to this section and disapproved by the commissioner before the expiration of 30 days after its submission shall be deemed withdrawn at the expiration of 30 days after the transmittal of the commissioner's specific objections, unless the filer submits a complete written response to all of the commissioner's objections regarding the submission within the 30-day period.

e. With respect to all types of contracts or related forms required to be filed pursuant to this section and currently on file with and approved by the commissioner upon enactment of this act, the commissioner shall propose regulations, which may be amended or modified by the commissioner from time to time after adoption, concerning any actuarial or form requirements consistent with applicable statutory provisions but not specified therein, not later than 180 days after enactment of this act. Any such regulation shall be adopted not later than 180 days after it is proposed. With respect to any type of form not then on file with the commissioner but filed subsequent to the enactment of this act, the commissioner shall propose regulations, which may be amended or modified by the commissioner from time to time after adoption, concerning any actuarial or form requirements consistent with applicable statutory provisions but not specified therein, within 120 days after the form is approved or deemed approved by the commissioner pursuant to this section. Any such regulation shall be adopted not later than 180 days after it is proposed. The commissioner may issue bulletins which are interpretive of existing regulations consistent with statutory provisions, with respect to any type of form that may be certified pursuant to section 13 of this act. Nothing in this section shall preclude a health service corporation from filing a certifiable contract or related form for approval by the commissioner.

f. Any such form which is filed with the commissioner or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder, becomes final in accordance therewith.

g. For purposes of this section, "days" means calendar days, except that when the last day of any specified time period is a Saturday, Sunday, or State holiday, then the time period shall end on the next following business day. With respect to any specified time period pertaining to correspondence between a health service corporation and the commissioner, the time period shall commence on the date that such correspondence is postmarked or submitted to a private delivery service.

C.17:48E-13.3 Contract forms; certification memorandum.

13. a. Pursuant to the provisions of this section, a health service corporation authorized to do business in this State may file with the commissioner and use, in accordance with subsection d. of this section, any contract, endorsement or related form that is stipulated by the commissioner to be of a kind or type eligible for file and use pursuant to subsection b. of this section. The form shall be accompanied by a certification memorandum which includes a statement that it is filed in accordance with the provisions of this section, and which is executed by a responsible officer of the health service corporation who certifies that the form being filed is in conformance with the law or regulation applicable to that type or kind of form as specified in a certification form to be determined by the commissioner. If the commissioner determines that the form being filed does not conform with the law or regulation applicable to that type or kind of form, the commissioner shall notify the health service corporation of his objections in writing and may disapprove that form for further use in New Jersey.

b. Contract forms, including related endorsements, riders and application forms, eligible for certification pursuant to this section shall include, but not be limited to, certain categories of individual and group health service corporation contracts which the commissioner shall define by regulation.

c. The certification memorandum shall be signed and acknowledged by a responsible officer of the health service corporation. The acknowledgment by that officer shall be done in the same manner in which documents for recording instruments conveying or affecting interests in real estate in this State must be acknowledged to be eligible for recording, or in such other manner as specified by the commissioner by regulation from time to time.

d. Upon receipt of an acknowledgment from the commissioner that the form and a certification memorandum which conforms to the requirements of this section have been received, the form so submitted may be used by the health service corporation.

e. (1) Improper certification shall subject a health service corporation submitting such improper certification to a fine not to exceed $50,000 and, in addition, a maximum penalty of $1,000 per contract issued on a form determined to be improperly certified pursuant to the provisions of this section. The commissioner shall promulgate a schedule of penalties to be applied pursuant to this section. In determining the amount of any penalty to be imposed, the commissioner shall consider the severity of the violation based upon the potential adverse impact to the public and whether it is the filer's first violation of this section.

(2) If, after notice and a hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a health service corporation is found by the commissioner to be in violation of this section, the form may be disapproved, and in addition to any other penalties that may be imposed under P.L.1985, c.236 (C.17:48E-1 et seq.), the commissioner may bar that health service corporation from participating in the certification process pursuant to this section for a period not to exceed one year.

f. The commissioner shall hold a hearing annually, or more often, for the purpose of adopting regulations to define the specific forms eligible for certification pursuant to this section. Initial regulations shall be adopted pursuant to this section no later than 180 days after enactment of this act.

g. For purposes of this section:

(1) "a responsible officer of the health service corporation" means a corporate officer of the level of vice president or higher, or of equivalent title within the health service corporation's structure, who is either the actuary of the health service corporation with responsibility for the type of form filed, or the individual with responsibility for managing the form filing process for the health service corporation with regard to the type of form filed; and

(2) "improper certification" means providing any misrepresentation or false statement material to a certification form required pursuant to subsection a. of this section.

14. Section 13 of P.L.1985, c.236 (C.17:48E-13) is amended to read as follows:

C.17:48E-13 Approval of forms.

13. No health service corporation shall enter into any contract with a subscriber unless it has filed with the commissioner a copy of the contract or certificate and copies of all applications, riders,

and endorsements for use in connection with the issuance or renewal thereof in accordance with the provisions of section 12 of P.L.1995, c.73 (C.17:48E-13.2).

Contract forms shall not be unfair, inequitable, misleading or contrary to law, nor shall they produce rates that are excessive, inadequate or unfairly discriminatory.

C.17B:25-18.1 Life, health insurance policy, contract; compliance.

15. No life insurance policy, health insurance policy, annuity, or variable contract subject to the provisions of Title 17B of the New Jersey Statutes, or application for that insurance if a written application is required and is to be made a part of that policy or contract, or a printed rider or an endorsement for use with that policy or contract, shall be delivered or issued for delivery in this State unless its provisions comply with all of the applicable requirements of Title 17B of the New Jersey Statutes and any regulations adopted or guidelines published by the Commissioner of Insurance consistent with the requirements thereof. Any policy, contract, application, rider, or endorsement issued or delivered in this State that is not in compliance with that law or regulations or guidelines shall be deemed to be in compliance with the requirements and shall be interpreted by the courts and among the persons affected by the policy or contract as if that policy or contract form were in compliance with the requirements; except that this provision shall not relieve the insurer from any penalty that may be imposed for violation of this act or any other applicable provision of Title 17B of the New Jersey Statutes.

C.17B:25-18.2 Filing of policy, contract or related form.

16. a. Except as otherwise provided in P.L.1992, c.161 (C.17B:27A-2 et seq.) and P.L.1992, c.162 (C.17B:27A-17 et seq.), any life insurance policy or contract, health insurance policy or contract, annuity, or variable contract subject to the provisions of Title 17B of the New Jersey Statutes, including any application, rider, or endorsement which is made a part of that policy or contract shall be filed with the commissioner for approval as provided in this section. Any such policy or contract and any related form, except those certified pursuant to section 17 of this act, shall be filed with the commissioner for approval pursuant to this section.

b. Any policy, contract or related form filed with the commissioner for approval pursuant to this section shall be deemed approved upon the expiration of 60 days after the submission of the form unless disapproved in writing by the commissioner

within that time. Any such disapproval shall be based only on the specific provisions of applicable statutes or regulations adopted by the commissioner, or guidelines published by the commissioner as of the effective date of this act, with regard to forms of that type. A disapproved policy, contract or related form may be resubmitted.

c. Any life insurance policy, health insurance policy, annuity, or variable contract or related form submitted for approval pursuant to this section and disapproved by the commissioner before the expiration of 60 days after its submission shall be deemed withdrawn at the expiration of 60 days after the transmittal of the commissioner's specific objections unless the filer submits a complete written response to all of the commissioner's objections regarding the submission within the 60-day period.

d. A life insurance policy, health insurance policy, annuity, or variable contract or related form, resubmitted in response to the commissioner's objections pursuant to subsection b. of this section, shall be deemed approved upon the expiration of 30 days after its resubmission unless disapproved in writing by the commissioner within that time. No disapproval by the commissioner of a resubmission shall be based on any objection not specified by the commissioner in his initial disapproval of the filing, except that the commissioner may disapprove such form based on any new provisions introduced in the resubmission or if in addressing the specified objections cited in the commissioner's disapproval transmission, the insurer changes or modifies any substantive provisions of the form. Any policy, contract or related form resubmitted for approval pursuant to this section and disapproved by the commissioner before the expiration of 30 days after its submission shall be deemed withdrawn at the expiration of 30 days after the transmittal of the commissioner's specific objections, unless the filer submits a complete written response to all of the commissioner's objections regarding the submission within the 30-day period.

e. With respect to all types of policies, contracts or related forms required to be filed pursuant to this section and currently on file with and approved by the commissioner upon enactment of this act, the commissioner shall propose regulations, which may be amended or modified by the commissioner from time to time after adoption, concerning any actuarial or form requirements consistent with applicable statutory provisions but not specified therein, not later than 180 days after enactment of this act. Any such regulation shall be adopted not later than 180 days after it is proposed. With respect to any type of form not then on file with

the commissioner but filed subsequent to the enactment of this act, the commissioner shall propose regulations, which may be amended or modified by the commissioner from time to time after adoption, concerning any actuarial or form requirements consistent with applicable statutory provisions but not specified therein, within 120 days after the form is approved or deemed approved by the commissioner pursuant to this section. Any such regulation shall be adopted not later than 180 days after it is proposed. The commissioner may issue bulletins which are interpretive of existing regulations consistent with statutory provisions, with respect to any type of policy or contract form that may be certified pursuant to section 17 of this act. Nothing in this section shall preclude an insurer from filing a certifiable policy, contract or related form for approval by the commissioner.

f. Any such form which is filed with the commissioner or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder, becomes final in accordance therewith.

g. For purposes of this section, "days" means calendar days, except that when the last day of any specified time period is a Saturday, Sunday, or State holiday, then the time period shall end on the next following business day. With respect to any specified time period pertaining to correspondence between an insurer and the commissioner, the time period shall commence on the date that such correspondence is postmarked or submitted to a private delivery service.

C.17B:25-18.3 Policies, contract forms; certification memorandums.

17. a. Pursuant to the provisions of this section, an insurer authorized to do business in this State may file with the commissioner and use, in accordance with subsection d. of this section, any form of life insurance policy, health insurance policy, annuity, variable contract, endorsement or related form that is stipulated by the commissioner to be of a kind or type eligible for file and use pursuant to subsection b. of this section. The form shall be accompanied by a certification memorandum which includes a statement that it is filed in accordance with the provisions of this section, and which is executed by a responsible officer of the insurer who certifies that the form being filed is in conformance with the law and regulation applicable to that type or kind of form as specified in a certification form to be determined by the commissioner. If the commissioner determines that the form being filed does not conform with the law

or regulation applicable to that type or kind of form, the commissioner shall notify the insurer of his objections in writing and may disapprove that form for further use in New Jersey.

b. Policy and contract forms, including related endorsements, riders and application forms, eligible for certification pursuant to this section shall include, but not be limited to certain categories of individual life, individual annuity, group annuity, group life, group health, individual health and variable contracts which the commissioner shall define by regulation.

c. The certification memorandum shall be signed and acknowledged by a responsible officer of the insurer. The acknowledgment by that officer shall be done in the same manner in which documents for recording instruments conveying or affecting interests in real estate in this State must be acknowledged to be eligible for recording, or in such other manner as specified by the commissioner by regulation from time to time.

d. Upon receipt of an acknowledgment from the commissioner that the form and a certification memorandum which conforms to the requirements of this section have been received, the form so submitted may be used by the insurer.

e. (1) Improper certification shall subject an insurer submitting such improper certification to a fine not to exceed $50,000 and, in addition, a maximum penalty of $1,000 per policy issued on a form determined to be improperly certified pursuant to the provisions of this section. The commissioner shall promulgate a schedule of penalties to be applied pursuant to this section. In determining the amount of any penalty to be imposed, the commissioner shall consider the severity of the violation based upon the potential adverse impact to the public and whether it is the filer's first violation of this section.

(2) If after notice and a hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an insurer is found by the commissioner to be in violation of this section, the form may be disapproved, and in addition to any other penalties that may be imposed under Title 17B of the New Jersey Statutes, the commissioner may bar that insurer from participating in the certification process pursuant to this section for a period not to exceed one year.

f. The commissioner shall hold a hearing annually, or more often, for the purpose of adopting regulations to define the specific forms eligible for certification pursuant to this section. Initial regulations shall be adopted pursuant to this section no later than 180 days after enactment of this act.

g. For purposes of this section:

(1) "a responsible officer of the insurer" means a corporate officer of the level of vice president or higher, or of equivalent title within the insurer's structure, who is either the actuary of the insurer with responsibility for the type of form filed, or the individual with responsibility for managing the form filing process for the insurer with regard to the type of form filed; and

(2) "improper certification" means providing any misrepresentation or false statement material to a certification form required pursuant to subsection a. of this section.

18. N.J.S.17B:25-18 is amended to read as follows:

Filing of forms.

17B:25-18. a. No life insurance policy, or application, if a written application is required and is to be made a part of the policy, or printed rider or endorsement for use with the policy, shall be delivered or issued for delivery in this State unless the form has been filed with the commissioner for approval in accordance with the provisions of section 16 of P.L.1995, c.73 (C.17B:25-18.2). This section shall not apply to policies of group life insurance and applications, printed riders or endorsements for use with such policies.

b. (Deleted by amendment, P.L.1995, c.73.)

c. If a form is disapproved by the commissioner during that 60-day period, it may not be delivered or issued for delivery unless it is resubmitted and approved in accordance with the provisions of subsections b., c., and d. of section 16 of P.L.1995, c.73 (C.17B:25-18.2. Such disapproval shall be subject to review in accordance with the procedure described in the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder. Any such form which is filed by the commissioner or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder, becomes final in accordance therewith.

d. (Deleted by amendment, P.L.1995, c.73.)

e. (Deleted by amendment, P.L.1995, c.73.)

f. This section shall not apply to documents which relate only to the manner of distribution of benefits or to the reservation of

rights and benefits under life insurance policies and which are used at the request of the individual policyholder.

g. The commissioner may exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof to which, in his opinion, this section may not practicably be applied, or the filing of which is, in his opinion, not desirable or necessary for the protection of the public.

h. The disapproval by the commissioner of any such form may be on the ground that the form contains provisions which are unjust, unfair, inequitable, misleading, contrary to law or to the public policy of this State.

19. N.J.S.17B:26-1 is amended to read as follows:

Filing of forms.

17B:26-1. a. No health insurance policy, or application, if a written application is required and is to be made a part of the policy, or printed rider or endorsement for use with the policy, shall be delivered or issued for delivery in this State unless the form has been filed with the commissioner for approval in accordance with the provisions of section 16 of P.L.1995, c.73 (C.17B:25-18.2).

b. (Deleted by amendment, P.L.1995, c.73.)

c. If a form is disapproved by the commissioner during the 60-day period, it may not be delivered or issued for delivery unless it is resubmitted and approved in accordance with the provisions of subsections b., c., and d. of section 16 of P.L.1995, c.73 (C.17B:25-18.2). Such disapproval shall be subject to review in accordance with the procedure described in the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder. Any such form which is filed by the commissioner or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder, becomes final in accordance therewith.

d. (Deleted by amendment, P.L.1995, c.73.)

e. (Deleted by amendment, P.L.1995, c.73.)

f. This section shall not apply to documents which relate only to the manner of distribution of benefits or to the reservation of rights and benefits under health insurance policies and which are used at the request of the individual policyholder.

g. No form shall be filed by the commissioner in accordance with this section until the classification of risks and premium rates, if any, pertaining to such form have been submitted to the commissioner. If such a classification of risks and premium rates are submitted to the commissioner later than the submission of the form to which they pertain, the 60-day period specified in subsection c. of this section shall commence with the date such classification of risks and premium rates are submitted to the commissioner.

h. The disapproval by the commissioner of any form may be on the ground that:

(1) the benefits are unreasonable in relation to the premium charged, or

(2) such form contains provisions which are unjust, unfair, inequitable, misleading, contrary to law or to the public policy of this State, or

(3) the policy is sold in such a manner as to mislead the insured, or

(4) insurance under such policy is being solicited by means of advertising, communication or dissemination of information which involves misleading or inadequate description of the provisions of the policy, specifying particulars.

i. The commissioner may exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof to which, in his opinion, this section may not practicably be applied, or the filing of which is, in his opinion, not desirable or necessary for the protection of the public.

20. N.J.S.17B:27-25 is amended to read as follows:

Filing of forms.

17B:27-25. a. No group life insurance policy, or application, if a written application is required and is to be made a part of the policy, certificate, printed rider or endorsement for use with the policy, shall be delivered or issued for delivery in this State unless the form has been filed with the commissioner for approval in accordance with the provisions of section 16 of P.L.1995, c.73 (C.17:25-18.2).

b. (Deleted by amendment, P.L.1995, c.73.)

c. If a form is disapproved for filing by the commissioner during the 60-day period, it may not be delivered or issued for delivery unless it is resubmitted and approved in accordance with the provisions of subsections b., c., and d. of section 16 of P.L.1995, c.73 (C.17B:25-18.2). Such disapproval shall be subject to review in accordance with the procedure described in the

"Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder.

Any such form which is filed by the commissioner or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder, becomes final in accordance therewith.

d. (Deleted by amendment, P.L.1995, c.73.)

e. (Deleted by amendment, P.L.1995, c.73.)

f. This section shall not apply to documents which relate only to the manner of distribution of benefits or to the reservation of rights and benefits under such policies and which are used at the request of the individual insured or policyholder.

g. The disapproval by the commissioner of any such form may be on the ground that such form contains provisions which are unjust, unfair, inequitable, misleading, contrary to law or to the public policy of this State.

21. N.J.S.17B:27-49 is amended to read as follows:

Filing of forms.

17B:27-49. a. No group health insurance policy, or blanket insurance policy, or application, if a written application is required and is to be made a part of the policy, certificate, printed rider or endorsement for use with the policy, shall be delivered or issued for delivery in this State unless the form has been filed with the commissioner in accordance with the provisions of section 16 of P.L.1995, c.73 (C.17B:25-18.2).

b. (Deleted by amendment, P.L.1995, c.73.)

c. If a form is disapproved for filing by the commissioner during the 60-day period, it may not be delivered or issued for delivery unless it is resubmitted and approved in accordance with the provisions of subsections b., c., and d. of section 16 of P.L.1995, c.73 (C.17B:25-18.2). Such disapproval shall be subject to review in accordance with the procedure described in the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder. Any such form which is filed by the commissioner or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the "Administrative Procedure

Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder, becomes final in accordance therewith

d. (Deleted by amendment, P.L.1995, c.73.)

e. (Deleted by amendment, P.L.1995, c.73.)

f. This section shall not apply to documents which relate only to the manner of distribution of benefits or to the reservation of rights and benefits under such policies and which are used at the request of the individual insured or policyholder.

g. The disapproval by the commissioner of any such form may be on the ground that such form contains provisions which are unjust, unfair, inequitable, misleading, contrary to law or to the public policy of this State.

22. N.J.S.17B:28-5 is amended to read as follows:

Form of contract.

17B:28-5. (a) No contract on a variable basis shall be delivered or issued for delivery in this State by any insurer until a copy of the form (and, in the case of a contract on a group basis, the form of any certificate evidencing variable benefits issued pursuant thereto) and any form of application for such contract shall have been filed with the commissioner in accordance with the provisions of section 16 of P.L.1995, c.73 (C.17B:25-18.2). The commissioner shall disapprove or withdraw approval of any contract form, application or certificate if:

(i) The form contains provisions which are unjust, unfair, inequitable, ambiguous, misleading, likely to result in misrepresentation or contrary to law, or

(ii) Sales of contracts in such form are being solicited by any means of advertising, communication or dissemination of information which involves misleading or inadequate description of the provisions of the contract.

He shall notify the insurer, specifying particulars, of his disapproval. It shall be unlawful for such insurer thereafter to issue any contract or certificate thereunder or use any application in the form so disapproved unless it is resubmitted and approved in accordance with the provisions of subsections b., c., and d. of section 16 of P.L.1995, c.73 (C.17B:25-18.2). Such disapproval of the commissioner shall be subject to review in accordance with the procedure described in the "Administrative Procedure Act" P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder. Any such form which is filed by the commissioner or

deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder, becomes final in accordance therewith.

(b) Illustrations of benefits payable under any contract on a variable basis shall not involve projections of past investment experience into the future and shall conform with reasonable regulations promulgated by the commissioner.

(c) No individual annuity contract on a variable basis shall be delivered or issued for delivery in this State unless it contains in substance the following provisions:

(i) That, in the event of default in the payment of any consideration beyond the period of grace allowed by the contract for the payment thereof, the insurer will make payment of the value of the contract, in accordance with a plan provided by the contract, commencing not later than the date contractual payments by the insurer were otherwise to have commenced in accordance with the contract;

(ii) That, upon request of the contract holder received by the insurer at least 4 months prior to the date contractual payments by the insurer were otherwise to have commenced, the insurer will make payment of the value of the contract in accordance with a plan provided by the contract and selected by the contract holder, commencing as of the first day of the first month which is at least 4 months after the date of receipt of such request, unless another date of commencement is requested by the contract holder and agreed to by the insurer;

(iii) That the insurer will mail to the contract holder at least once in each contract year after the first, at his last address known to the insurer, a report in a form approved by the commissioner, which shall include a statement of the number of units credited to such contract and the dollar value of a unit as of a date not more than 2 months previous to the date of mailing and a statement in a form and of a date approved by the commissioner of the investments held in the variable contract account designated in such contract.

(d) Any individual contract on a variable basis delivered or issued for delivery in this State shall stipulate the investment increment factors to be used in computing the dollar amount of variable benefits or other contractual payments or values thereunder, and shall guarantee that expense and mortality results shall not adversely affect such dollar amounts, except that such guarantee need not apply to any investment management fee which is

subject to change with the approval by vote of the persons having beneficial interests in the variable contract account in which such contract participates. The mortality and investment increment factors used in computing the dollar amount of variable benefits or other contractual payments or values under an individual annuity contract on a variable basis shall not produce a larger initial payment than would be produced by the use of the mortality table or tables specified in N.J.S.17B:19-8 (the Standard Valuation Law), as amended, and as such provision may be amended from time to time, as acceptable minimum mortality standards for the valuation of the reserve liabilities of individual annuity and pure endowment contracts, and an annual investment increment assumption of 5%.

Any group contract on a variable basis delivered or issued for delivery in the State shall stipulate the expense, mortality and investment increment factors to be used in computing the dollar amount payable with respect to a unit of variable benefits purchased thereunder and shall guarantee that expense and mortality results shall not adversely affect such dollar amounts, except that such guarantee need not apply to any investment management fee which is subject to change with the approval by vote of the persons having beneficial interests in the variable contract account in which such contract participates.

"Expense," as used in this subsection (d), may exclude some or all taxes, as stipulated in the contract.

(e.) (Deleted by amendment).

23. N.J.S. 17B:29-7 is amended to read as follows:

Filing of forms; premium rate schedules.

17B:29-7. a. All forms of policies, certificates of insurance, notice of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this State and the schedules of premium rates pertaining thereto shall be filed with the commissioner in accordance with the provisions of subsection g. of this section.

b. (Deleted by amendment, P.L.1995, c.73.)

c. If a form or the schedule of premium rates pertaining thereto is disapproved by the commissioner during the 60-day period, the form may not be delivered or issued for delivery unless the form or schedule of premium rates is resubmitted in accordance with paragraphs (2), (3) and (4) of subsection g. of this section. A form or schedule of rates that is disapproved shall

be subject to review in accordance with the procedure described in the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder. Any such form which is filed by the commissioner or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder, becomes final in accordance therewith.

d. (Deleted by amendment, P.L.1995, c.73.)

e. The disapproval for filing or the withdrawal of the filing of any such form or schedule of premium rates may only be on one or both of the following grounds that may be applicable:

(1) the premium rates charged or to be charged are excessive in relation to benefits, or

(2) such form contains provisions which are unjust, unfair, inequitable, misleading, deceptive, or encourage misrepresentation of the coverage, or are contrary to any provision of this code or of any rule or regulation promulgated thereunder.

f. If a group policy of credit life insurance or credit health insurance

(1) has been delivered in this State before the effective date of this chapter, or

(2) has been or is delivered in another State before or after the effective date of this chapter,

the insurer shall be required to submit for filing only the group certificate and notice of proposed insurance delivered or issued for delivery in this State as specified in subsections b. and d. of N.J.S.17B:29-6 and such forms shall be filed by the commissioner if they conform with the requirements specified in said subsections and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates filed with the commissioner.

g. (1) Any form or schedule of premium rates subject to the provisions of N.J.S.17B:29-1 et seq. shall be filed with the commissioner for approval as provided in this subsection. Any form, except those certified pursuant to section 17 of P.L.1995, c.73 (C.17B:25-18.3), and any schedule of premium rates pertaining thereto, shall be filed with the commissioner for approval pursuant to the provisions of this subsection.

(2) Any form or schedule of premium rates pertaining thereto filed with the commissioner for approval pursuant to this subsection shall be deemed approved upon the expiration of 60 days

after the submission of the form or schedule of premium rates unless disapproved in writing by the commissioner within that time. Any such disapproval shall be based only on the specific provisions of applicable statutes, regulations adopted by the commissioner, or guidelines published by the commissioner as of the effective date of P.L.1995, c.73 (C.17:48-8.1 et al.) with regard to forms of that type or the schedules of premium rates pertaining thereto. A disapproved form or schedule of premium rates pertaining thereto may be resubmitted.

(3) Any form or schedule of premium rates submitted for approval pursuant to this subsection and disapproved by the commissioner before the expiration of 60 days after its submission, shall be deemed withdrawn at the expiration of 60 days after the transmittal of the commissioner's specific objections unless the filer submits a complete written response to all of the commissioner's objections regarding the submission within the 60-day period.

(4) A form or schedule of premium rates, resubmitted in response to the commissioner's objections pursuant to paragraph (2) of this subsection, shall be deemed approved upon the expiration of 30 days after its resubmission unless disapproved in writing by the commissioner within that time. No disapproval by the commissioner of a resubmission shall be based on any objection not specified by the commissioner in his initial disapproval of the filing, except that the commissioner may disapprove the form or schedule of premium rates based on any new provisions introduced in the resubmission or if in addressing the specified objections cited in the commissioner's disapproval transmission, the insurer changes or modifies any substantive provisions of the form or schedule of premium rates. Any form or schedule of premium rates resubmitted for approval pursuant to this subsection and disapproved by the commissioner before the expiration of 30 days after its submission, shall be deemed withdrawn at the expiration of 30 days after the transmittal of the commissioner's specific objections unless the filer submits a complete written response to all of the commissioner's objections regarding the submission within the 30-day period.

(5) With respect to all types of forms or schedules of premium rates to be filed pursuant to this subsection and currently on file with and approved by the commissioner upon enactment of P.L.1995, c.73 (C.17:48-8.1 et al.), the commissioner shall propose regulations which may be amended or modified by the commissioner from time to time after adoption, concerning any

actuarial or form requirements consistent with applicable statutory provisions but not specified therein, not later than 180 days after enactment of P.L.1995, c.73 (C.17:48-8.1 et al.). Any such regulation shall be adopted not later than 180 days after it is proposed. With respect to any type of form or schedule of premium rates not then on file with the commissioner but filed subsequent to the enactment of P.L.1995, c.73 (C.17:48-8.1 et al.) the commissioner shall propose regulations, which may be amended or modified by the commissioner from time to time after adoption, concerning any actuarial or form requirements consistent with applicable statutory provisions but not specified therein, within 120 days after the form is approved or deemed approved by the commissioner pursuant to this subsection. Any such regulation shall be adopted not later than 180 days after it is proposed. The commissioner may issue bulletins which are interpretive of existing regulations consistent with statutory provisions, with respect to any type of policy form that may be certified pursuant to section 17 of P.L.1995, c.73 (C.17B:25-18.3). Nothing in this subsection shall preclude an insurer from filing a certifiable form or schedule of premium rates for approval by the commissioner.

(6) For purposes of this subsection, "days" means calendar days, except that when the last day of any specified time period is a Saturday, Sunday, or State holiday, then the time period shall end on the next following business day. With respect to any specified time period pertaining to correspondence between an insurer and the commissioner, the time period shall commence on the date that such correspondence is postmarked or submitted to a private delivery service.

h. For purposes of subsection b. of section 17 of P.L.1995, c.73 (C.17B:25-18.3), credit life and credit health insurance shall be considered a category of individual or group life or health insurance.

C.26:2J-42 Health maintenance organization contract; compliance.

24. No health maintenance organization contract, evidence of coverage, or other form subject to the filing requirements of P.L.1973, c.337 (C.26:2J-1 et seq.) or application for that coverage, if a written application is required and is to be made a part of that contract or evidence of coverage, or a printed rider or an endorsement for use with that contract or evidence of coverage, shall be delivered or issued for delivery in this State unless its provisions comply with all of the requirements of P.L.1973, c.337 (C.26:2J-1 et seq.) and any regulations adopted or guidelines published by the Commissioner of Insurance consistent with the

requirements thereof. Any contract, evidence of coverage, application, rider, or endorsement issued or delivered in this State that is not in compliance with that law or regulations or guidelines shall be deemed to be in compliance with the requirements and shall be interpreted by the courts and among the persons affected by the contract or evidence of coverage as if that form were in compliance with the requirements; except that this provision shall not relieve the health maintenance organization from any penalty that may be imposed for violation of this act or any provision of P.L.1973, c.337 (C.26:2J-1 et seq.).

C.26:2J-43 Filing of contract or related form.

25. a. Except as otherwise provided in P.L.1992, c.161 (C.17B:27A-2 et seq.) and P.L.1992, c.162 (C.17B:27A-17 et seq.), any health maintenance organization contract or evidence of coverage or related form subject to the provisions of P.L.1973, c.337 (C.26:2J-1 et seq), including any application, rider, or endorsement which is made a part of those contracts or evidences of coverage shall be filed with the Commissioner of Insurance for approval as provided in this section. Any such contract or evidence of coverage, and any related form, except those certified pursuant to section 26 of this act, shall be filed with the Commissioner of Insurance for approval pursuant to this section.

b. Any contract, evidence of coverage or related form filed with the Commissioner of Insurance for approval pursuant to this section shall be deemed approved upon the expiration of 60 days after the submission of the form unless disapproved in writing by the Commissioner of Insurance within that time. Any such disapproval shall be based only on the specific provisions of applicable statutes, regulations adopted by the Commissioner of Insurance, or guidelines published by the Commissioner of Insurance as of the effective date of this act, with regard to forms of that type. A disapproved contract, evidence of coverage or related form may be resubmitted.

c. Any contract, evidence of coverage or related form filed for approval pursuant to this section and disapproved by the Commissioner of Insurance before the expiration of 60 days after its submission shall be deemed withdrawn at the expiration of 60 days after the transmittal of the specific objections of the Commissioner of Insurance unless the filer submits a complete written response to all of the objections of the Commissioner of Insurance within the 60-day period.

d. A contract, evidence of coverage or related form, resubmitted in response to the objections of the Commissioner of Insurance pursuant to subsection b. of this section, shall be

deemed approved upon the expiration of 30 days after its resubmission unless disapproved in writing by the Commissioner of Insurance within that time. No disapproval by the Commissioner of Insurance of a resubmission shall be based on any objection not specified by the Commissioner of Insurance in the initial disapproval of the filing, except that the Commissioner of Insurance may disapprove that form based upon any new provisions introduced in the resubmission or if in addressing the specified objections cited in the disapproval transmission of the Commissioner of Insurance, the health maintenance organization changes or modifies any substantive provisions of the form. Any form resubmitted for approval pursuant to this section and disapproved by the Commissioner of Insurance before the expiration of 30 days after its submission shall be deemed withdrawn at the expiration of 30 days after the transmittal of the specific objections of the Commissioner of Insurance, unless the filer submits a complete written response to all of the objections of the Commissioner of Insurance regarding the submission within the 30-day period.

e. With respect to all types of contracts, evidences of coverage or related forms required to be filed pursuant to this section and currently on file with and approved by the Commissioner of Insurance upon enactment of this act, the Commissioner of Insurance shall propose regulations, which may be amended or modified by the Commissioner of Insurance from time to time after adoption, concerning any actuarial or form requirements consistent with applicable statutory provisions but not specified therein, not later than 180 days after enactment of this act. Any such regulation shall be adopted not later than 180 days after it is proposed. With respect to any type of form not then on file with the Commissioner of Insurance but filed subsequent to enactment of this act, the Commissioner of Insurance shall propose regulations, which may be amended or modified by the Commissioner of Insurance from time to time after adoption, concerning any actuarial or form requirements consistent with applicable statutory provisions but not specified therein within 120 days after the form is approved or deemed approved by the Commissioner of Insurance pursuant to this section. Any such regulation shall be adopted not later than 180 days after it is proposed. The Commissioner of Insurance may issue bulletins which are interpretive of existing regulations consistent with statutory provisions, with respect to any type of contract or evidence of coverage form that may be certified pursuant to section 26 of this act. Nothing in this

section shall preclude a health maintenance organization from filing a certifiable contract or evidence of coverage or related form for approval by the Commissioner of Insurance.

f. Any such form which is filed with the Commissioner of Insurance or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the Commissioner of Insurance, following an opportunity for a hearing held in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder, becomes final in accordance therewith.

g. For purposes of this section: "days" means calendar days, except that when the last day of any specified time period is a Saturday, Sunday, or State holiday, then the time period shall end on the next following business day. With respect to any specified time period pertaining to correspondence between a health maintenance organization and the Commissioner of Insurance, the time period shall commence on the date that such correspondence is postmarked or submitted to a private delivery service.

h. The Commissioner of Insurance, in consultation with the Commissioner of Health, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations as may be necessary to effectuate the purposes of this section.

C.26:2J-44 Contract forms; certification memorandum.

26. a. Pursuant to the provisions of this section, a health maintenance organization authorized to do business in this State may file with the Commissioner of Insurance and use, in accordance with subsection d. of this section, any health maintenance organization contract, evidence of coverage or related form that is stipulated by the Commissioner of Insurance to be of a kind or type eligible for file and use pursuant to subsection b. of this section. The form shall be accompanied by a certification memorandum which includes a statement that it is filed in accordance with the provisions of this section, and which is executed by a responsible officer of the health maintenance organization who certifies that the form being filed is in conformance with the law and regulation applicable to that type or kind of form as specified in a certification form to be determined by the Commissioner of Insurance. If the Commissioner of Insurance determines that the form being filed does not conform with the law or regulation applicable to that type or kind of form, the Commissioner of Insurance shall notify the health maintenance organization of his objections in writing and may disapprove that form for further use in New Jersey.

b. Contracts and evidence of coverage forms, including related endorsements, riders and application forms, eligible for certification pursuant to this section shall include, but not be limited to, certain categories of individual and group health maintenance organization contracts and evidences of coverage which the Commissioner of Insurance shall define by regulation.

c. The certification memorandum shall be signed and acknowledged by a responsible officer of the health maintenance organization. The acknowledgment by that officer shall be done in the same manner in which documents for recording instruments conveying or affecting interests in real estate in this State must be acknowledged to be eligible for recording, or in such other manner as specified by the Commissioner of Insurance by regulation from time to time.

d. Upon receipt of an acknowledgment from the Commissioner of Insurance that the form and a certification memorandum which conforms to the requirements of this section have been received, the form so submitted may be used by the health maintenance organization.

e. (1) Improper certification shall subject a health maintenance corporation submitting such improper certification to a fine not to exceed $50,000 and, in addition, a maximum penalty of $1,000 per contract or evidence of coverage issued on a form determined to be improperly certified pursuant to the provisions of this section. The Commissioner of Insurance shall promulgate a schedule of penalties to be applied pursuant to this section. In determining the amount of any penalty to be imposed, the Commissioner of Insurance shall consider the severity of the violation based upon the potential adverse impact to the public and whether it is the filer's first violation of this section.

(2) If, after notice and a hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a health maintenance organization is found by the Commissioner of Insurance to be in violation of this section, the form may be disapproved, and in addition to any other penalties that may be imposed pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), the Commissioner of Insurance may bar that health maintenance organization from participating in the certification process pursuant to this section for a period not to exceed one year.

f. The Commissioner of Insurance shall hold a hearing annually, or more often, for the purpose of adopting regulations to define the specific forms eligible for certification pursuant to this section. Initial regulations shall be adopted pursuant to this section no later than 180 days after enactment of this act.

g. For purposes of this section:

(1) "a responsible officer of the health maintenance organization" means a corporate officer of the level of vice president or higher, or of equivalent title within the health maintenance organization's structure, who is either the actuary of the health maintenance organization with responsibility for the type of form filed, or the individual with responsibility for managing the form filing process for the health maintenance organization with regard to the type of form filed; and

(2) "improper certification" means providing any misrepresentation or false statement material to a certification form required pursuant to subsection a. of this section.

27. Section 59 of P.L.1991, c.187 (C.26:2J-4.3) is amended to read as follows:

C.26:2J-4.3 Limitations on basic health care services.

59. a. The coverages for basic health care services offered pursuant to section 58 of P.L.1991, c.187 (C.26:2J-4.2) shall be limited to the following services:

(1) Basic hospital expense coverage for a period of 21 days in a benefit year for each enrollee for services provided for medically necessary treatment and services rendered as a result of injury or sickness, including:

(a) Daily hospital room and board, including general nursing care and special diets;

(b) Miscellaneous hospital services, including services and supplies which are customarily rendered by the hospital and provided for use only during any period of confinement;

(c) Hospital outpatient services consisting of hospital services on the day surgery is performed; hospital services rendered within 72 hours after accidental injury; and X-ray and laboratory tests to the extent that benefits for such services would have been provided if rendered to an inpatient of the hospital;

(2) Basic medical-surgical services for each enrollee for medically necessary services for treatment of injury or sickness for the following:

(a) Surgical services;

(b) Anesthesia services consisting of administration of necessary general anesthesia and related procedures in connection with covered surgical services rendered by a physician other than the physician performing the surgical services;

(c) In-hospital services rendered to a person who is confined to a hospital for treatment of injury or sickness other than that for which surgical care is required;

(3) Maternity services, including delivery and prenatal care;

(4) Out-of-hospital physical examination, including related X-rays and diagnostic tests, on the following basis:

(a) For enrollees who are less than two years of age, up to six examinations during the first two years of life; for enrollees who are minors of two years of age or older, one examination at age 3, 6, 9, 12, 15 and 18 years;

(b) For enrollees who are adults less than 40 years of age, one examination every five years; for enrollees who are 40 or more years of age but less than 60 years of age, one examination every three years; and for enrollees who are 60 years of age or older, one examination every two years.

Notwithstanding the provisions of this section to the contrary, a health maintenance organization may provide alternative coverage for services from those required by this subsection if they are approved by the Commissioner of Insurance and are within the intent of this amendatory and supplementary act.

b. (1) No person who is eligible for coverage under Medicare pursuant to Pub. L. 89-97 (42 U.S.C. §1395 et seq.) shall be an enrollee under coverage required to be offered pursuant to section 58 of P.L.1991, c.187 (C.26:2J-4.2).

(2) A health maintenance organization shall not provide coverage for services required to be offered pursuant to section 58 of P.L.1991, c.187 (C.26:2J-4.2) to a group which was covered by health benefits or health insurance anytime during the 12-month period immediately preceding the effective date of coverage.

c. (1) Coverage for services required to be offered pursuant to section 58 of P.L.1991, c.187 (C.26:2J-4.2) may contain or provide coinsurance or deductibles, or both; except that no deductible shall be payable in excess of a total of $250 by an individual or family unit during any benefit year, no coinsurance shall be payable in excess of a total of $500 by an individual or family unit during any benefit year, and neither coinsurance nor deductibles shall apply to physical examinations or maternity services covered pursuant to paragraphs (3) or (4) of subsection a. of this section.

(2) Managed care systems may be utilized for coverage of services required to be offered pursuant to section 58 of P.L.1991, c.187 (C.26:2J-4.2), subject to the review and approval of the Commissioner of Insurance.

d. Notwithstanding any other law to the contrary, a health maintenance organization shall file copies of all forms for coverages required to be offered pursuant to section 58 of P.L.1991, c.187 (C.26:2J-4.2) for approval with the Commissioner of Insurance in accordance with the provisions of section 26 of P.L.1995, c.73 (C.26:2J-44) provided, however, that coverage forms shall be effective only with respect to those coverage form filings which are accompanied by an explanation and identification of the changes being made on a form prescribed by the commissioner.

These forms shall not be unfair, inequitable, misleading or contrary to law, nor shall they produce rates that are excessive, inadequate or unfairly discriminatory.

e. Notwithstanding any other law to the contrary, a health maintenance organization shall file all rates and supplementary rate information and all changes and amendments thereof for the coverages required to be offered pursuant to section 58 of P.L.1991, c.187 (C.26:2J-4.2) for approval with the Commissioner of Insurance at least 60 days prior to becoming effective. Unless disapproved by the commissioner prior to their effective date specifying in what respects the filing is not in compliance with the standards set forth in this subsection, any such rates, supplementary rate information, changes or amendments filed with the commissioner shall be deemed approved as of their effective date.

Rates shall not be excessive, inadequate or unfairly discriminatory.

f. The Commissioner of Insurance shall issue regulations to establish minimum standards for loss ratios under coverages required to be offered pursuant to section 58 of P.L.1991, c.187 (C.26:2J-4.2).

g. Notwithstanding any provision of law to the contrary, a health maintenance organization shall not be required, in regard to coverages required to be offered pursuant to section 58 of P.L.1991, c.187 (C.26:2J-4.2), to provide mandatory health care benefits or services or provide benefits for services rendered by providers of health care services as otherwise required by law.

h. The Commissioner of Insurance and the Commissioner of Health shall, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to effectuate the purposes of this section and section 58 of P.L.1991, c.187 (C.26:2J-4.2), including standards for terms and conditions of health care service coverages required to be offered pursuant to this section and section 58 of P.L.1991, c.187 (C.26:2J-4.2) and schedules of benefits for coverage of services provided for in subsection a. of this section.

i. Every health maintenance organization shall report annually on or before March 1 to the Department of Insurance the number of individual and group coverages required to be offered pursuant to section 58 of P.L.1991, c.187 (C.26:2J-4.2) that were sold in the preceding calendar year and the number of enrollees under each type of coverage. The department shall compile and analyze this information and shall report annually on or before July 1 its findings and any recommendations it may have to the Governor and the Legislature.

j. A health maintenance organization which complies with the basic health benefits, underwriting and rating standards established by the federal government pursuant to subchapter XI of Pub.L. 93-222 (42 U.S.C. §300e et seq.), shall be deemed in compliance with this section and section 58 of P.L.1991, c.187 (C.26:2J-4.2).

28. Section 8 of P.L.1973, c.337 (C.26:2J-8) is amended to read as follows:

C.26:2J-8 Evidence of coverage.

8. Evidence of coverage. a. (1) Enrollees are entitled to receive evidence of coverage and evidence of the total amount of payment which the enrollee is obligated to prepay for health care services and, where applicable, for indemnity benefits. If an enrollee obtains coverage through an insurance policy or through a contract issued by a hospital or medical service corporation or health service corporation, whether by option or otherwise, the insurer or the hospital or medical service corporation or health service corporation shall issue the evidence of coverage. Otherwise, the health maintenance organization shall issue the evidence of coverage.

(2) No evidence of coverage, or amendment thereto, shall be issued or delivered to any person until a copy of the form of the evidence of coverage, or amendment thereto, has been filed with the commissioner or, where applicable, with the Commissioner of Insurance.

(3) An evidence of coverage shall contain:

(a) provisions or statements which are not unjust, unfair, inequitable, misleading, deceptive, or which encourage misrepresentation, or which are untrue, misleading or deceptive as defined in subsection a. of section 15 of P.L.1973, c.337 (C.26:2J-15); and

(b) a clear and complete statement, if a contract, or a reasonably complete summary, if a certificate, of:

(i) the health care services and where applicable the insurance or other benefits, if any, to which enrollees are entitled;

(ii) any limitations on the services, kind of services, benefits, or kind of benefits, to be provided, including any deductible or co-payment feature;

(iii) where and in what manner information is available as to how services may be obtained;

(iv) a clear and understandable description of the health maintenance organization's method for resolving enrollee complaints; and

(v) the total amount of payment for health care services and the indemnity or service benefits, if any, which the enrollee is obligated to pay with respect to individual contracts, or an indication whether the plan is contributory or non-contributory with respect to group certificates.

(4) Any subsequent change may be evidenced in a separate document issued to the enrollee.

b. (1) no schedule of charges for enrollee coverage for health care services, or amendment thereto, may be used by a health maintenance organization until a copy of such schedule, or amendment thereto, has been filed with the Commissioner of Insurance for informational purposes; provided, however, that the Commissioner of Insurance may bring an enforcement action pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.) if the commissioner has reason to believe that the rates are excessive, inadequate or unfairly discriminatory.

(2) such charges may be established in accordance with actuarial principles for various categories of enrollees, provided that charges applicable to an enrollee shall not be individually determined based on the status of his health. However, the charges shall not be excessive, inadequate, or unfairly discriminatory. A certification, by a qualified actuary, to the appropriateness of the charges, based on reasonable assumptions, shall accompany the filing.

c. In accordance with the provisions of section 26 of P.L.1995, c.73 (C.26:2J-44), the commissioner or, where applicable, the Commissioner of Insurance shall approve any form if the requirements of subsection a. of this section are met. It shall be unlawful to issue such form until approved. A form that is disapproved may be resubmitted for approval in accordance with subsections b., c., and d. of section 25 of P.L.1995, c.73 (C.26:2J-43) and shall be subject to review in accordance with the procedure described in the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder. Any such form which is filed by the commissioner or deemed filed may be so delivered or issued for delivery until such time as any subsequent withdrawal of the filing by the commissioner, follow-

ing an opportunity for a hearing held in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder, becomes final in accordance therewith.

d. The commissioner or Commissioner of Insurance, where applicable, may require the submission of whatever relevant information he deems necessary in determining whether to approve or disapprove a filing made pursuant to subsection a. of this section.

29. This act shall take effect immediately.

Approved April 10, 1995.

CHAPTER 74

AN ACT concerning joint self-insurance by school boards, amending P.L.1979, c.391 and amending and supplementing P.L.1983, c.108.

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

1. Section 2 of P.L.1983, c.108 (C.18A:18B-2) is amended to read as follows:

C.18A:18B-2 Insurance authorized.

2. Insurance authorized. Any board of education is authorized to insure, contract or provide for any insurable interest of the district or board in the manner authorized by section 3 of P.L.1983, c.108 (C.18A:18B-3), for the following:

a. Any loss or damage to its property, real or personal, motor vehicles, equipment or apparatus;

b. Any loss or damage from liability resulting from the use or operation of motor vehicles, equipment or apparatus owned or controlled by it;

c. Any loss or damage from liability for its own acts or omissions and for acts or omissions of it officers, employees or servants arising out of and in the course of the performance of their duties, including, but not limited to, any liability established

by the "New Jersey Tort Claims Act," N.J.S. 59:1-1 et seq., or by any federal or other law;

d. Loss or damage from liability as established by Chapter 15 of Title 34 of the Revised Statutes, Labor and Workers' Compensation (R.S.34:15-1 et seq.);

e. Expenses of defending any claim against the board, district, officer, employee or servant arising out of and in the course of the performance of their duties, whether or not liability exists on the claim.

f. Benefits pursuant to contributory or non-contributory group health insurance or group term life insurance, or both, for employees or their dependents, or both, through self insurance, the purchase of commercial insurance or reinsurance, or any combination thereof. The maximum risk to be retained for group term life insurance by a joint insurance fund on a self insured basis shall not exceed a face amount of $5,000 per covered employee or dependent or such greater amount as approved by the Commissioners of Insurance and Education. Notwithstanding any other provision of law to the contrary, the board or joint insurance fund shall be subject to the surcharge levied pursuant to section 3 of P.L.1993, c.8 (C.52:14-17.38c) for claims paid within the retained amount. For any claims paid in excess of the retained amount, the surcharge shall be paid by the entity insuring the excess amount.

As used in this subsection:

(1) "life insurance" means life insurance as defined in N.J.S.17B:17-3.

(2) "health insurance" means health insurance as defined in N.J.S.17B:17-4 or benefits provided by hospital service corporations, medical service corporations or health service corporations authorized to do business in this State; and

(3) "dependents" means dependents as defined pursuant to section 1 of P.L.1979, c.391 (C.18A:16-12);

2. Section 4 of P.L.1983, c.108 (C.18A:18B-4) is amended to read as follows:

C.18A:18B-4 Bylaws of the group; trustees; powers.

4. Bylaws of the group; trustees; powers.

a. The bylaws of any school board insurance group shall:

(1) Set forth a statement of purposes of the group;

(2) Set forth provisions for organization of the group, including governance by a board of trustees;

(3) Provide for the delivery of a risk management program in conjunction with any joint self-insurance fund or funds which the board of trustees shall establish. The risk management program shall include, but not be limited to:

(a) the perils of liabilities to be insured against;

(b) limits of coverage, whether self-insurance, direct insurance purchased from a commercial carrier or reinsurance;

(c) the amount of risk to be retained by the fund;

(d) the amount of reserves to be established;

(e) the proposed method of assessing contributions to be paid by each member of the fund;

(f) procedures governing loss adjustment and legal fees;

(g) coverage to be purchased from a commercial insurer, if any;

(h) reinsurance to be purchased, if any, and the amount of premium therefor; and

(i) such other procedures and information as the commissioner may require by rule or regulation;

(4) Set forth procedures to enforce the collection of any contributions or payments in default;

(5) Set forth membership standards as required in section 3 of P.L.1983, c.108 (C.18A:18B-3);

(6) Require that, for each joint self-insurance fund, a contract or contracts of specific and aggregate excess insurance or reinsurance is maintained;

(7) Set forth procedures for:

(a) Withdrawal from the group and a fund by a member;

(b) Termination of the group or fund and disposition of assets; and

(c) Determining the obligations, if any, of a member in the event that the group is unable to pay indemnification obligations and expenses payable from a fund administered by it;

(8) Require an annual certified audit to be prepared and filed with the commissioner;

(9) Require that any joint self-insurance fund or funds be developed and operated in accordance with accepted and sound actuarial practices;

(10) Provide that any expenditure of moneys in a fund be in furtherance of the purpose of the fund;

(11) Set forth other provisions as desired for operation and governance of the group;

(12) Provide for expulsion of a member; and

(13) Comply with any requirement established by the commissioner by rule or regulation.

b. The bylaws of a group shall provide for governance of the group by a board of trustees selected in accordance with the provisions of the bylaws. The bylaws shall provide for trustee powers and duties and shall include, but not be limited to, the following powers of the board of trustees:

(1) To determine and establish contributions and rates, loss reserves, surplus, limits of coverage, limits of excess or reinsurance, coverage documents, dividends and other financial and operating policies of the group or fund;

(2) To invest moneys held in trust under any fund in investments which are approved for investment by regulation of the State Investment Council for surplus moneys of the State or, at the discretion of the board, to transfer moneys held in trust under any fund to the Director of the Division of Investment in the Department of the Treasury for investment on behalf of the board in accordance with the standards governing the investment of other funds which are managed under the rules and regulations of the State Investment Council. However, any moneys transferred to the director for investment may not thereafter be withdrawn except upon withdrawal of a member from the group or a fund or termination of the group or a fund or in specific amounts in payment of specific claims, administrative expenses or member dividends upon affidavit of the director or other chief executive officer of the group;

(3) To purchase, acquire, hold, lease, sell and convey real and personal property, all of which property shall be exempt from taxation under chapter 4 of Title 54, Taxation, of the Revised Statutes;

(4) To collect and disburse all money due to or payable by the group, or authorize such collection and disbursement;

(5) To enter into contracts with other persons or with public bodies of this State for any professional, administrative or other services as may be necessary to carry out the purposes of the group or any fund;

(6) To purchase and serve as the master policyholders if desired, for any insurance, including excess or reinsurance;

(7) To prepare, or cause to be prepared, a risk management program for the joint insurance group;

(8) As the need arises, from time to time, to amend the bylaws or risk management program of the fund; except that no such amendment shall take effect until approved in the following manner:

(a) The trustees shall file with the commissioner, for his approval: a copy of any amendment to the bylaws of the fund, upon approval by resolution of three-fourths of the member school boards or in such other manner as established by the fund

and approved by the commissioner; or any amendment to the risk management program, upon adoption by the trustees.

(b) Within 60 days of receipt, the commissioner shall either approve or disapprove any amendment to the bylaws or risk management program. If the commissioner fails to either approve or disapprove the amendment within that 60 day period, the amendment shall be deemed approved;

(c) If any amendment is disapproved, the commissioner shall set forth, in writing, the reasons for disapproval. Upon the receipt of the notice of disapproval, the trustee of the affected joint insurance fund may request a public hearing. The public hearing shall be convened by the commissioner in a timely manner;

(d) Within 90 days after the effective date of any amendment to the bylaws, a member school board which did not approve the amendment may withdraw from the fund, except that it shall remain liable for its share of any claim or expense incurred by the fund during its period of membership;

(9) To do all other things necessary and proper to carry out the purposes for which the group is established.

3. Section 7 of P.L.1983, c.108 (C.18A:18B-7) is amended to read as follows:

C.18A:18B-7 Review of bylaws; investigations by the Commissioner of Insurance.

7. Review of bylaws; investigations by the Commissioner of Insurance.

a. No school board insurance group, nor any joint self-insurance fund of the group, may begin functioning as a means of providing insurance coverage or protection for or among its members until the group's bylaws and risk management program have been filed with and approved by the commissioner. If the commissioner fails to approve or disapprove the bylaws or risk management program, or both, as the case may be, within 60 days following filing in his office, the bylaws or risk management program, or both, as the case may be, shall be deemed approved. If the commissioner disapproves the bylaws or risk management program, he shall set forth the reasons for his disapproval in writing. The reasonable costs of the commissioner's review of the bylaws and risk management program shall be chargeable to the boards of education seeking to establish the group.

b. Every school board insurance group shall file an annual report, on a form prescribed by the commissioner, at a time to be

fixed by the commissioner. The report shall include a financial statement of the group's assets and liabilities, the claims paid during the preceding 12 months, current reserves, incurred losses, and any other information that the commissioner may require. The commissioner may require more frequent reports as he deems necessary.

c. The commissioner shall have authority to examine the books, records and affairs of any school board insurance group or joint self-insurance fund for the purpose of determining compliance with this act. The reasonable costs of any examination or review shall be chargeable to the school board insurance group.

d. The commissioner may suspend or terminate the authority of any school board insurance fund or direct or take any action he may deem necessary for good cause, to enable a fund to meet its obligations, cover its expected losses, or liquidate, rehabilitate or otherwise modify its affairs. The commissioner may take such action in the event of:

(1) A failure to comply with the rules and regulations promulgated by the commissioner or with any of the provisions of P.L.1983, C.108 (C.18A:18B-1 et seq.);

(2) A failure to comply with a lawful order of the commissioner; or

(3) A deterioration of the financial condition of the fund to the extent that it causes an adverse effect upon the ability of the school board insurance fund to pay expected losses.

e. The commissioner may, in his discretion, require the trustees of any fund to file copies of any agreements of contracts entered into by the trustees of the fund or any other pertinent documents he may deem necessary.

4. Section 2 of P.L.1979, c.391 (C.18A:16-13) is amended to read as follows:

C.18A:16-13 Entering into group life, hospitalization, health and accident insurance contracts.

2. Any local board of education may directly or indirectly through a trust fund or otherwise enter into contracts of group life, accidental death and dismemberment, hospitalization, medical, surgical, major medical expense, minimum premium insurance policy or health and accident insurance with any insurance company or companies authorized to do business in this State, or may contract with a nonprofit hospital service, medical service or health service corporation with respect to the benefits which they are authorized to provide respectively. Such contract or contracts shall provide any one or more of such coverages for the employees of the local board of edu-

cation and may include their dependents. A local board of education may enter into a contract or contracts to provide drug prescription and other health care benefits, or enter into a contract or contracts to provide drug prescription and other health care benefits as may be required to implement a duly executed collective negotiations agreement, or as may be required to implement a determination by a local board of education to provide such benefit or benefits to employees not included in collective negotiations units. Nothing herein contained shall be deemed to authorize coverage of dependents of an employee under a group life insurance policy or to allow the issuance of a group life insurance policy under which the entire premium is to be derived from funds contributed by the insured employee.

For purposes of this section, "minimum premium insurance policy" means a group insurance policy issued by an insurer licensed to do business in this State under which the policyholder agrees to directly fund specified claims of insureds covered under the policy, in lieu of payment of a portion of the premium.

C.18A:18B-7.1 Rules, regulations.

5. Within 180 days after the effective date of this 1995 amendatory and supplementary act, the Commissioner of Insurance shall promulgate rules and regulations to effectuate its purposes pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The rules and regulations shall include, the not be limited to, the establishment, operation, modification and dissolution of school board insurance funds established pursuant to the provisions of this 1995 amendatory and supplementary act.

6. This act shall take effect immediately, except that any existing approved school board insurance group shall, within 180 days of the effective date of any rule or regulation promulgated pursuant to section 5 of this act, submit its bylaws and risk management program to the Commissioner of Insurance pursuant to section 7 of P.L.1983, c.108 (C.18A:18B-7).

Approved April 10, 1995.

CHAPTER 75

AN ACT concerning the provision of supportive housing for certain persons diagnosed with HIV or AIDS and their families, supplementing chapter 14 of Title 55 of the New Jersey Statutes and making an appropriation.

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

C.55:14L-1 Findings, declarations.

1. The Legislature finds and declares that:

a. Many adults living with human immunodeficiency virus (HIV) or who have been diagnosed with acquired immune deficiency syndrome (AIDS) in New Jersey are currently homeless or at risk of homelessness. These persons would benefit greatly from a supportive housing program which coordinates community support services, including case management, counselling, assistance with tasks of daily living and medical treatment, while also providing shelter and services to their immediate families on a permanent basis;

b. Many existing State programs do not have the resources necessary to provide a supportive housing program which accommodates the need for a continuum of care for persons living with HIV or AIDS and support for their immediate families;

c. The inadequate supply of affordable supportive housing for persons living with HIV or AIDS results in excess health care costs, hinders the ability of service providers to deliver the most cost efficient services to such persons, and frequently leads to the premature placement of dependent children into the child welfare system;

d. The Scattered Site AIDS Permanent Housing Program in the New Jersey Housing and Mortgage Finance Agency will be administered by the agency in cooperation with the New Jersey Department of Health, the New Jersey Department of Human Services, the AFL-CIO Housing Investment Trust, and the United States Department of Housing and Urban Development to provide housing opportunities for persons with HIV or AIDS, and their families; and

e. In order for these persons to continue to live independently, it is only fitting and proper that this program be established in law and be provided with the resources necessary to carry out its vital work.

C.55:14L-2 Definitions.

2. As used in this act, unless a different meaning clearly appears from the context:

"Agency" means the New Jersey Housing and Mortgage Finance Agency.

"Emancipated minor" means a person who is under 18 years of age, but who has been married, has entered military service, has a child or is pregnant, or has previously been declared by a court or an administrative agency to be emancipated.

"Immediate family" means the participant's spouse or partner, dependent children, parent or caregiver.

"Participant" means a person who is eligible to receive housing and services for himself and his immediate family in the Scattered Site AIDS Permanent Housing Program. To be eligible a participant must be:

a. Over the age of 18, or an emancipated minor;

b. Certified in writing by a medical professional as being HIV positive or having AIDS;

c. Eligible for a housing subsidy under section 8 of the federal Housing Act of 1937, 42 U.S.C.§1437f;

d. Homeless or at risk of homelessness and in need of permanent, affordable housing and support services in order to maintain an independent and healthy lifestyle; and

e. Willing to abide by certain stated program regulations.

"Project" means the part of the program that is developed, operated and maintained by a particular sponsor.

"Scattered Site AIDS Permanent Housing Program" or "program" means the supportive housing program of the New Jersey Housing and Mortgage Finance Agency which has been designed for participants with HIV or AIDS and their immediate families.

"Sponsor" means a nonprofit organization which was selected as a partner in the development and ongoing operation of a project of the program in the request for proposal process executed by the New Jersey Housing and Mortgage Finance Agency in May, 1994.

"Supportive housing" means permanent affordable housing for participants and their immediate families combined with certain services as determined by individual needs, which may change over time.

C.55:14L-3 "Scattered Site AIDS Permanent Housing Program" established.

3. There is established within the agency the "Scattered Site AIDS Permanent Housing Program," a program to provide supportive housing to participants and their immediate families.

C.55:14L-4 "Supportive Housing Fund" established.

4. There is established within the agency a "Supportive Housing Fund," which shall be a nonlapsing, revolving fund and which shall be the repository for funds appropriated or otherwise made available for the purposes of this act, and any interest earned thereon. The fund shall be administered by the agency, in accordance with its authority under section 5 of P.L.1983, c.530 (C.55:14K-5) to manage funds for housing programs.

C.55:14L-5 Steering committee established.

5. There is established within the agency a statewide steering committee for the Scattered Site AIDS Permanent Housing Program. The committee shall be comprised of representatives of: the agency, the Department of Health, the Department of Human Services, and project sponsors. Representatives will be appointed by the executive director, commissioner or project sponsor, as appropriate.

It shall be the duty of the steering committee to address issues that affect all projects in the program including, but not limited to: pursuing opportunities for additional grant funds, developing and revising policies related to supportive services and property management, nurturing statewide community relations, and evaluating the supportive housing program on an ongoing basis.

6. Notwithstanding the provisions of P.L.1987, c.370 (C.26:2-148 et seq.), there is appropriated from the Catastrophic Illness in Children Relief Fund created pursuant to section 3 of P.L.1987, c. 370 (C.26:2-150) to the Scattered Site AIDS Permanent Housing Program of the New Jersey Housing and Mortgage Finance Agency the amount of $2,000,000 for the following purposes:

a. $1,000,000 for capital costs;

b. $1,000,000 for home-based health care services.

7. This act shall take effect immediately.

Approved April 11, 1995.

CHAPTER 76

AN ACT providing for the creation of standby guardianships and supplementing chapter 12 of Title 3B of the New Jersey Statutes.

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

C.3B:12-67 Short title.

1. This act shall be known and may be cited as the "New Jersey Standby Guardianship Act."

C.3B:12-68 Findings, declarations.

2. The Legislature finds and declares that there is an imperative need to create an expeditious manner of establishing a

guardianship known as a standby guardianship, in order to enable a custodial parent or legal custodian suffering from a progressive chronic condition or a fatal illness to make plans for the permanent future care or the interim care of a child without terminating parental or legal rights. The Legislature further finds that current law does not adequately address the needs of custodial parents or legal custodians who are suffering from a progressive chronic condition or a fatal illness and who desire to make plans for the future care of their children without terminating parental or legal rights.

C.3B:12-69 Definitions.

3. As used in this act:

"Appointed standby guardian" means a person appointed pursuant to section 6 of this act to assume the duties of guardian over the person and, when applicable, the property of a minor child upon the death or a determination of incapacity or debilitation, and with the consent, of the parent or legal custodian.

"Attending physician" means the physician who has primary responsibility for the treatment and care for the petitioning parent or legal custodian. When more than one physician shares this responsibility, or when a physician is acting on the primary physician's behalf, any such physician may act as the attending physician pursuant to this act. When no physician has this responsibility, a physician who is familiar with the petitioner's medical condition may act as the attending physician pursuant to this act.

"Consent" means written consent signed by the parent or legal custodian in the presence of two witnesses who shall also sign the document. The written consent shall constitute the terms for the commencement of the duties of the standby guardian.

"Debilitation" means a chronic and substantial inability, as a result of a physically debilitating illness, disease, or injury, to care for one's minor child.

"Designated standby guardian" means a person designated pursuant to section 8 of this act to assume temporarily the duties of guardianship over the person and, when applicable, the property of a minor child upon the death or a determination of incapacity or debilitation, and with the consent, of the parent or legal custodian.

"Designation" means a written document voluntarily executed by the designator pursuant to this act.

"Designator" means a competent parent or legal custodian of a minor child who makes a designation pursuant to this act.

"Determination of debilitation" means a written determination made by the attending physician which contains the physician's opinion to a reasonable degree of medical certainty regarding the nature, cause, extent and probable duration of the parent's or legal custodian's debilitation.

"Determination of incapacity" means a written determination made by the attending physician which contains the physician's opinion to a reasonable degree of medical certainty regarding the nature, cause, extent and probable duration of the parent's or legal custodian's incapacity.

"Incapacity" means a chronic and substantial inability, as a result of mental or organic impairment, to understand the nature and consequences of decisions concerning the care of one's minor child, and a consequent inability to make these decisions.

"Minor child" means a child under the age of eighteen years but excludes a child residing in a placement funded or approved by the Division of Youth and Family Services in the Department of Human Services pursuant to either a voluntary placement agreement or court order.

"Triggering event" means an event stated in the designation, petition or decree which empowers the standby guardian to assume the duties of the office, which event may be the death, incapacity or debilitation, with the consent, of the custodial parent or legal custodian, whichever occurs first.

C.3B:12-70 Jurisdiction.

4. The surrogate's court of the county in which a minor child resides or has real or personal property shall have jurisdiction under this act pursuant to N.J.S.3B:12-12.

C.3B:12-71 Applicability.

5. The provisions of N.J.S.3B:12-1 et seq. shall apply to a standby guardian except as otherwise provided in this act.

C.3B:12-72 Appointment of standby guardian by court.

6. a. Upon petition of the parent, legal custodian or designated standby guardian, the court may appoint a standby guardian of a minor child. The court may also appoint an alternate standby guardian, if identified by the petitioner, to act if the appointed standby guardian dies, becomes incapacitated, or otherwise refuses or is unable to assume the duties of the standby guardian after the death, incapacity or debilitation of the parent or legal custodian of the minor child.

b. A petition for the judicial appointment of a standby guardian of a minor child shall state:

(1) which triggering event or events shall cause the authority of the appointed standby guardian to become effective;

(2) that there is a significant risk that the parent or legal custodian will die, become incapacitated, or become debilitated as a result of a progressive chronic condition or a fatal illness; however, a petitioner shall not be required to submit medical documentation of the parent's or legal custodian's terminal status by his attending physician; and

(3) the name, address, and qualifications of the proposed standby guardian.

c. A parent or legal custodian petitioning the court pursuant to this section shall not be required to appear in court if unable to appear, except upon motion of the court or by any party and for good cause shown.

d. The court shall appoint the standby guardian if the court finds that there is a significant risk that the parent or legal custodian will die, become incapacitated, or become debilitated as a result of a progressive chronic condition or a fatal illness, and that the interests of the minor child would be promoted by the appointment of the standby guardian.

e. The decree appointing the standby guardian shall specify the triggering event which shall activate the authority of the standby guardian.

f. Upon petition for the appointment of a standby guardian by a person as specified in subsection a. of this section, notice shall be served on the minor child's parent or legal custodian, or the designated standby guardian, as appropriate, within 30 days of the filing. The court shall give preference to maintaining custody with either the parent or legal custodian, or the designated standby guardian, during the time that the petition is pending. Nothing in this section shall be construed to deprive any parent of parental rights. If the petition alleges that after diligent search, the parent or legal custodian cannot be found, the parent or legal custodian shall be served by notice delivered pursuant to New Jersey court rules. No notice is necessary to a parent who is deceased or whose parental rights have been previously terminated by court order or consent.

C.3B:12-73 Immediate assumption of duties of appointed standby guardian; revocation in writing.

7. a. Upon the occurrence of a triggering event set forth in a decree appointing a standby guardian, the standby guardian shall be empowered to assume the duties of his office immediately.

b. If the triggering event is the incapacity or debilitation of the parent or legal custodian, the attending physician shall provide a copy of his determination to the appointed standby guardian if the guardian's identity is known to the attending physician.

c. Within 60 days following the assumption of guardianship duties, the appointed standby guardian shall petition the court for confirmation. The confirmation petition shall include a determination of incapacity or debilitation or a death certificate, as appropriate.

d. The court shall confirm an appointed standby guardian named in accordance with this act and otherwise qualified to serve as guardian pursuant to N.J.S.3B:12-1 et seq. unless there is a judicial determination of unfitness with regard to the appointed standby guardian.

e. A standby guardian appointed pursuant to section 6 of this act may decline appointment at any time before the assumption of his duties by filing a written statement to that effect with the court, with notice to be provided to the petitioner and to the minor child if the latter is 14 years of age or older.

f. Commencement of the duties of the standby guardian shall confer upon the appointed standby guardian shared authority with the custodial parent or legal custodian of the minor child, unless the petition states otherwise.

g. A parent or legal custodian may revoke a standby guardianship by executing a written revocation, filing it with the court where the petition was filed, and promptly notifying the appointed standby guardian of the revocation. An unwritten revocation may be considered by the court if the revocation can be proved by clear and convincing evidence submitted to the court.

C.3B:12-74 Designation of standby guardian by parent.

8. a. When the consent of a parent or legal custodian for the execution of a power of attorney delegating another person to exercise the parent's or legal custodian's powers is not appropriate or is unavailable pursuant to N.J.S.3B:12-39, the other parent or legal custodian may execute a written statement to designate a standby guardian, as follows:

(1) The parent or legal custodian may choose a standby guardian by means of a written designation that names the standby guardian in the event of the designator's death, incapacity or debilitation. The written designation shall reasonably identify the designator, the minor child and the standby guardian.

(2) A written designation pursuant to this section shall be signed by the designator in the presence of two witnesses who

shall also sign the designation. Another person may sign the written designation on the parent's or legal custodian's behalf if the parent or legal custodian is physically unable to do so, provided the designation is signed at the express request of the parent or legal custodian and in the presence of the parent or legal custodian and two witnesses.

(3) The designation shall state the triggering event by which the parent or legal custodian intends the designated standby guardianship of the minor child to be activated.

(4) A parent or legal custodian may designate an alternate standby guardian in the same document, and by the same manner, as the designation of a standby guardian.

b. A designation may, but need not, be in the following form:

DESIGNATION OF STANDBY GUARDIAN

I, (name of parent or legal custodian) hereby name (name, home address and telephone number of standby guardian) as designated standby guardian of (name of child(ren)), my child(ren).

By this consent and designation, I am providing that the designated standby guardian's authority shall take effect if and when the following event or events occur: (choose as follows):

(1) my attending physician concludes that I am mentally incapacitated, and thus unable to care for my child(ren); or

(2) my attending physician concludes that I am physically debilitated, and thus unable to care for my child(ren), and I consent in writing before two witnesses to the designated standby guardian's authority taking effect; or

(3) upon my death.

In the event that the person designated above is unable or unwilling to act as guardian to my child(ren), I hereby name (name, address and telephone number of alternate designated standby guardian), as alternate designated standby guardian of my child(ren).

I understand that this designation will expire six months from the date of this designation, and that the authority of the designated standby guardian, if any, will cease, unless by that date either I or the designated standby guardian petitions the court for appointment as standby guardian pursuant to section 6 of P.L.1995, c.76 (C.3B:12-72).

I hereby authorize that the person designated standby guardian as set forth above shall be provided with a copy of the attending physician's statement.

In the event that I am incapacitated or debilitated and a designated standby guardianship is activated pursuant to this statement, I declare that it is my intention to retain full parental rights to the extent consistent with my condition and, further, that I retain the authority to revoke the designated standby guardianship consistent with my rights herein at any time.

Designator's Signature:
Witness' Signature:
Address:
Date:
Witness' Signature:
Address:
Date:

c. Nothing in this section shall be construed to involuntarily deprive any parent of parental rights.

C.3B:12-75 Immediate assumption of duties of designated standby guardian; revocation.

9. a. Upon the occurrence of the triggering event stated in the written designation executed pursuant to section 8 of this act, the designated standby guardian shall be empowered to assume the duties of his office immediately.

b. If the triggering event is the designator's incapacity or debilitation, a copy of the attending physician's determination shall be provided to the designated standby guardian if the guardian's identity is known to the attending physician.

c. A designated standby guardian may decline the designation at any time before the assumption of his duties by notifying the designator of this refusal in writing.

d. Commencement of the designated standby guardian's duties shall confer upon the designated standby guardian shared authority with the custodial parent or legal custodian of the minor child, unless the designation of the parent or legal custodian states otherwise.

e. A designator may revoke a designation of standby guardianship by notifying the designated standby guardian orally or in writing or by any other act evidencing a specific intent to revoke the designation.

C.3B:12-76 Petition for judicial appointment of designated standby guardian.

10. a. Unless a petition for judicial appointment of a standby guardian is made by the designator or the designated standby

guardian, the designation made under section 8 of this act shall expire six months from the date of the written designation.

b. In a proceeding for judicial appointment of a designated standby guardian, a designation shall constitute a rebuttable presumption that the designated standby guardian is capable of serving as guardian. In the event of the designator's death, a designation shall be deemed to confer a preference upon the designated standby guardian for the choice of a permanent guardian, notwithstanding any law to the contrary, subject to the rights of the other parent.

c. Except as set forth in this section, the petition for the judicial appointment of a designated standby guardian shall comply with the procedure set forth in section 6 of this act.

C.3B:12-77 Notice of petition to child.

11. Notice of a petition or designation filed with the court pursuant to this act shall be served upon the minor child for whom the standby guardianship is sought if the minor is 14 years of age or older. Notice to a minor child less than 14 years of age shall be served at the discretion of the court. The court may appoint a guardian ad litem or counsel to represent the child. The court shall consider the preferences of the minor child in the appointment of a standby guardian pursuant to this act.

C.3B:12-78 Filing, delivery of appointment, designation.

12. a. The county clerk, upon being paid the fees allowed by law, shall receive for filing any instrument appointing or designating a standby guardian pursuant to this act made by a domiciliary of the county, and shall give a written receipt therefor to the person delivering it. The filing of an appointment or designation of standby guardian shall be for the sole purpose of safekeeping and shall not affect the validity of the appointment or designation.

b. The appointment or designation shall be delivered only to: the parent or legal custodian who appointed or designated the standby guardian; or the person appointed or designated as standby guardian or alternate standby guardian; or the minor child, upon his request or the request of his legal representative, if applicable; or any other person directed by the court.

13. This act shall take effect immediately.

Approved April 11, 1995.

CHAPTER 77

AN ACT concerning the subleasing of motor vehicles and supplementing chapter 12 of Title 56 of the Revised Statutes.

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

C.56:12-71 Definitions.

1. As used in this act:

"Buyer" means a person who buys or leases a motor vehicle under a conditional sale contract.

"Conditional sale contract" means any contract for the leasing of a motor vehicle between a buyer and a seller, with or without accessories, by which the lessee agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the vehicle and its accessories, if any, at the time the contract is executed, and by which it is agreed that the lessee will become, or for no other or for a nominal consideration has the option of becoming, the owner of the vehicle upon full compliance with the terms of the contract.

"Lease contract" means a contract for or in contemplation of the lease for the use of a motor vehicle, and the purchase of services incidental to the lease, for a term exceeding four months primarily for personal, family, household, business or commercial purposes, whether or not it is agreed that the lessee bears the risk of the motor vehicle's depreciation.

"Lessee" includes a bailee and means a person who leases, offers to lease or is offered the lease of a motor vehicle under a lease contract.

"Motor vehicle" means any vehicle required to be registered under Title 39 of the Revised Statutes.

"Person" means an individual, company, firm, association, partnership, trust, corporation, or other legal entity.

"Security agreement" means an agreement that creates and provides for a security interest.

"Security interest" means an interest in personal property which secures the payment or performance of an obligation.

"Seller" means a person engaged in the business of selling or leasing motor vehicles under a conditional sale contract.

C.56:12-72 Restrictions on subleasing.

2. a. No person shall arrange, for compensation, the transfer, assignment or sublease of any right or interest in a motor vehicle subject to a lease contract, conditional sale contract or security agreement unless the transfer, assignment or sublease is made in compliance with the terms of the lease contract, conditional sale contract or security agreement.

b. This prohibition shall not apply to a person who is a party to the lease contract, conditional sale contract or security agreement.

C.56:12-73 Enforceability of agreements.

3. This act shall not affect the enforceability of any provision of any lease contract, conditional sale contract or security agreement by any party thereto.

C.56:12-74 Violations.

4. Any violation of the provisions of this act shall constitute an unlawful practice pursuant to section 2 of P.L.1960, c.39 (C.56:8-2).

5. This act shall take effect immediately.

Approved April 11, 1995.

CHAPTER 78

AN ACT concerning construction codes, authorizing the establishment of a housing rehabilitation code, directing a study of procedures for modifying the provisions of the State Uniform Construction Code under certain circumstances, and supplementing P.L.1975, c.217 (C.52:27D-119 et seq.).

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

C.52:27D-123.7 Findings, determinations, declarations.

1. The Legislature hereby finds, determines and declares:

a. There is an urgent need to improve the housing conditions of low and moderate income individuals and families, many of whom live in substandard housing, particularly in the older cities of the State; and

b. There are large numbers of older residential buildings in the State, both occupied and vacant, which are in urgent need of rehabilitation and which must be rehabilitated if the State's citizens are to be housed in decent, sound, and sanitary conditions; and

c. The application of those building code requirements currently in force to housing rehabilitation has led to the imposition of costly and time-consuming requirements which result in a significant reduction in the amount of rehabilitation activity taking place; and

d. Extensive research has been conducted, in New Jersey and elsewhere, which can serve as a sound basis for the development and adoption of a building code specifically designed to foster cost-effective housing rehabilitation while ensuring that necessary health and safety requirements are met; and

e. Furthermore, in addition to the need for prudent modification of code provisions applicable to rehabilitation of older housing structures, it appears that complaints have from time to time been made that the scope and rigidity of the existing State Uniform Construction Code, as currently adopted and applied, may make excessively stringent and onerous requirements that burden the provision of affordable housing with expenses without any commensurate benefit to the public health, safety and welfare.

C.52:27D-123.8 Development of building code to foster housing rehabilitation.

2. a. The Commissioner of Community Affairs is hereby directed to develop a building code specifically designed to foster cost-effective housing rehabilitation, while ensuring through its provisions that necessary health and safety requirements are met. The code shall be designed for use throughout the State but shall have particular application to the older cities of the State, and the housing types characteristic of those cities. The code shall supplement the State Uniform Construction Code, adopted pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.). The commissioner may promulgate this code as a separate document from the State Uniform Construction Code, or may, if he finds it feasible and useful, incorporate its provisions directly into, and make them an integral part of, that code.

b. In developing the code, the commissioner is directed to investigate any model codes, such as Chapter 34, "Existing Structures," of the "BOCA National Building Code/1993" and experiences of other code enforcement jurisdictions, to consult with individuals and organizations experienced in the rehabilitation of low and moderate income housing in New Jersey's urban areas, and conduct research as may be relevant to the purposes of this act.

c. The commissioner is further directed to undertake a study of the desirability of authorizing a procedure under which, in adopting the provisions of the standard or model codes upon which the State Uniform Construction Code is based, discretion may be accorded to the commissioner to modify, amplify or otherwise depart from any such provisions, without exceeding any of them in stringency, for the purpose of accommodating this State's construction code to the needs of the State and its various regions, particularly with respect to encouraging the provision of housing affordable to persons and families of low and moderate income.

d. The commissioner shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate the code prescribed in subsection a. of this section within six months of the effective date of this act; or, if he finds it impracticable to do so, shall make a written report to the Legislature setting forth the grounds of the impracticability and making such recommendations for further legislative action as he may deem likely to remove those grounds. Within the same period of time the commissioner shall also make his report and recommendations to the Legislature on the study directed by subsection c. of this section.

3. This act shall take effect immediately.

Approved April 11, 1995.

CHAPTER 79

AN ACT concerning continuing education requirements for pharmacists, supplementing chapter 14 of Title 45 of the Revised Statutes, and repealing P.L.1972, c.61.

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

C.45:14-11.11 Continuing education required of pharmacists.

1. The Board of Pharmacy of the State of New Jersey shall require each person registered as a pharmacist, as a condition for biennial certification pursuant to R.S.45:14-11 and P.L.1972, c.108 (C.45:1-7), to complete 30 credits of continuing pharma-

ceutical education and submit proof thereof, as provided in section 2 of this act, during each biennial registration period.

C.45:14-11.12 Standards for continuing education.

2. a. The board shall:

(1) Establish standards for continuing pharmaceutical education, including the subject matter and content of courses of study, the selection of instructors, and the type of continuing education credits required of a registered pharmacist as a condition for biennial certification;

(2) Approve educational programs offering credit towards the continuing pharmaceutical education requirements; and

(3) Approve other equivalent educational programs, including, but not limited to, home study courses, and shall establish procedures for the issuance of credit upon satisfactory proof of the completion of these programs.

b. In the case of education courses and programs, each hour of instruction shall be equivalent to one credit.

C.45:14-11.13 Program requirements.

3. a. In no event shall the board approve a continuing pharmaceutical education program, pursuant to subsection a. of section 2 of this act, that discriminates against any registered pharmacist in this State. The board shall only approve programs that are: provided on a reasonable nondiscriminatory basis; available to all registered pharmacists in this State; and offered in a manner that enables pharmacists from all areas of the State to attend. The board shall permit any pharmaceutical association or organization offering a continuing pharmaceutical education program approved by the board pursuant to section 2 of this act to impose a reasonable differential in registration fees for courses upon registered pharmacists who are not members of that pharmaceutical association or organization. The board may approve programs to be held within or outside of this State.

b. In no event shall the board grant credits for or approve as a component of a continuing pharmaceutical education program, pursuant to subsection a. of section 2 of this act: (1) participation in the routine business portion of any meeting of a pharmaceutical organization; or (2) any presentation that is offered to sell a product or promote a business enterprise.

C.45:14-11.14 Waiver, conditions.

4. The board may, in its discretion, waive requirements for continuing pharmaceutical education on an individual basis for

reasons of hardship such as illness or disability, retirement of the registration certificate, or other good cause.

C.45:14-11.15 Nonapplicability.

5. The board shall not require completion of continuing pharmaceutical education credits for an initial renewal of registration.

C.45:14-11.16 Carry-over of extra credits.

6. In the event a pharmacist completes a number of continuing education credit hours in excess of the number required by section 1 of this act, the board may allow that these credits be carried over to satisfy the pharmacist's continuing education requirement for the next biennial certification period, but shall not be applicable thereafter.

Repealer.

7. P.L.1972, c.61 (C.45:14-11.2 et seq.) is repealed.

8. This act shall take effect on the 90th day following enactment, except that the Board of Pharmacy of the State of New Jersey may, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate regulations to effectuate the provisions of this act immediately.

Approved April 11, 1995.

CHAPTER 80

AN ACT concerning the State program of financial assistance for persons with cystic fibrosis and amending P.L.1989, c.270.

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

1. Section 3 of P.L.1989, c.270 (C.26:2O-3) is amended to read as follows:

C.26:2O-3 Eligibility for financial assistance.

3. a. A person with cystic fibrosis is eligible for assistance under this act for the purchase of supplemental, nutritious foods and prescription drugs and medical supplies and equipment that are necessary for the treatment of cystic fibrosis, if the person is

18 years of age or older and (1) the person's annual income is less than $30,000; or (2) the person's annual income is $30,000 or greater, but the person has incurred, within the last 12 months, prescription drug and medical supplies and equipment costs related to the treatment of cystic fibrosis, the total cost of which, when deducted from the person's income, reduces the person's income to under $30,000.

b. A person with cystic fibrosis who is 18 years of age or older who has health insurance is eligible for financial assistance under this act of up to $500 per year to help meet the cost of the deductible on the insurance policy if the person's annual income is less than $30,000. This financial assistance may be provided in addition to assistance for the purchase of supplemental, nutritious foods and pharmaceutical drugs and medical supplies and equipment.

c. Beginning in January 1995 and annually thereafter, the income eligibility limits provided in subsections a. and b. of this section shall increase in accordance with the Consumer Price Index published by the federal government. The Commissioner of Health shall annually adopt the new income eligibility limits by regulation, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

2. This act shall take effect immediately.

Approved April 11, 1995.

CHAPTER 81

AN ACT concerning affordable housing units and amending P.L.1985, c.222.

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

1. Section 7 of P.L.1985, c.222 (C.52:27D-307) is amended to read as follows:

C.52:27D-307 Duties of council.

7. It shall be the duty of the council, seven months after the confirmation of the last member initially appointed to the council, or January 1, 1986, whichever is earlier, and from time to time thereafter, to:

a. Determine housing regions of the State;

b. Estimate the present and prospective need for low and moderate income housing at the State and regional levels;

c. Adopt criteria and guidelines for:

(1) Municipal determination of its present and prospective fair share of the housing need in a given region. Municipal fair share shall be determined after crediting on a one-to-one basis each current unit of low and moderate income housing of adequate standard, including any such housing constructed or acquired as part of a housing program specifically intended to provide housing for low and moderate income households. Notwithstanding any other law to the contrary, a municipality shall be entitled to a credit for a unit if it demonstrates that (a) the municipality issued a certificate of occupancy for the unit, which was either newly constructed or rehabilitated between April 1, 1980 and December 15, 1986; (b) a construction code official certifies, based upon a visual exterior survey, that the unit is in compliance with pertinent construction code standards with respect to structural elements, roofing, siding, doors and windows; (c) the household occupying the unit certifies in writing, under penalty of perjury, that it receives no greater income than that established pursuant to section 4 of P.L.1985, c.222 (C.52:27D-304) to qualify for moderate income housing; and (d) the unit for which credit is sought is affordable to low and moderate income households under the standards established by the council at the time of filing of the petition for substantive certification. It shall be sufficient if the certification required in subparagraph (c) is signed by one member of the household. A certification submitted pursuant to this paragraph shall be reviewable only by the council or its staff and shall not be a public record;

Nothing in P.L.1995, c.81 shall affect the validity of substantive certification granted by the council prior to November 21, 1994, or to a judgment of compliance entered by any court of competent jurisdiction prior to that date. Additionally, any municipality that received substantive certification or a judgment of compliance prior to November 21, 1994 and filed a motion prior to November 21, 1994 to amend substantive certification or a judgment of compliance for the purpose of obtaining credits, shall be entitled to a determination of its right to credits pursuant to the standards established by the Legislature prior to P.L.1995, c.81. Any municipality that filed a motion prior to November 21, 1994 for the purpose of obtaining credits, which motion was supported by the results of a completed survey performed pursuant to council rules, shall be

entitled to a determination of its right to credits pursuant to the standards established by the Legislature prior to P.L.1995, c.81;

(2) Municipal adjustment of the present and prospective fair share based upon available vacant and developable land, infrastructure considerations or environmental or historic preservation factors and adjustments shall be made whenever:

(a) The preservation of historically or important architecture and sites and their environs or environmentally sensitive lands may be jeopardized,

(b) The established pattern of development in the community would be drastically altered,

(c) Adequate land for recreational, conservation or agricultural and farmland preservation purposes would not be provided,

(d) Adequate open space would not be provided,

(e) The pattern of development is contrary to the planning designations in the State Development and Redevelopment Plan prepared pursuant to sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.),

(f) Vacant and developable land is not available in the municipality, and

(g) Adequate public facilities and infrastructure capacities are not available, or would result in costs prohibitive to the public if provided; and

(3) (Deleted by amendment, P.L.1993, c.31);

d. Provide population and household projections for the State and housing regions;

e. In its discretion, place a limit, based on a percentage of existing housing stock in a municipality and any other criteria including employment opportunities which the council deems appropriate, upon the aggregate number of units which may be allocated to a municipality as its fair share of the region's present and prospective need for low and moderate income housing. No municipality shall be required to address a fair share beyond 1,000 units within six years from the grant of substantive certification, unless it is demonstrated, following objection by an interested party and an evidentiary hearing, based upon the facts and circumstances of the affected municipality that it is likely that the municipality through its zoning powers could create a realistic opportunity for more than 1,000 low and moderate income units within that six-year period. For the purposes of this section, the facts and circumstances which shall determine whether a municipality's fair share shall exceed 1,000 units, as

provided above, shall be a finding that the municipality has issued more than 5,000 certificates of occupancy for residential units in the six-year period preceding the petition for substantive certification in connection with which the objection was filed.

In carrying out the above duties, including, but not limited to, present and prospective need estimations the council shall give appropriate weight to pertinent research studies, government reports, decisions of other branches of government, implementation of the State Development and Redevelopment Plan prepared pursuant to sections 1 through 12 of P.L.1985, c.398 and public comment. To assist the council, the State Planning Commission established under that act shall provide the council annually with economic growth, development and decline projections for each housing region for the next six years. The council shall develop procedures for periodically adjusting regional need based upon the low and moderate income housing that is provided in the region through any federal, State, municipal or private housing program.

2. This act shall take effect immediately and shall be retroactive to November 21, 1994.

Approved April 11, 1995.

CHAPTER 82

AN ACT concerning the practice of cosmetology and hairstyling and amending and supplementing P.L.1984, c.205.

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

1. Section 3 of P.L.1984, c.205 (C.45:5B-3) is amended to read as follows:

C.45:5B-3 Definitions.

3. As used in this act:

a. "Barber" means any person who is licensed to engage in any of the practices encompassed in barbering.

b. "Barbering" means any one or combination of the following practices when done on the human body for cosmetic purposes

and not for the treatment of disease or physical or mental ailments and when done for payment either directly or indirectly or when done without payment for the general public:

(1) shaving or trimming of the beard, mustache or other facial hair;

(2) shampooing, cutting, arranging, relaxing or styling of the hair;

(3) singeing or dyeing of the hair;

(4) applying cosmetic preparations, antiseptics, tonics, lotions or creams to the hair, scalp, face or neck;

(5) massaging, cleansing or stimulating the face, neck or scalp with or without cosmetic preparations, either by hand, mechanical or electrical appliances; or

(6) cutting, fitting, coloring or styling of hairpieces or wigs, to the extent that the services are performed while the wig is being worn by a person.

c. "Beautician" means any person who is licensed to engage in any of the practices encompassed in beauty culture.

d. "Beauty culture" means any one or combination of the following practices when done on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when done for payment either directly or indirectly or when done without payment for the general public:

(1) shampooing, cutting, arranging, dressing, relaxing, curling, permanent waving or styling of the hair;

(2) singeing, dyeing, tinting, coloring, bleaching of the hair;

(3) applying cosmetic preparations, antiseptics, tonics, lotions, creams or makeup to the hair, scalp, face, neck or upper part of the body;

(4) massaging, cleansing, or stimulating the face, scalp, neck or upper part of the body, with or without cosmetic preparations either by hand, mechanical or electrical appliances;

(5) removing superfluous hair from the face, neck, arms, legs or abdomen by the use of depilatories, waxing or tweezers, but not by the use of electrolysis;

(6) manicuring the fingernails, nail-sculpturing or pedicuring the toenails; or

(7) cutting, fitting, coloring or styling of hairpieces or wigs to the extent that the services are performed while the wig is being worn by a person.

e. "Board" means New Jersey State Board of Cosmetology and Hairstyling.

f. "Board of Barber Examiners" means the State Board of Barber Examiners established pursuant to P.L.1938, c.197 (C.45:4-27 et seq.).

g. "Board of Beauty Culture Control" means the Board of Beauty Culture Control established pursuant to Chapter 4A of Title 45 of the Revised Statutes.

h. "Clinic" means a designated portion of a licensed school in which members of the general public may receive cosmetology or hairstyling services from registered students in exchange for a fee which shall be calculated to recoup only the cost of materials used in the performance of those services.

i. "Cosmetologist-hairstylist" means any person who is licensed to engage in the practices encompassed in cosmetology and hairstyling.

j. "Cosmetology and hairstyling" means any one or combination of the following practices when done on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when done for payment either directly or indirectly or when done without payment for the general public:

(1) shaving or trimming of the beard, mustache or other facial hair;

(2) shampooing, cutting, arranging, dressing, relaxing, curling, permanent waving or styling of the hair;

(3) singeing, dyeing, tinting, coloring, bleaching of the hair;

(4) applying cosmetic preparations, antiseptics, tonics, lotions, creams or makeup to the hair, scalp, face or neck;

(5) massaging, cleansing or stimulating the face, neck or upper part of the body, with or without cosmetic preparations, either by hand, mechanical or electrical appliances;

(6) removing superfluous hair from the face, neck, arms, legs or abdomen by the use of depilatories, waxing or tweezers, but not by the use of electrolysis;

(7) manicuring the fingernails, nail-sculpturing or pedicuring the toenails;

(8) cutting, fitting, coloring or styling of hairpieces or wigs to the extent that the services are being performed while the wig is being worn by a person; or

(9) hairweaving to the extent that the procedure does not involve the replacement of human hair by means of the insertion of any natural or synthetic fiber hair into the scalp.

k. "Manicurist" means a person who holds a limited license to engage in only the practice of manicuring.

l. "Manicuring" means any one or combination of the following practices when done on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when done for payment directly or indirectly or when done without payment for the general public:

(1) manicuring of the fingernails;

(2) pedicuring of the toenails; or

(3) nail sculpturing.

m. "Owner" means any person, corporation, firm or partnership who has a financial interest in a school or shop entitling him to participate in the promotion, management and proceeds thereof. It does not include a person whose connection with a school or shop entitles him only to reasonable salary or wages for services actually rendered.

n. "Practicing licensee" means any person who holds a license to practice barbering, beauty culture, cosmetology and hairstyling, manicuring or as a skin care specialist.

o. "Registered student" means a person who is engaged in learning and acquiring a knowledge of any of the practices included in the definition of cosmetology and hairstyling under the direction and supervision of a person duly authorized under this act to teach cosmetology and hairstyling and who is enrolled in a program of instruction at a licensed school of cosmetology and hairstyling, completion of which may render him eligible for licensure pursuant to this act but does not mean a person who is enrolled in a public school vocational program in cosmetology and hairstyling approved by the State Board of Education.

p. "Registration card" means a document issued by the board to a registered student upon receipt of documentation from a licensed school of cosmetology and hairstyling that the student is enrolled.

q. "School" means an establishment or place licensed by the board to be maintained for the purpose of teaching cosmetology and hairstyling to registered students.

r. "Senior student" means a registered student who has successfully completed 600 hours of instruction in a cosmetology and hairstyling program, 100 hours of instruction in a manicuring program or 300 hours of instruction in a skin care specialty program offered at a licensed school of cosmetology and hairstyling or a student enrolled in an approved vocational training program who has completed 600 hours of instruction in a cosmetology and hair styling program, 100 hours of instruction in a manicuring program or 300 hours of instruction in a skin care specialty program.

s. "Student permit" means a permit issued to a senior student which enables him to practice cosmetology and hairstyling in a school clinic or shop while a registered student at a licensed school of cosmetology and hairstyling or enrolled in an approved vocational training program.

t. "Shop" means any fixed establishment or place where one or more persons engage in one or more of the practices included in the definition of cosmetology or hairstyling, barbering, beauty culture or manicuring.

u. "Teacher" means any person who is licensed by the board to give instruction or training in the theory or practice of cosmetology and hairstyling.

v. "Temporary permit" means a permit issued to applicants for licensure awaiting scheduling or results of an examination.

w. "Manicurist student permit" means a permit issued to a senior student in a manicuring program which enables him to practice manicuring in a school clinic or shop while a registered student at a licensed school of cosmetology and hairstyling or enrolled in an approved vocational program.

x. "Skin care specialist" means a person who holds a limited license to engage in only the practices included in the definition of skin care specialty.

y. "Skin care specialty" means any one or combination of the following practices when done on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when performed for payment either directly or indirectly or when performed without payment for the general public:

(1) applying cosmetic preparations, antiseptics, tonics, lotions, creams or makeup to the scalp, face or neck;

(2) massaging, cleansing or stimulating the face, neck or upper part of the body, with or without cosmetic preparations, either by hand, mechanical or electrical appliances; or

(3) removing superfluous hair from the face, neck, arms, legs or abdomen by the use of depilatories, waxing or tweezers, but not by the use of electrolysis.

z. "Skin care specialty student permit" means a permit issued to a senior student in a skin care specialty program which enables him to practice skin care in a school clinic or shop while a registered student at a licensed school of cosmetology and hairstyling or enrolled in an approved vocational program.

2. Section 6 of P.L.1984, c.205 (C.45:5B-6) is amended to read as follows:

C.45:5B-6 Duties of board.

6. The board shall:

a. Review the qualifications of applicants for licensure;

b. Devise examinations for licensure which include practical and written portions;

c. Administer and grade examinations or employ competent examiners to administer and grade examinations but in no case shall the board permit a person having any affiliation with a licensed school to examine or grade an applicant who has been a registered student at the school with which the examiner has an affiliation;

d. Issue and renew licenses of any cosmetologist-hairstylist, beautician, barber, manicurist, skin care specialist, teacher, shop, or school;

e. Issue student permits to senior students, manicuring students and skin care specialty students, which permits shall remain valid during the period that the student is registered at a licensed school or enrolled in an approved vocational training program;

f. Issue temporary permits to applicants for licensure who are awaiting scheduling for or results from an examination;

g. Issue registration cards to registered students;

h. Suspend, revoke or fail to renew a license and exercise investigative powers pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);

i. Appoint and employ an executive director and an assistant executive director subject to the approval of the Attorney General, and other employees as necessary to carry out the provisions of this act;

j. Determine the duties that the executive director and the assistant executive director shall perform;

k. File with the Attorney General a petition to remove any executive director or assistant executive director for cause, which petition shall be acted upon by the Attorney General in a manner which he deems appropriate;

l. Establish fees for initial licensure, permits, renewals and restoration of licenses as well as for duplication of lost licenses pursuant to section 2 of P.L.1974, c.46 (C.45:1-3.2);

m. Maintain records of all practicing licensees and all licensed teachers. Records shall include the latest work address of each licensee, as provided on applications for licensure and renewals thereof;

n. Maintain a record of all registered students and all persons holding student permits, manicuring student permits and skin care specialty student permits;

o. Maintain a record of all shops licensed by the board to offer one or more of the services encompassed within the definition of cosmetology and hairstyling;

p. Maintain a record of all schools licensed by the board to offer courses of instruction or training in the practice and theory of cosme-

tology and hairstyling to registered students, which courses shall be approved by the board for the awarding of credit for licensure;

q. Make available for public inspection all records required to be kept pursuant to this section;

r. Promulgate regulations governing the practice and teaching of cosmetology and hairstyling as are necessary to implement this act and to insure that cosmetology and hairstyling services and instruction in those services are being offered both in a manner which is sanitary and safe and in a manner which is not intended to deceive or mislead the general public;

s. Promulgate regulations governing the conduct of shops and schools as are necessary to implement this act and to assure that cosmetology and hairstyling services and instruction in those services are being offered both in a manner that is sanitary and safe, and in a manner not intended to deceive or mislead the general public, students of the schools, or organizations awarding financial aid to the students and to clarify or define any term used in the act and to define any activity included in hairstyling and cosmetology and beauty culture;

t. Review curricula offered by licensed schools in courses of instruction offered to registered students and approve those curricula which offer comprehensive training in cosmetology and hairstyling;

u. Direct the conduct of inspections or investigations of all licensed shops and schools; and

v. Direct the conduct of inspections or investigations of any premises from which the board may have reason to believe that cosmetology and hairstyling services are being offered, or that courses of instruction are being offered to registered students.

3. Section 8 of P.L.1984, c.205 (C.45:5B-8) is amended to read as follows:

C.45:5B-8 Premises exemptions.

8. No person shall offer or render any of the services encompassed within the definition of cosmetology and hairstyling in a place which is not licensed as a shop or school, except that a practicing licensee, duly licensed pursuant to this act, may render the services which he is licensed to offer:

a. Upon patients in hospitals, nursing homes, and other licensed health care facilities;

b. Upon inmates and residents of institutions of the Department of Corrections or the Department of Human Services;

c. Upon an invalid or handicapped person in the person's place of residence, if the practicing licensee is sponsored by a licensed shop and a record of those services is maintained by that shop;

d. Upon performers or models, prior to, in anticipation of or during a performance; or

e. Upon potential consumers of cosmetic preparations, lotions, creams, makeup or perfume which are intended for home use if the application of the product is made for the purposes of effecting a retail sale and the person neither accepts payment from the consumer for the service, nor makes the provision of the service contingent upon the purchase of any product or service.

4. Section 9 of P.L.1984, c.205 (C.45:5B-9) is amended to read as follows:

C.45:5B-9 Shop licenses.

9. No person, firm, corporation, partnership or other legal entity shall operate, maintain or use premises for the offering of or rendering of any one or more of the services encompassed in the definition of cosmetology and hairstyling without first having secured a shop license from the board.

5. Section 12 of P.L.1984, c.205 (C.45:5B-12) is amended to read as follows:

C.45:5B-12 Unlawful practices; persons.

12. In addition to any practice declared unlawful pursuant to P.L.1978, c.73 (C.45:1-14 et seq.), it shall be unlawful for any person to engage in the following practices:

a. Advertise in a manner which would tend to mislead consumers of cosmetology and hairstyling services;

b. Advertise, practice or attempt to practice under another's name or trade name;

c. Continue to practice while knowingly having an infectious, contagious or communicable disease which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling services;

d. Engage in fraudulent practices for the purpose of securing financial aid from any institution or agency offering that aid to students of cosmetology and hairstyling;

e. Aid, abet, or knowingly permit a person not licensed pursuant to this act to render any of the services encompassed within the definition of cosmetology and hairstyling;

f. Fail to display a practicing license at any place at which the licensee renders services; or

g. Engage in one or more of the practices included in the definition of cosmetology and hairstyling in premises not licensed as a shop or a school, except as provided in section 8 of this act.

6. Section 13 of P.L.1984, c.205 (C.45:5B-13) is amended to read as follows:

C.45:5B-13 Unlawful practices; shops, owners.

13. In addition to any practice declared unlawful pursuant to P.L.1978, c.73 (C.45:1-14 et seq.), it shall be unlawful for a licensed shop or shop owner to engage in the following practices:

a. Advertise in a manner which would tend to mislead consumers of cosmetology and hairstyling services;

b. Advertise, operate a shop or attempt to operate a shop under another's name or trademark;

c. Knowingly permit any practicing licensee to render services when that licensee has an infectious, contagious or communicable disease which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling services;

d. Aid, abet or permit a person not licensed pursuant to this act to render any of the services encompassed within the definition of cosmetology and hairstyling;

e. Maintain a shop in a manner which is unsafe or unsanitary;

f. Fail to display, in a conspicuous place, its shop license; or

g. Fail to employ one person with the required experience as provided in section 11 of this act.

7. Section 14 of P.L.1984, c.205 (C.45:5B-14) is amended to read as follows:

C.45:5B-14 Unlawful practices; schools, owners.

14. In addition to any practice declared unlawful pursuant to P.L.1978, c.73 (C.45:1-14 et seq.), it shall be unlawful for a licensed school or school owner to engage in the following practices:

a. Advertise in a manner which would tend to mislead potential students or consumers of cosmetology and hairstyling services offered within the school's clinic;

b. Advertise, operate a school or attempt to open a school under another's name or trade name;

c. Permit students to practice upon each other or members of the public while knowingly having an infectious, contagious or

communicable disease which could reasonably be expected to be transmitted during the course of teaching or rendering cosmetology and hairstyling services;

d. Permit teachers to demonstrate cosmetology and hairstyling services on students while knowingly having an infectious, contagious or communicable disease which could reasonably be expected to be transmitted during the course of teaching or rendering cosmetology and hairstyling services;

e. Engage in fraudulent practices for the purpose of securing financial aid from any institution or agency offering aid to students of cosmetology or hairstyling;

f. Aid, abet, or permit a person not licensed pursuant to this act to teach any of the services encompassed within the definition of cosmetology and hairstyling to registered students;

g. Maintain any premises from which the practice of cosmetology and hairstyling is offered, or the teaching of cosmetology and hairstyling is offered in a manner which is unsanitary or unsafe;

h. Fail to display, in a conspicuous place, its school license;

i. Fail to maintain accurate records of attendance by any registered student for at least five years after the student's enrollment ends, which records shall be subject to inspection by the board;

j. Fail to notify the board on forms it may prescribe of any student who obtains a leave of absence, fails to attend classes for a period of more than 90 consecutive days or withdraws from school; or

k. Fail to maintain the required bond during all periods of operation.

8. Section 15 of P.L.1984, c.205 (C.45:5B-15) is amended to read as follows:

C.45:5B-15 Unlawful practices; teachers.

15. In addition to any practice declared unlawful pursuant to P.L.1978, c.73 (C.45:1-14 et seq.), it shall be unlawful for a licensed teacher to engage in the following practices:

a. Advertise in a manner which would tend to mislead potential students or consumers of cosmetology and hairstyling services offered in the school clinic;

b. Advertise, teach or attempt to open a school under another person's name;

c. Knowingly permit students to practice upon each other or members of the public while having an infectious, contagious or communicable disease which could reasonably be expected to be

transmitted during the course of rendering cosmetology and hairstyling services;

d. Demonstrate cosmetology and hairstyling services on students while knowingly having an infectious, contagious or communicable disease which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling services;

e. Engage in fraudulent practices for the purpose of securing financial aid from any institution or agency offering aid to students of cosmetology and hairstyling;

f. Aid, abet or permit a person not licensed pursuant to this act to teach any of the services included in the definition of cosmetology and hairstyling to registered students;

g. Teach cosmetology and hairstyling in a manner which is unsatisfactory or unsafe;

h. Fail to display in a conspicuous place a valid teacher's license at the school; or

i. Fail to accurately and truthfully record attendance by registered students.

9. Section 16 of P.L.1984, c.205 (C.45:5B-16) is amended to read as follows:

C.45:5B-16 Application for licensure.

16. Each applicant for initial licensure as a practicing licensee shall submit to the board satisfactory evidence, on forms as the board requires, that he:

a. Is of good moral character;

b. Is at least 17 years of age; and

c. Does not have any communicable, contagious or infectious disease which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling services.

10. Section 25 of P.L.1984, c.205 (C.45:5B-25) is amended to read as follows:

C.45:5B-25 Student permits.

25. To be eligible to obtain a student permit, a manicurist student permit or a skin care specialty student permit, an applicant shall submit to the board satisfactory evidence that he:

a. Is a registered student in a course of instruction in cosmetology and hairstyling or manicuring or skin care, as appropriate, or is enrolled in a public school approved by the State Board of Education to offer a vocational program in cosmetology and hair-

styling or manicuring or skin care, as appropriate, and has completed 600 hours of a cosmetology and hairstyling course, 100 hours of a manicuring course or 300 hours of the skin care specialty course; and

b. Does not have a communicable, contagious or infectious disease which could reasonably be expected to be transmitted during the course of rendering cosmetology and hairstyling services.

All permits shall remain valid only during the period that the student is registered at a licensed school of cosmetology and hairstyling or enrolled in an approved vocational program and shall expire upon a student's graduation, withdrawal or leave of absence from the school or program for more than 90 consecutive days.

11. Section 29 of P.L.1984, c.205 (C.45:5B-29) is amended to read as follows:

C.45:5B-29 Reciprocity: beauty culture.

29. a. Applicants possessing a license to render services in another state or foreign country, which services are included within the definition of beauty culture pursuant to this act, may be issued a license to practice cosmetology and hairstyling in accordance with the provisions of section 18 of this act, if that jurisdiction has established eligibility criteria substantially similar to those established by the Board of Beauty Culture Control and in effect on the date of enactment of this act. The applicant shall pay a fee as required by the board and submit certification from the licensing jurisdiction. An applicant possessing a license to practice beauty culture services issued by a licensing authority from another state or a foreign country which has established eligibility criteria with respect to beauty culture training which are, in the opinion of the board, less stringent than those required by the Board of Beauty Culture Control on the date of enactment of this act, may, nevertheless, be eligible for licensure as a cosmetologist-hairstylist in accordance with the provisions of section 18 of this act if the applicant can present satisfactory evidence of prior practical experience of three years working in a licensed shop.

b. Applicants possessing a license to render services in another state or foreign country which was issued on or before December 4, 1985, which services are included within the definition of beauty culture pursuant to P.L.1984, c.205 (C.45:5B-1 et seq.), may be issued a license to practice beauty culture if that jurisdiction had established eligibility criteria substantially similar to

those established by the Board of Beauty Culture Control and in effect on the date of enactment of P.L.1984, c.205 (C.45:5B-1 et seq.). The applicant shall pay a fee as required by the board and submit certification from the licensing jurisdiction. An applicant possessing a license to practice beauty culture services issued by a licensing authority from another state or foreign country which was issued on or before December 4, 1985 which had established eligibility criteria with respect to beauty culture training which are, in the opinion of the board, less stringent then those required by the Board of Beauty Culture Control on the date of enactment of P.L.1984, c.205 (C.45:5B-1 et seq.), may, nevertheless, be eligible for licensure to practice beauty culture if the applicant can present satisfactory evidence of prior practical experience of three years working in a licensed shop.

12. Section 30 of P.L.1984, c.205 (C.45:5B-30) is amended to read as follows:

C.45:5B-30 Reciprocity: barbering.

30. a. Applicants possessing a license to render services in another state or a foreign country, which services are included within the definition of barbering pursuant to this act, may be issued a license to practice cosmetology and hairstyling in accordance with the provisions of section 19 of this act, if that jurisdiction has established eligibility criteria substantially similar to those established by the Board of Barber Examiners and in effect on the date of enactment of this act. The applicant shall pay a fee as required by the board and submit certification from the licensing jurisdiction.

An applicant possessing a license to practice barbering services issued by a licensing authority from another state or a foreign country which has established eligibility criteria which are, in the opinion of the board, less stringent than those required by the Board of Barber Examiners on the date of enactment of this act, may, nevertheless, be eligible for licensure as a cosmetologist-hairstylist in accordance with the provisions of section 19 of this act, if the applicant can present satisfactory evidence of prior practical experience of three years working in a licensed shop.

b. Applicants possessing a license to render services in another state or foreign country which was issued on or before December 4, 1985, which services are included within the definition of barbering pursuant to P.L.1984, c.205 (C.45:5B-1 et seq.), may be issued a license to practice barbering if that jurisdiction had established eligibility criteria substantially similar to those established by the Board of Barber Examiners and in effect on the

date of enactment of P.L.1984, c.205 (C.45:5B-1 et seq.). The applicant shall pay a fee as required by the board and submit certification from the licensing jurisdiction. An applicant possessing a license to practice barbering services issued by a licensing authority from another state or foreign country which was issued on or before December 4, 1985 which had established eligibility criteria with respect to barber training which are, in the opinion of the board, less stringent then those required by the Board of Barber Examiners on the date of enactment of P.L.1984, c.205 (C.45:5B-1 et seq.), may, nevertheless, be eligible for licensure as a barber if the applicant can present satisfactory evidence of prior practical experience of three years working in a licensed shop.

C.45:5B-22.1 License applicant; requirements for skin care specialist.

13. An applicant seeking initial licensure as a skin care specialist shall:

a. Demonstrate successful completion of high school or its equivalent; and

b. Demonstrate successful completion of a 600 hour course of instruction in the practice of a skin care specialty at

(1) a school of cosmetology and hairstyling licensed in this State; or

(2) a public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling; or

(3) a school of cosmetology and hairstyling, beauty culture or barbering licensed in another state or foreign country which, in the opinion of the board, offers curricula which is substantially similar to that offered at licensed schools within this State; and

c. Take and pass an examination conducted by the board, as provided by P.L.1984, c.205 (C.45:5B-1 et seq.).

C.45:5B-12.2 License under act required for certain practices.

14. a. No person shall represent himself or hold himself out as engaging in the practices encompassed in cosmetology and hairstyling, or manicuring or as a skin care specialist unless licensed under this act.

b. No person shall use the title or designation of "cosmetologist-hairstylist," "manicurist," or "skin care specialist" or any other title or designation suggesting that the person is a cosmetologist-hairstylist, manicurist or skin care specialist unless licensed under this act, and unless the title or designation corresponds to the license held by the person pursuant to this act.

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

Approved April 11, 1995.

CHAPTER 83

AN ACT concerning the composition and functions of the Council on Affordable Housing and amending P.L.1985, c.222.

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

1. Section 5 of P.L.1985, c.222 (C.52:27D-305) is amended to read as follows:

C.52:27D-305 Council on Affordable Housing established.

5. a. There is established in, but not of, the Department of Community Affairs a Council on Affordable Housing to consist of 11 members appointed by the Governor with the advice and consent of the Senate, of whom four shall be elected officials representing the interests of local government, at least one of whom shall be representative of an urban municipality having a population in excess of 40,000 persons and a population density in excess of 3,000 persons per square mile, at least one of whom shall be representative of a municipality having a population of 40,000 persons or less and a population density of 3,000 persons per square mile or less, and no more than one of whom may be a representative of the interests of county government; three shall represent the interests of households in need of low and moderate housing, one of whom shall represent the interests of the nonprofit builders of low and moderate income housing, and shall have an expertise in land use practices and housing issues, one of whom shall be the Commissioner of Community Affairs, ex officio, or his or her designee, who shall serve as chairperson and one of whom shall be the executive director of the agency, serving ex officio; one shall represent the interests of the for-profit builders of market rate homes, and shall have an expertise in land use practices and housing issues; and three shall represent the public interest. Not more than six of the 11 shall be members of the same political party. The membership shall be balanced to the greatest extent practicable among the various housing regions of the State.

b. The members shall serve for terms of six years, except that of the members first appointed, two shall serve for terms of four years, three for terms of five years, and three for terms of six years. All members shall serve until their respective successors are appointed and shall have qualified. Notwithstanding the above, a member appointed to represent the interests of local government shall serve only such length of the term for which appointed as the member continues to hold elected local office,

except that the term of a member so appointed shall not become vacant until 60 days after the member ceases to hold that elected office. Vacancies shall be filled in the same manner as the original appointments, but for the remainders of the unexpired terms only.

c. The members, excluding the executive director of the agency and the Commissioner of Community Affairs, shall be compensated at the rate of $150.00 for each six-hour day, or prorated portion thereof for more or less than six hours, spent in attendance at meetings and consultations and all members shall be eligible for reimbursement for necessary expenses incurred in connection with the discharge of their duties.

d. The Governor shall nominate the members within 30 days of the effective date of this act and shall designate a member to serve as chairman throughout the member's term of office and until his successor shall have been appointed and qualified.

e. Any member may be removed from office for misconduct in office, willful neglect of duty, or other conduct evidencing unfitness for the office, or for incompetence. A proceeding for removal may be instituted by the Attorney General in the Superior Court. A member or employee of the council shall automatically forfeit his office or employment upon conviction of any crime. Any member or employee of the council shall be subject to the duty to appear and testify and to removal from his office or employment in accordance with the provisions of P.L.1970, c.72 (C.2A:81-17.2a et seq.).

2. Section 12 of P.L.1985, c.222 (C.52:27D-312) is amended to read as follows:

C.52:27D-312 Regional contribution agreements.

12. a. A municipality may propose the transfer of up to 50% of its fair share to another municipality within its housing region by means of a contractual agreement into which two municipalities voluntarily enter. A municipality may also propose a transfer by contracting with the agency or another governmental entity designated by the council if the council determines that the municipality has exhausted all possibilities within its housing region. A municipality proposing to transfer to another municipality, whether directly or by means of a contract with the agency or another governmental entity designated by the council, shall provide the council with the housing element and statement required under subsection c. of section 11 of P.L.1985, c.222

(C.52:27D-311), and shall request the council to determine a match with a municipality filing a statement of intent pursuant to subsection e. of this section. Except as provided in subsection b. of this section, the agreement may be entered into upon obtaining substantive certification under section 14 of P.L.1985, c.222 (C.52:27D-314), or anytime thereafter. The regional contribution agreement entered into shall specify how the housing shall be provided by the second municipality, hereinafter the receiving municipality, and the amount of contributions to be made by the first municipality, hereinafter the sending municipality.

b. A municipality which is a defendant in an exclusionary zoning suit and which has not obtained substantive certification pursuant to this act may request the court to be permitted to fulfill a portion of its fair share by entering into a regional contribution agreement. If the court believes the request to be reasonable, the court shall request the council to review the proposed agreement and to determine a match with a receiving municipality or municipalities pursuant to this section. The court may establish time limitations for the council's review, and shall retain jurisdiction over the matter during the period of council review. If the court determines that the agreement provides a realistic opportunity for the provision of low and moderate income housing within the housing region, it shall provide the sending municipality a credit against its fair share for housing to be provided through the agreement in the manner provided in this section.

The agreement shall be entered into prior to the entry of a final judgment in the litigation. In cases in which a final judgment was entered prior to the date this act takes effect and in which an appeal is pending, a municipality may request consideration of a regional contribution agreement; provided that it is entered into within 120 days after this act takes effect. In a case in which a final judgment has been entered, the court shall consider whether or not the agreement constitutes an expeditious means of providing part of the fair share.

c. Regional contribution agreements shall be approved by the council, after review by the county planning board or agency of the county in which the receiving municipality is located. The council shall determine whether or not the agreement provides a realistic opportunity for the provision of low and moderate income housing within convenient access to employment opportunities. The council shall refer the agreement to the county

planning board or agency which shall review whether or not the transfer agreement is in accordance with sound, comprehensive regional planning. In its review, the county planning board or agency shall consider the master plan and zoning ordinance of the sending and receiving municipalities, its own county master plan, and the State development and redevelopment plan. In the event that there is no county planning board or agency in the county in which the receiving municipality is located, the council shall also determine whether or not the agreement is in accordance with sound, comprehensive regional planning. After it has been determined that the agreement provides a realistic opportunity for low and moderate income housing within convenient access to employment opportunities, and that the agreement is consistent with sound, comprehensive regional planning, the council shall approve the regional contribution agreement by resolution. All determinations of a county planning board or agency shall be in writing and shall be made within such time limits as the council may prescribe, beyond which the council shall make those determinations and no fee shall be paid to the county planning board or agency pursuant to this subsection.

d. In approving a regional contribution agreement, the council shall set forth in its resolution a schedule of the contributions to be appropriated annually by the sending municipality. A copy of the adopted resolution shall be filed promptly with the Director of the Division of Local Government Services in the Department of Community Affairs, and the director shall thereafter not approve an annual budget of a sending municipality if it does not include appropriations necessary to meet the terms of the resolution. Amounts appropriated by a sending municipality for a regional contribution agreement pursuant to this section are exempt from the limitations or increases in final appropriations imposed under P.L.1976, c.68 (C.40A:4-45.1 et seq.).

e. The council shall maintain current lists of municipalities which have stated an intent to enter into regional contribution agreements as receiving municipalities, and shall establish procedures for filing statements of intent with the council. No receiving municipality shall be required to accept a greater number of low and moderate income units through an agreement than it has expressed a willingness to accept in its statement, but the number stated shall not be less than a reasonable minimum number of units, not to exceed 100, as established by the council. The council shall require a project plan from a receiving municipality

prior to the entering into of the agreement, and shall submit the project plan to the agency for its review as to the feasibility of the plan prior to the council's approval of the agreement. The agency may recommend and the council may approve as part of the project plan a provision that the time limitations for contractual guarantees or resale controls for low and moderate income units included in the project shall be less than 30 years, if it is determined that modification is necessary to assure the economic viability of the project.

f. The council shall establish guidelines for the duration and amount of contributions in regional contribution agreements. In doing so, the council shall give substantial consideration to the average of: (1) the median amount required to rehabilitate a low and moderate income unit up to code enforcement standards; (2) the average internal subsidization required for a developer to provide a low income housing unit in an inclusionary development; (3) the average internal subsidization required for a developer to provide a moderate income housing unit in an inclusionary development. Contributions may be prorated in municipal appropriations occurring over a period not to exceed six years and may include an amount agreed upon to compensate or partially compensate the receiving municipality for infrastructure or other costs generated to the receiving municipality by the development. Appropriations shall be made and paid directly to the receiving municipality or municipalities or to the agency or other governmental entity designated by the council, as the case may be.

g. The council shall require receiving municipalities to file annual reports with the agency setting forth the progress in implementing a project funded under a regional contribution agreement, and the agency shall provide the council with its evaluation of each report. The council shall take such actions as may be necessary to enforce a regional contribution agreement with respect to the timely implementation of the project by the receiving municipality.

3. Section 20 of P.L.1985, c.222 (C.52:27D-320) is amended to read as follows:

C.52:27D-320 Neighborhood Preservation Nonlapsing Revolving Fund.

20. The Neighborhood Preservation Program within the Department of Community Affairs' Division of Housing and Development, established pursuant to the Commissioner of the Department of Community Affairs' authority under section 8 of P.L.1975, c.248 (C.52:27D-149), shall establish a separate Neigh-

borhood Preservation Nonlapsing Revolving Fund for monies appropriated by section 33 of this act.

a. The commissioner shall award grants or loans from this fund for housing projects and programs in municipalities whose housing elements have received substantive certification from the council, in municipalities receiving State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), in municipalities subject to builder's remedy as defined in section 28 of P.L.1985, c.222 (C.52:27D-328) or in receiving municipalities in cases where the council has approved a regional contribution agreement and a project plan developed by the receiving municipality. Programs and projects in any municipality shall be funded only after receipt by the commissioner of a written statement in support of the program or project from the municipal governing body.

b. The commissioner shall establish rules and regulations governing the qualifications of applicants, the application procedures, and the criteria for awarding grants and loans and the standards for establishing the amount, terms and conditions of each grant or loan.

c. During the first 12 months from the effective date of this act and for any additional period which the council may approve, the commissioner may assist affordable housing programs which are not located in municipalities whose housing elements have been granted substantive certification or which are not in furtherance of a regional contribution agreement; provided that the affordable housing program will meet all or part of a municipal low and moderate income housing obligation.

d. Amounts deposited in the Neighborhood Preservation Fund shall be targeted to regions based on the region's percentage of the State's low and moderate income housing need as determined by the council. Amounts in the fund shall be applied for the following purposes in designated neighborhoods:

(1) Rehabilitation of substandard housing units occupied or to be occupied by low and moderate income households;

(2) Creation of accessory apartments to be occupied by low and moderate income households;

(3) Conversion of nonresidential space to residential purposes; provided a substantial percentage of the resulting housing units are to be occupied by low and moderate income households;

(4) Acquisition of real property, demolition and removal of buildings, or construction of new housing that will be occupied by low and moderate income households, or any combination thereof;

(5) Grants of assistance to eligible municipalities for costs of necessary studies, surveys, plans and permits; engineering, architectural and other technical services; costs of land acquisition and any buildings thereon; and costs of site preparation, demolition and infrastructure development for projects undertaken pursuant to an approved regional contribution agreement;

(6) Assistance to a local housing authority, nonprofit or limited dividend housing corporation or association for rehabilitation or restoration of housing units which it administers which: (a) are unusable or in a serious state of disrepair; (b) can be restored in an economically feasible and sound manner; and (c) can be retained in a safe, decent and sanitary manner, upon completion of rehabilitation or restoration; and

(7) Other housing programs for low and moderate income housing, including, without limitation, (a) infrastructure projects directly facilitating the construction of low and moderate income housing not to exceed a reasonable percentage of the construction costs of the low and moderate income housing to be provided and (b) alteration of dwelling units occupied or to be occupied by households of low or moderate income and the common areas of the premises in which they are located in order to make them accessible to handicapped persons.

e. Any grant or loan agreement entered into pursuant to this section shall incorporate contractual guarantees and procedures by which the division will ensure that any unit of housing provided for low and moderate income households shall continue to be occupied by low and moderate income households for at least 20 years following the award of the loan or grant, except that the division may approve a guarantee for a period of less than 20 years where necessary to ensure project feasibility.

4. This act shall take effect immediately.

Approved April 11, 1995.

CHAPTER 84

AN ACT concerning transportation, amending P.L.1984, c.73, and supplementing Title 27 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.1984, c.73 (C.27:1B-2) is amended to read as follows:

C.27:1B-2 Findings, declarations.

2. The Legislature finds and declares that:

a. A sound, balanced transportation system is vital to the future of the State and is a key factor in its continued economic development.

b. The transportation infrastructure of the State is among the most heavily used in the nation and has deteriorated alarmingly in recent years, with parts of the highway system reaching the end of their useful lives. This deterioration has been caused, in part, because New Jersey, unlike most states and the federal government, has not provided a stable source of transportation funding.

c. There exists an urgent need for a stable and assured method of financing the planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of the State's transportation system, including the financing of the State's share under federal aid highway laws of the cost of planning, acquisition, engineering, construction, reconstruction, repair, resurfacing, and rehabilitation of public highways and of the State's share of the planning, acquisition, engineering, construction, reconstruction, repair, maintenance and rehabilitation of public transportation projects and other transportation projects in the State, that will enable the State to construct and maintain the safe, balanced, sound and efficient transportation system necessary for the well-being of the State's citizens.

d. Unless additional State funding is provided immediately for the State's transportation system, the cost of repair and reconstruction will increase geometrically and the economic well-being and safety of users of the State's transportation system will be endangered.

e. Transportation facilities under the jurisdiction of counties and municipalities form an integral and vital part of the State's transportation system. Without State aid, counties and municipalities will be unable to meet the cost of maintaining, rehabilitating and improving these facilities.

f. The State's commitment to the payment for and financing of the State transportation system in a stable fashion, thus ensuring a predictable and continuing public investment in transportation and allowing the State to take full advantage of funds provided by the federal government, is a public use and

public purpose for which public money may be expended and tax exemptions granted. The powers and duties of the New Jersey Transportation Trust Fund Authority and the other measures hereinafter described are necessary and proper for the purpose of achieving the ends herein recited.

g. Mass transit passenger service is a vital component of the transportation system in the northern part of the State. Because transit service is of such importance to that region, it is paramount that an essential group of related transit projects be constructed. These projects, known as the Circle of Mobility, would add connections to and between urban centers, ease the movement of people, goods, and services within and through the State, and enhance the economic growth of the State. However, these significant benefits cannot be completely realized unless all projects comprising the Circle of Mobility are undertaken and completed in a timely manner.

2. Section 3 of P.L.1984, c.73 (C.27:1B-3) is amended to read as follows:

C.27:1B-3 Definitions.

3. The following words or terms as used in this act shall have the following meaning unless a different meaning clearly appears from the context:

a. "Act" means this New Jersey Transportation Trust Fund Authority Act of 1984.

b. "Authority" means the New Jersey Transportation Trust Fund Authority created by section 4 of this act.

c. "Bonds" means bonds issued by the authority pursuant to the act.

d. "Commissioner" means the Commissioner of Transportation.

e. "Department" means the Department of Transportation.

f. "Federal aid highway" means any highway within the State in connection with which the State receives payment or reimbursement from the federal government under the terms of Title 23, United States Code or any amendment, successor, or replacement thereof, for the purposes contained in the act.

g. "Federal government" means the United States of America, and any officer, department, board, commission, bureau, division, corporation, agency or instrumentality thereof.

h. "New Jersey Expressway Authority" means the public corporation created by section 4 of chapter 10 of the Laws of New Jersey of 1962 as amended or its successor.

i. "New Jersey Highway Authority" means the public corporation created by section 4 of chapter 16 of the Laws of New Jersey of 1952 as amended or its successor.

j. "New Jersey Turnpike Authority" means the public corporation created by section 3 of chapter 454 of the Laws of New Jersey of 1948 as amended or its successor.

k. "Notes" means the notes issued by the authority pursuant to the act.

l. "Public highways" means public roads, streets, expressways, freeways, parkways, motorways and boulevards, including bridges, tunnels, overpasses, underpasses, interchanges, rest areas, express bus roadways, bus pullouts and turnarounds, park-ride facilities, traffic circles, grade separations, traffic control devices, the elimination or improvement of crossings of railroads and highways, whether at grade or not at grade, and any facilities, equipment, property, rights of way, easements and interests therein needed for the construction, improvement and maintenance of highways.

m. "Public transportation project" means, in connection with public transportation service, passenger stations, shelters and terminals, automobile parking facilities, ramps, track connections, signal systems, power systems, information and communication systems, roadbeds, transit lanes or rights of way, equipment storage and servicing facilities, bridges, grade crossings, rail cars, locomotives, motorbuses and other motor vehicles, maintenance and garage facilities, revenue handling equipment and any other equipment, facility or property useful for or related to the provision of public transportation service.

n. "State agency" means any officers, department, board, commission, bureau, division, agency or instrumentality of the State.

o. "Toll road authorities" means and includes the New Jersey Turnpike Authority, the New Jersey Highway Authority and the New Jersey Expressway Authority.

p. "Transportation project" means, in addition to public highways and public transportation projects, any equipment, facility or property useful or related to the provision of any ground, waterborne or air transportation for the movement of people and goods.

q. "Transportation system" means public highways, public transportation projects, other transportation projects, and all other methods of transportation for the movement of people and goods.

r. "Maintenance" means, in relation to public transportation projects, direct costs of work necessary for preserving or maintaining the useful life of public transportation projects, provided

the work performed is associated with the acquisition, installation and rehabilitation of components which are not included in the normal operating maintenance of equipment and facilities or replaced on a scheduled basis. The work shall ensure the useful life of the project for not less than four years and shall not include routine maintenance or inspection of equipment and facilities that is conducted on a scheduled basis. This definition shall not apply to the term "maintenance" as used in subsection l. of this section.

s. "Circle of Mobility" means an essential group of related transit projects that include (1) the New Jersey Urban Core Project, as defined in section 3031 of the "Intermodal Surface Transportation Efficiency Act of 1991," Pub. L. 102-240, and consisting of the following elements: Secaucus Transfer, Kearny Connection, Waterfront Connection, Northeast Corridor Signal System, Hudson River Waterfront Transportation System, Newark-Newark International Airport-Elizabeth Transit Link, a rail connection between Penn Station Newark and Broad Street Station, Newark, New York Penn Station Concourse, and the equipment needed to operate revenue service associated with improvements made by the project, and (2) the modification and reconstruction of the West Shore Line in Bergen County connected to Allied Junction/Secaucus Transfer Meadowlands Rail Center; the construction of a rail station and associated components at the Meadowlands Sports Complex; the modification and reconstruction of the Susquehanna and Western Railway, as defined and provided in section 3035 (a) of the "Intermodal Surface Transportation Efficiency Act of 1991"; and the modification and reconstruction of the Lackawanna Cutoff Commuter Rail Line connecting Morris, Sussex and Warren Counties to the North Jersey Transportation Rail Centers.

C.27:1B-22.1 Circle of Mobility projects; inclusion on list, annual funding; completion.

3. a. The Commissioner of Transportation shall annually include in the list of proposed projects submitted to the Legislature pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22) annual funding for such projects as are necessary to complete the Circle of Mobility, as defined in section 3 of P.L.1984, c.73 (C.27:1B-3). The Legislature shall annually appropriate from the revenues and other funds of the New Jersey Transportation Trust Fund Authority such sums as are necessary to effectuate this completion.

b. The New Jersey Transit Corporation shall proceed expeditiously to complete the Circle of Mobility. To insure adherence to

this requirement, the corporation shall provide a schedule for this completion, as well as periodic progress reports on the status of the various projects comprising the Circle of Mobility, including but not limited to project descriptions, the construction status to date of each project, additional work required, together with related time schedules to complete each project, the amounts and sources of funds appropriated to date and the estimated additional amounts and sources of funds needed to complete each project, and any modification to the original scope of a project, to the Senate Transportation Committee, the Assembly Transportation and Communications Committee, the Senate Legislative Oversight Committee, and the Assembly Regulatory Oversight Committee, with the schedule due 60 days after the effective date of this act and the progress reports at six month intervals thereafter.

4. This act shall take effect immediately.

Approved April 12, 1995.

CHAPTER 85

AN ACT establishing a complaint and information telephone hotline in the Department of Human Services for recipients of certain services and amending P.L.1991, c.524.

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

1. Section 1 of P.L.1991, c.524 (C.30:1-1.1) is amended to read as follows:

C.30:1-1.1 Comprehensive social services information toll-free telephone hotline service established.

1. a. The Commissioner of Human Services, in consultation with the Commissioners of Community Affairs, Health and Labor, shall establish and maintain on a 24-hour daily basis a comprehensive social services information toll-free telephone hotline service, operating through one of the existing telephone hotline services of the department. The hotline service shall use a computerized Statewide social services data bank to be developed

by the Department of Human Services and shall include among its staff persons who speak English and Spanish. The hotline service shall receive and respond to calls from persons seeking information and referrals concerning agencies and programs which provide various social services, including but not limited to: child care, child abuse emergency response, job skills training, services for victims of domestic violence, alcohol and drug abuse, home health care, senior citizen programs, rental assistance, services for persons with developmental disabilities, mental health programs, emergency shelter assistance, family planning, legal services, assistance for runaways and services for the deaf and hearing impaired, as well as information about public assistance, Medicaid, Pharmaceutical Assistance to the Aged and Disabled, Lifeline, Hearing Aid Assistance for the Aged and Disabled, food stamps and home energy assistance.

b. The Commissioner of Human Services, in conjunction with the Commissioners of Community Affairs, Health and Labor, shall take such actions as are necessary to consolidate existing State telephone hotline services into the comprehensive social services information toll-free telephone hotline service, and thereby eliminate duplicative telephone hotline services.

c. Notwithstanding the provisions of subsection b. of this section to the contrary, the Commissioner of Human Services shall also establish and maintain a toll-free telephone hotline service for persons who are receiving institutional or community-based services from, or through an agency contracting with, the Division of Mental Health and Hospitals or the Division of Developmental Disabilities, or their parents, guardians or other responsible persons, to register complaints, request information or assistance, or discuss issues and problems, regarding those services in a confidential manner.

2. This act shall take effect immediately.

Approved April 13, 1995.

CHAPTER 86

AN ACT concerning manicuring services and the licensing of shops and amending P.L.1984, c.205.

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

1. Section 31 of P.L.1984, c.205 (C.45:5B-31) is amended to read as follows:

C.45:5B-31 Shop owners; application; inspection; fees; employment of practicing licensee.

31. a. A person, corporation, firm or partnership intending to open a shop shall:

(1) Make application to the board on forms as it may require demonstrating that the physical premises and the operation of the shop will meet minimum criteria as established by the board;

(2) Permit an inspection of the premises;

(3) Pay a fee as may be required by the board;

(4) Employ a practicing licensee with the required experience pursuant to section 11 of P.L.1984, c.205 (C.45:5B-11).

b. Nothing contained in P.L.1984, c.205 (C.45:5B-1 et seq.) shall be construed to preclude a person licensed as a manicurist, beautician or cosmetologist-hairstylist from obtaining a shop license for a shop which offers only manicuring services as enumerated in subsection l. of section 3 of P.L.1984, c.205 (C.45:5B-3); the minimum criteria established by the board by regulation for such a shop shall be appropriate to the practice offered by the shop, without regard to the practices not offered by the shop.

2. This act shall take effect immediately.

Approved April 13, 1995.

CHAPTER 87

AN ACT permitting the appointment of alternate deputy registrars and amending various parts of the statutory law.

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

1. R.S.26:8-17 is amended to read as follows:

Local registrar; appointment of deputy, alternate deputy registrar.

26:8-17. The local registrar, immediately upon acceptance of the appointment, shall appoint a deputy to assist in the normal, day-to-

day operation of the office and whose duty shall be to act in the registrar's stead in case of absence, disability or death of the registrar. In case of death of the local registrar the deputy shall act as local registrar until a new local registrar has been appointed and qualified.

In addition to a deputy registrar, the local registrar may appoint one or two alternate deputy registrars if the local registrar deems such an appointment to be necessary for the office to function efficiently and to provide quality service to the public. The deputy registrar and alternate deputy registrar shall have the authority to receive birth certificates and death certificates; to issue burial permits, and copies of birth, death, and marriage certificates; to take the oath on marriage license applications; and to issue marriage licenses. The deputy registrar and alternate deputy registrar shall receive instructions from and perform their duties under the direct supervision of the registrar, who shall be the final authority with the responsibility of fulfilling the duties of the local registrar outlined in R.S.26:8-25. The deputy registrar and any alternate deputy registrar shall serve at the pleasure of the local registrar.

2. R.S.26:8-19 is amended to read as follows:

Removal from office.

26:8-19. Any local registrar, deputy registrar, alternate deputy registrar, or subregistrar, who in the judgment of the State department fails or neglects to discharge efficiently the duties of his office as set forth in this chapter or chapter 6 of this Title (R.S.26:6-1 et seq.), as well as chapter 1 of Title 37 of the Revised Statutes, may be removed by the State department, and he shall also be subject to such penalties as are provided by this chapter. Upon such removal the office shall be deemed vacant.

3. R.S.26:8-20 is amended to read as follows:

Nonapplicability.

26:8-20. The provisions of this chapter fixing the terms of office and providing methods of appointment and removal shall not apply to the positions of local registrar, deputy registrar, alternate deputy registrar, or subregistrar in municipalities operating under the provisions of the "Civil Service Act," Title 11A of the New Jersey Statutes.

4. R.S.26:8-21 is amended to read as follows:

Applicability of chapter.

26:8-21. Every provision of this chapter, of chapter 6 of this Title (R.S.26:6-1 et seq.), as well as chapter 1 of Title 37 of the Revised Statutes, and of the rules and regulations of the State department applicable to local registrars in the registration of vital records, and the issuance of burial or removal, and transit permits, shall apply to deputy registrars, alternate deputy registrars, and subregistrars with the exception that the prohibitions in section 26:6-16 against appointment of physicians or funeral directors need not apply to subregistrars if their appointment would be advantageous for efficient registration of vital records.

5. R.S.26:8-22 is amended to read as follows:

Oath of office.

26:8-22. Before entering upon their respective duties the state registrar, local registrar, deputy local registrar, alternate deputy registrar, and subregistrar shall take an oath to perform faithfully and impartially the duties of his office. The oath of the state registrar shall be filed with the state department and the oaths of the local registrar, deputy local registrar, alternate deputy registrar, and subregistrar shall be filed with the local board. If any such oath is not filed within ten days after the appointment, the office shall be deemed vacant.

6. This act shall take effect immediately.

Approved April 13, 1995.

CHAPTER 88

AN ACT concerning private sales of county or municipal lands to certain nonprofit organizations or associations and amending P.L.1971, c.199.

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

1. Section 21 of P.L.1971, c.199 (C.40A:12-21) is amended to read as follows:

C.40A:12-21 Private sales to certain organizations upon nominal consideration.

21. Private sales to certain organizations upon nominal consideration. When the governing body of any county or municipality shall determine that all or any part of a tract of land, with or without improvements, owned by the county or municipality, is not then needed for county or municipal purposes, as the case may be, said governing body, by resolution or ordinance, may authorize a private sale and conveyance of the same, or any part thereof without compliance with any other law governing disposal of lands by counties and municipalities, for a consideration, which may be nominal, and containing a limitation that such lands or buildings shall be used only for the purposes of such organization or association, and to render such services or to provide such facilities as may be agreed upon, and not for commercial business, trade or manufacture, and that if said lands or buildings are not used in accordance with said limitation, title thereto shall revert to the county or municipality without any entry or reentry made thereon on behalf of such county or municipality, to

(a) A duly incorporated volunteer fire company or board of fire commissioners or first aid and emergency or volunteer ambulance or rescue squad association of a municipality within the county, in the case of a county, or of the municipality, in the case of a municipality, for the construction thereon of a firehouse or fire school or a first aid and emergency or volunteer ambulance or rescue squad building or for the use of any existing building for any or all of said purposes and any such land or building sold to any duly incorporated volunteer fire company may be leased by such fire company to any volunteer firemen's association for the use thereof for fire school purposes for the benefit of the members of such association, or

(b) Any nationally chartered organization or association of veterans of any war, in which the United States has or shall have been engaged, by a conveyance for consideration, a part of which may be an agreement by the organization or association to render service or to provide facilities for the general public of the county or municipality, of a kind which the county or municipality may furnish to its citizens and to the general public, or

(c) A duly incorporated nonprofit hospital association for the construction or maintenance thereon of a general hospital, or

(d) Any paraplegic veteran, that is to say, any officer, soldier, sailor, marine, nurse or other person, regularly enlisted or inducted, who was or shall have been in the active military or

naval forces of the United States in any war in which the United States was engaged, including any member of the American Merchant Marine during World War II who is declared by the United States Department of Defense to be eligible for federal veterans' benefits, and who, at the time he was commissioned, enlisted, inducted, appointed or mustered into such military or naval service, was a resident of and who continues to reside in this State, who is suffering from paraplegia and has permanent paralysis of both legs or the lower parts of the body resulting from injuries sustained through enemy action or accident while in such active military or naval service, for the construction of a home to domicile him, or to any organization or association of veterans, for the construction of a home or homes to domicile paraplegic veterans, with powers to convey said lands and premises to the paraplegic veteran or veterans on whose behalf said organization or association shall acquire title to said land, or

(e) Any duly incorporated nonprofit association or any regional commission or authority composed of one or more municipalities or one or more counties for the construction or maintenance thereon of an animal shelter, or

(f) Any duly incorporated nonprofit historical society for the acquisition of publicly owned historic sites for their restoration, preservation, improvement and utilization for the benefit of the general public, or

(g) Any duly incorporated nonprofit cemetery organization or association serving the residents of the municipality or county, or

(h) Any duly incorporated nonprofit organization for the principal purpose of the education or treatment of persons afflicted with developmental disabilities including cerebral palsy, or

(i) Any county or municipal sewerage authority serving the residents of the county or municipality, for the use thereof for sewerage authority purposes, or

(j) Any duly incorporated nonprofit organization for the purpose of building or rehabilitating residential property for resale. Any profits from the resale of the property shall be applied by the nonprofit organization to the costs of acquiring and rehabilitating other residential property in need of rehabilitation owned by the county or municipality, or

(k) Any duly incorporated nonprofit organization or association, other than a political, partisan, sectarian, denominational or religious organization or association, which includes among its principal purposes the provision of educational, recreational,

medical or social services to the general public, including residents of the county or municipality, or

(l) Any duly incorporated nonprofit housing corporation or any limited-dividend housing corporation or housing association organized pursuant to P.L.1949, c.184 (C.55:16-1 et seq.) for the purpose of constructing housing for low or moderate income persons or families or handicapped persons, or

(m) Any duly incorporated nonprofit hospice organization whose principal purpose is to provide hospice services to the terminally ill.

2. This act shall take effect immediately.

Approved April 13, 1995.

CHAPTER 89

AN ACT designating the shell of the knobbed whelk as the New Jersey State Shell.

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

C.52:9AAAAAAA-1 Designation of State shell.

1. The shell of the knobbed whelk (busycon carica (gmelin)) is designated the New Jersey State Shell.

2. This act shall take effect immediately.

Approved April 13, 1995.

CHAPTER 90

AN ACT concerning the office of register of deeds and mortgages in certain counties and amending N.J.S.40A:9-80.

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

1. N.J.S.40A:9-80 is amended to read as follows:

Existing offices of register of deeds and mortgages, confirmed, continued; exceptions.

40A:9-80. The office of register of deeds and mortgages heretofore established and now in existence in any county is confirmed and shall be continued until altered or abolished as provided by law, except that in a county in which the office of register of deeds and mortgages initially was established pursuant to P.L.1875, c.CXXXV (c.135), the office of register of deeds and mortgages shall be consolidated with the office of county clerk. In any such county, the statutory provisions applicable to the powers, functions and duties of the register of deeds and mortgages shall pertain to the county clerk, pursuant to N.J.S.40A:9-87.

2. This act shall take effect on January 1, 1996.

Approved April 13, 1995.

CHAPTER 91

AN ACT concerning the powers of county executives over certain authorities 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 37 of P.L.1972, c.154 (C.40:41A-37) is amended to read as follows:

C.40:41A-37 Powers of county executive.

37. The county executive:

a. Shall supervise, direct and control all county administrative departments;

b. With the advice and consent of the board, shall appoint the county counsel, the administrator, the heads of all departments and any divisions created within such departments, and the members of all county boards, commissions and authorities;

c. May, at his discretion, remove or suspend any official in the unclassified service of the county over whose office the county executive has power of appointment in accordance with the provisions of section 87b.;

d. May, at his discretion, but subject to any pertinent provisions of the administrative code or civil service requirements, delegate to department heads powers of appointment and removal of their departmental employees. If the county executive does not so delegate his power he may appoint and remove, subject to civil service requirements, all employees whose positions have been created in accordance with the administrative code, and the manner of whose appointment is not specified elsewhere in this article;

e. May require reports and examine the accounts, records and operations of any agency of county government;

f. May at his discretion order any agency under his jurisdiction as specified in the administrative code to undertake any task for any other agency on a temporary basis if he deems it necessary for the proper and efficient administration of the county government to do so;

g. Shall approve each ordinance of the board by signing it, or may veto any ordinance by returning it to the clerk of the board within 10 days of passage with a written statement of his objections to the ordinance. If two-thirds of the full membership of the board, upon reconsideration of the measure, shall vote for it, the executive's veto shall be overridden and the ordinance shall become law without the executive's signature in accordance with the provisions of law;

h. Shall review and approve or veto, within 10 days of delivery to him, except as otherwise provided herein, all or part of the minutes of every meeting of a county authority organized pursuant to the provisions of P.L.1946, c.138 (C.40:14A-1 et seq.), P.L.1957, c.183 (C.40:14B-1 et seq.) or P.L.1960, c.183 (C.40:37A-44 et seq.). If, within the 10-day period, the county executive returns to the authority and to the board of freeholders the copy of the minutes with a veto of any action taken by the authority or any member thereof at a meeting, together with a written explanation of the reasons for his veto of the action, that action shall be of no effect unless the board of freeholders overrides the veto of the action by a majority vote of its full membership within 10 days of the receipt of the veto action. The county executive may approve all or any part of an action taken at a meeting prior to the expiration of the 10-day period. If the county executive takes no action with respect to the minutes within the 10-day period, the minutes shall be deemed to be approved. The veto powers accorded under this subsection shall not affect in any way the covenants contained in the bond inden-

tures of the authority, or any collective bargaining agreement or binding arbitration decisions affecting employees of the authority.

No resolution or other action of the authority providing for the issuance or refunding of bonds or other financial obligations shall be adopted or otherwise made effective by the authority without the prior approval in writing of the county executive. This power shall be exercised with due regard for the rights of the holders of bonds of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or for the benefit, protection or security of the holders thereof.

If two-thirds or more of the members of an authority make a determination that an action taken at a meeting is in response to an emergency situation, a copy of the minutes of that meeting shall be delivered to the county executive as soon as practicable following the meeting and the county executive shall have up to 24 hours after the copy of the minutes has been delivered to approve or veto the minutes of that meeting. If the county executive takes no action with respect to the minutes within the 24-hour period, the minutes shall be deemed approved. If, within the 24-hour period, the county executive returns to the authority and to the board of freeholders the copy of the minutes with a veto of any action taken by the authority or any member thereof at the meeting, together with a written explanation of the reasons for his veto of the action, that action shall be of no effect unless the board of freeholders overrides the veto of the action by a majority vote of its full membership within 48 hours of the receipt of the veto action.

2. Section 5 of P.L.1946, c.138 (C.40:14A-5) is amended to read as follows:

C.40:14A-5 Powers of sewerage authority.

5. (a) The powers of a sewerage authority shall be vested in the members thereof in office from time to time. A majority of the entire authorized membership of the sewerage authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the sewerage authority at any meeting of the members thereof by vote of a majority of the members present, unless in any case the by-laws of the sewerage

authority shall require a larger number. The sewerage authority may delegate to one or more of its officers, agents or employees such powers and duties as it may deem proper.

The minutes of every meeting of an authority created by a county organized pursuant to the provisions of the "county executive plan" of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.) shall be delivered by the end of the fifth business day following the meeting, except as otherwise provided herein, by and under the certification of the secretary of the authority to the county executive. Except as otherwise provided herein, no action taken at a meeting by the members of an authority shall be effective until approved by the county executive or until 10 days after the copy of the minutes shall have been delivered. If, within the 10-day period, the county executive returns to the authority and to the board of freeholders the copy of the minutes with a veto of any action taken by the authority or any member thereof at a meeting, together with a written explanation of the reasons for his veto of the action, that action shall be of no effect unless the board of freeholders overrides the veto of the action by a majority vote of its full membership within 10 days of the receipt of the veto action. The county executive may approve all or any part of an action taken at a meeting prior to the expiration of the 10-day period. If the county executive takes no action with respect to the minutes within the 10-day period, the minutes shall be deemed to be approved. The veto powers accorded under this subsection shall not affect in any way the covenants contained in the bond indentures of the authority, or any collective bargaining agreement or binding arbitration decisions affecting employees of the authority.

No resolution or other action of the authority providing for the issuance or refunding of bonds or other financial obligations shall be adopted or otherwise made effective by the authority without the prior approval in writing of the county executive. This power shall be exercised with due regard for the rights of the holders of bonds of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or for the benefit, protection or security of the holders thereof.

If two-thirds or more of the members of an authority make a determination that an action taken at a meeting is in response to

an emergency situation, a copy of the minutes of that meeting shall be delivered to the county executive as soon as practicable following the meeting and the county executive shall have up to 24 hours after the copy of the minutes has been delivered to approve or veto the minutes of that meeting. If the county executive takes no action with respect to the minutes within the 24-hour period, the minutes shall be deemed approved. If, within the 24-hour period, the county executive returns to the authority and to the board of freeholders the copy of the minutes with a veto of any action taken by the authority or any member thereof at the meeting, together with a written explanation of the reasons for his veto of the action, that action shall be of no effect unless the board of freeholders overrides the veto of the action by a majority vote of its full membership within 48 hours of the receipt of the veto action.

(b) Each member of a sewerage authority shall hold office for the term for which he was appointed and until his successor has been appointed and has qualified.

(c) No member, officer or employee of a sewerage authority shall have or acquire any interest, direct or indirect, in the sewerage system or in any property included or planned to be included in the sewerage system or in any contract or proposed contract for materials or services to be furnished to or used by the sewerage authority, but neither the holding of any office or employment in the government of any county or municipality or under any law of the State nor the owning of any property within the State shall be deemed a disqualification for membership in or employment by a sewerage authority, and members of the governing body of a local unit may be appointed by such governing body and may serve as members of a sewerage authority. A member of a sewerage authority may be removed only by the governing body by which he was appointed and only for inefficiency or neglect of duty or misconduct in office and after he shall have been given a copy of the charges against him and, not sooner than ten days thereafter, had opportunity in person or by counsel to be heard thereon by such governing body.

(d) A sewerage authority may reimburse its members for necessary expenses incurred in the discharge of their duties. The resolution, ordinance or parallel ordinances for the creation of a sewerage authority may provide that the members of the sewerage authority may receive compensation for their services within an annual and other limitations to be stated in such resolution, ordinance or parallel ordinances, and in that event, each member may receive from the sewerage authority such compensation for his

services as the sewerage authority may determine within the limitations stated in such resolution, ordinance or parallel ordinances. The said annual or other limitations stated in any such resolution, ordinance or parallel ordinances may be amended by subsequent resolution, ordinance or parallel ordinances, as the case may be, but no reduction of any such limitation shall be effective as to any member of the sewerage authority then in office except upon the written consent of the sewerage authority. No member of any sewerage authority shall receive any compensation for his services except as provided in this subsection.

(e) Every sewerage authority, upon the first appointment of its members and thereafter on or after the first day of February in each year, shall annually elect from among its members a chairman and a vice-chairman who shall hold office, until the first day of February next ensuing and until their respective successors have been appointed and have qualified. Every sewerage authority may also, without regard to the provisions of Title 11 of the Revised Statutes, appoint and employ a secretary and such professional and technical advisers and experts and such other officers, agents and employees as it may require, and shall determine their qualifications, terms of office, duties and compensation.

3. Section 14 of P.L.1957, c.183 (C.40:14B-14) is amended to read as follows:

C.40:14B-14 Powers vested in members, quorum; minutes, approval.

14. a. The powers of a municipal authority shall be vested in the members thereof in office from time to time. A majority of the entire authorized membership of the municipal authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the municipal authority at any meeting of the members thereof by vote of a majority of the members present, unless in any case the by-laws of the municipal authority shall require a larger number.

b. The minutes of every meeting of an authority created by a county organized pursuant to the provisions of the "county executive plan" of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.) shall be delivered by the end of the fifth business day following the meeting, except as otherwise provided in subsection d. of this section, by and under the certification of the secretary of the authority to the county executive. Except as otherwise provided in subsection d. of this section, no action

taken at a meeting by the members of an authority shall be effective until approved by the county executive or until 10 days after the copy of the minutes shall have been delivered. If, within the 10-day period, the county executive returns to the authority and to the board of freeholders the copy of the minutes with a veto of any action taken by the authority or any member thereof at a meeting, together with a written explanation of the reasons for his veto of the action, that action shall be of no effect unless the board of freeholders overrides the veto of the action by a majority vote of its full membership within 10 days of the receipt of the veto action. The county executive may approve all or any part of an action taken at a meeting prior to the expiration of the 10-day period. If the county executive takes no action with respect to the minutes within the 10-day period, the minutes shall be deemed to be approved. The veto powers accorded under this subsection shall not affect in any way the covenants contained in the bond indentures of the authority, or any collective bargaining agreement or binding arbitration decisions affecting employees of the authority.

c. No resolution or other action of the authority providing for the issuance or refunding of bonds or other financial obligations shall be adopted or otherwise made effective by the authority without the prior approval in writing of the county executive. This power shall be exercised with due regard for the rights of the holders of bonds of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or for the benefit, protection or security of the holders thereof.

d. If two-thirds or more of the members of an authority make a determination that an action taken at a meeting is in response to an emergency situation, a copy of the minutes of that meeting shall be delivered to the county executive as soon as practicable following the meeting and the county executive shall have up to 24 hours after the copy of the minutes has been delivered to approve or veto the minutes of that meeting. If the county executive takes no action with respect to the minutes within the 24-hour period, the minutes shall be deemed approved. If, within the 24-hour period, the county executive returns to the authority and to the board of freeholders the copy of the minutes with a veto of

any action taken by the authority or any member thereof at the meeting, together with a written explanation of the reasons for his veto of the action, that action shall be of no effect unless the board of freeholders overrides the veto of the action by a majority vote of its full membership within 48 hours of the receipt of the veto action.

4. Section 7 of P.L.1960, c.183 (C.40:37A-50) is amended to read as follows:

C.40:37A-50 Powers vested in members, quorum; minutes, approval.

7. a. The powers of an authority shall be vested in the members thereof in office from time to time, and a majority of the entire authorized voting membership of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting of the members thereof by the affirmative vote of a majority of the voting members present, unless in any case the bylaws of the authority shall require a larger number.

b. The minutes of every meeting of an authority created by a county organized pursuant to the provisions of the "county executive plan" of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.) shall be delivered by the end of the fifth business day following the meeting, except as otherwise provided in subsection d. of this section, by and under the certification of the secretary of the authority to the county executive. Except as otherwise provided in subsection d. of this section, no action taken at a meeting by the members of an authority shall be effective until approved by the county executive or until 10 days after the copy of the minutes shall have been delivered. If, within the 10-day period, the county executive returns to the authority and to the board of freeholders the copy of the minutes with a veto of any action taken by the authority or any member thereof at a meeting, together with a written explanation of the reasons for his veto of the action, that action shall be of no effect unless the board of freeholders overrides the veto of the action by a majority vote of its full membership within 10 days of the receipt of the veto action. The county executive may approve all or any part of an action taken at a meeting prior to the expiration of the 10-day period. If the county executive takes no action with respect to the minutes within the 10-day period, the minutes shall be deemed to be approved. The veto powers accorded under this subsection shall not affect in any way the covenants contained in the bond indentures of

the authority, or any collective bargaining agreement or binding arbitration decisions affecting employees of the authority.

c. No resolution or other action of the authority providing for the issuance or refunding of bonds or other financial obligations shall be adopted or otherwise made effective by the authority without the prior approval in writing of the county executive. This power shall be exercised with due regard for the rights of the holders of bonds of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or for the benefit, protection or security of the holders thereof.

d. If two-thirds or more of the members of an authority make a determination that an action taken at a meeting is in response to an emergency situation, a copy of the minutes of that meeting shall be delivered to the county executive as soon as practicable following the meeting and the county executive shall have up to 24 hours after the copy of the minutes has been delivered to approve or veto the minutes of that meeting. If the county executive takes no action with respect to the minutes within the 24-hour period, the minutes shall be deemed approved. If, within the 24-hour period, the county executive returns to the authority and to the board of freeholders the copy of the minutes with a veto of any action taken by the authority or any member thereof at the meeting, together with a written explanation of the reasons for his veto of the action, that action shall be of no effect unless the board of freeholders overrides the veto of the action by a majority vote of its full membership within 48 hours of the receipt of the veto action.

5. This act shall take effect immediately.

Approved April 21, 1995.

CHAPTER 92

AN ACT establishing a tax-deferred annuity program for certain public employees and supplementing Title 52 of the Revised Statutes.

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

C.52:18A-113.2 Tax-deferred annuity, education employees; written agreement to reduce salary.

1. a. The Department of Education, the Commission on Higher Education, and the governing body of any public institution of higher education may enter into a written agreement with any of its employees to reduce the employee's annual salary for the purpose of investing in a tax-deferred annuity for the employee pursuant to section 403(b) of the federal Internal Revenue Code of 1954, as amended. Investments shall be (1) with an insurer or mutual fund company authorized to provide investment contracts under the alternate benefit program; (2) in investment contracts authorized under the program for supplemental retirement benefits which meet the requirements of section 403(b) of the federal Internal Revenue Code, as amended; and (3) on the same terms and conditions provided for participants in the alternate benefit program.

b. An agreement (1) shall specify the amount and the effective date of the reduction; (2) shall be subject to filing with and approval by the State Treasurer or filing with and approval by the governing body of the institution of public higher education, as appropriate; and (3) shall be legally binding and irrevocable with respect to the amounts earned while the agreement is in effect. The total amount of the reduction in an employee's salary pursuant hereto, for any calendar year, shall not, when added to the contributions made in the year on behalf of the employee in accordance with section 7 of P.L.1963, c.123 (C.52:18A-113), exceed the limitations set forth in Pub.L.93-406 (Employment Retirement Income Security Act of 1974) and section 415 (c) of the Internal Revenue Code (26 U.S.C.§415 (c)).

c. An agreement may be terminated at any time upon written notice by either the employee or the employer. Termination shall take effect at the beginning of the payroll period whose first day is nearest to the 30th day following the day on which notification of termination was (1) received by the employer, in the event termination is initiated by the employee, or (2) sent to the employee, in the event termination is initiated by the employer.

C.52:18A-113.3 Reduction of employee's salary; benefits.

2. Upon approval and filing, the State Treasurer or the applicable governing body of a public institution of higher education shall reduce an employee's salary pursuant to the agreement and

shall pay an amount equal to the amount agreed upon for the salary reduction as an employer contribution to the issuer of the employee's annuity. Participation in a reduction of salary pursuant to this act shall not cause the employee to lose any benefits under a State-administered retirement system to which the employee would otherwise be entitled had the employee not agreed to a reduction in salary for the purpose of purchasing a tax-deferred annuity. Employee contributions and any survivor's benefit shall be paid on the basis of the employee's salary without regard to the reduction authorized by this act.

C.52:18A-113.4 Payments for annuity.

3. Payments for tax-deferred annuities shall be made by the State Treasurer or the applicable governing body of a public institution of higher education to the issuers of the annuities out of moneys available for the salaries of employees who have entered into agreements pursuant to this act.

C.52:18A-113.5 Rules, regulations.

4. The Director of the Division of Pensions and Benefits shall promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

5. This act shall take effect immediately.

Approved April 21, 1995.

CHAPTER 93

AN ACT concerning the security of bank deposits made by State colleges and supplementing chapter 64 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:64-18.5 Bank deposits made by State colleges, security.

1. In all cases when a deposit is made by a State college in a State or federally chartered bank, savings bank or savings and loan association, the State Treasurer, in order to secure the

deposit, shall require from the bank or institution a deposit of bonds, notes, certificates of indebtedness or bills or other obligations of or guaranteed by the United States; or bonds or other obligations of or guaranteed by the State of New Jersey; or bonds or other obligations of any county, municipality or any other public body corporate and politic created by or established under any law of this State by or on behalf of any one or more counties or municipalities or any board, commission, department or agency of any of the foregoing; or any other obligations now or hereafter authorized by law as security for public deposits. This requirement shall be deemed to be met if the Federal Reserve Bank of New York or the Federal Reserve Bank of Philadelphia or any other banking institution with total assets in excess of $300,000,000 located within the Second or Third Federal Reserve Districts and approved for such purpose by the State Treasurer, certifies to the State Treasurer that, pursuant to authority given by the depository, it holds obligations, owned by the depository, of the kind and in the amount required by the State Treasurer to secure such deposit. No bank shall be permitted to hold securities, of the kind hereinbefore described, as security for public moneys on deposit in the same bank.

No State or federally chartered bank, savings bank or savings and loan association in which a State college makes deposits of public moneys shall be required to secure the deposits as required by this section to the extent that the deposits are insured by the Federal Deposit Insurance Corporation or by any other federal agency which insures deposits made in state or national banks or savings and loan associations.

2. This act shall take effect immediately.

Approved April 25, 1995.

CHAPTER 94

AN ACT concerning the school budget calendar and amending various parts of the statutory law.

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

1. N.J.S.18A:13-19 is amended to read as follows:

Procedure following school budget rejection.

18A:13-19. If the voters reject any of the items submitted at the annual election, within two days thereafter the board of education of the regional district shall certify to the governing body of each municipality, included within the regional district, the item or items so rejected, and such governing bodies, after consultation with the board, and no later than May 19 shall determine the amount or amounts which they deem necessary to provide a thorough and efficient system of schools in the regional district for the ensuing school year and cause the same to be certified by the respective municipal clerks to the board of education of the regional district.

2. N.J.S.18A:22-37 is amended to read as follows:

Determination by municipalities.

18A:22-37. If the voters reject any of the items submitted at the annual school election, the board of education shall deliver the proposed school budget to the governing body of the municipality, or of each of the municipalities included in the district within two days thereafter. The governing body of the municipality, or of each of the municipalities, included in the district shall, after consultation with the board, and by May 19, determine the amount which, in the judgment of said body or bodies, is necessary to be appropriated, for each item appearing in such budget, to provide a thorough and efficient system of schools in the district, and certify to the county board of taxation the totals of the amount so determined to be necessary for each of the following: a. General fund expenses of schools; or b. Appropriations to capital reserve account. Within 15 days after the governing body of the municipality or of each of the municipalities included in the district shall make such certification to the county board of taxation, the board of education shall notify such governing body or bodies if it intends to appeal to the commissioner the amounts which said body or bodies determined to be necessary to be appropriated for each item appearing in the proposed school budget.

3. R.S.54:4-45 is amended to read as follows:

Certified statement of amount of moneys appropriated for school purposes.

54:4-45. The clerk or other proper officer of each school district in which the annual appropriations for school purposes to be raised by taxation, are voted by the inhabitants of the school dis-

trict, shall, on or before May 19 in each year, transmit to the county board of taxation a certified statement of the amount of moneys appropriated for school purposes, which shall include interest to be paid, principal payments of indebtedness, and sinking fund requirements for the school year for which such appropriations are made, to be raised by taxation in the school district.

4. R.S.54:4-52 is amended to read as follows:

Table of aggregates for county; prepared by county board.

54:4-52. The county board of taxation shall, on or before May 20, fill out a table of aggregates copied from the duplicates of the several assessors and the certifications of the Director of the Division of Taxation relating to second-class railroad property, and enumerating the following items:

(1) The total number of acres and lots assessed;

(2) The value of the land assessed;

(3) The value of the improvements thereon assessed;

(4) The total value of the land and improvements assessed, including:

a. Second-class railroad property;

b. All other real property.

(5) The value of the personal property assessed, stating in separate columns:

a. Value of household goods and chattels assessed;

b. Value of farm stock and machinery assessed;

c. Value of stocks in trade, materials used in manufacture and other personal property assessed under section 54:4-11;

d. Value of all other tangible personal property used in business assessed.

(6) Deductions allowed, stated in separate columns:

a. Household goods and other exemptions under the provisions of section 54:4-3.16 of this Title;

b. Property exempted under section 54:4-3.12 of this Title.

(7) The net valuation taxable;

(8) Amounts deducted under the provisions of sections 54:4-49 and 54:4-53 of this Title or any other similar law (adjustments resulting from prior appeals);

(9) Amounts added under any of the laws mentioned in subdivision 8 of this section (like adjustments);

(10) Amounts added for equalization under the provisions of sections 54:3-17 to 54:3-19 of this Title;

(11) Amounts deducted for equalization under the provisions of sections 54:3-17 to 54:3-19 of this Title;

(12) Net valuation on which county, State and State school taxes are apportioned;

(13) The number of polls assessed;

(14) The amount of dog taxes assessed;

(15) The property exempt from taxation under the following special classifications:

a. Public school property;

b. Other school property;

c. Public property;

d. Church and charitable property;

e. Cemeteries and graveyards;

f. Other exemptions not included in foregoing classifications subdivided showing exemptions of real property and exemptions of personal property;

g. The total amount of exempt property.

(16) State road tax;

(17) State school tax;

(18) County taxes apportioned, exclusive of bank stock taxes;

(19) Local taxes to be raised, exclusive of bank stock taxes, subdivided as follows:

a. District school tax;

b. Other local taxes.

(20) Total amount of miscellaneous revenues, including surplus revenue appropriated, for the support of the taxing district budget, which, for a municipality operating under the State fiscal year, shall be the amounts for the fiscal year ending June 30 of the year in which the table is prepared;

(21) District court taxes;

(22) Library tax;

(23) Bank stock taxes due taxing district;

(24) Tax rate for local taxing purposes to be known as general tax rate to apply per $100.00 of valuation.

For municipalities operating under the State fiscal year, the amount for local municipal purposes shall be the amount as certified pursuant to section 16 of P.L.1994, c.72 (C.40A:4-12.1). The table shall also include a footnote showing the amount raised by taxation for municipal purposes as shown in the State fiscal year budget ending June 30 of the year the table is prepared.

In addition to the above such other matters may be added, or such changes in the foregoing items may be made, as may from

time to time be directed by the Director of the Division of Taxation. The forms for filling out tables of aggregates shall be prescribed by the director and sent by him to the county treasurers of the several counties to be by them transmitted to the county board of taxation. Such table of aggregates shall be correctly added by columns and shall be signed by the members of the county board of taxation and shall within three days thereafter be transmitted to the county treasurer who shall file the same and forthwith cause it to be printed in its entirety and shall transmit certified copy of same to the Director of the Division of Taxation, the State Auditor, the Director of the Division of Local Government Services in the Department of Community Affairs, the clerk of the board of freeholders, and the clerk of each municipality in the county.

5. R.S.54:4-55 is amended to read as follows:

Corrected duplicates returned to taxing districts; lists remain on record.

54:4-55. The county board of taxation shall, on or before June 3 in each year, cause the corrected, revised and completed duplicates, certified by it to be a true record of the taxes assessed, to be delivered to the collectors of the various taxing districts in the county, and the tax lists shall remain in the office of the board as a public record. Thereafter neither the assessor nor the collector shall make or cause to be made any change or alteration in the tax duplicate except as may be provided by law.

6. This act shall take effect immediately.

Approved April 25, 1995.

CHAPTER 95

AN ACT regarding the transportation of school children and supplementing chapter 22 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:22-8.6 Hazardous route transportation costs; separate budget line item.

1. Notwithstanding the provisions of any law to the contrary, a board of education may include in the base budget or designate as

separate line items in a proposal to exceed the school district's maximum permissible net budget pursuant to subsection f. of section 85 of P.L.1990, c.52 (C.18A:7D-28) all funds required to provide transportation to pupils who do not qualify for transportation under N.J.S.18A:39-1, but who walk to and from school along a route designated by the school district or municipality as constituting a hazardous walking condition. When included in the district's base budget, the costs shall be designated as separate line items in the budget's supporting documentation. The Commissioner of Education shall not require any reduction in the line items during the review required under section 22 of P.L.1990, c.52 (C.18A:7D-27) unless he finds that the provision of transportation to these pupils by the district is not necessary to protect the health and safety of the pupils.

2. This act shall take effect immediately.

Approved May 1, 1995.

CHAPTER 96

AN ACT providing for the creation of limited liability partnerships, amending P.L.1993, c.210 and N.J.S.54A:8-6 and amending and supplementing chapter 1 of Title 42 of the Revised Statutes.

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

1. R.S.42:1-2 is amended to read as follows:

Definitions.

42:1-2. As used in this chapter:

"Bankrupt" includes bankrupt under the federal bankruptcy act (11 U.S.C. § 101 et seq.) or insolvent under any state insolvent law;

"Business" includes every trade, occupation or profession;

"Conveyance" includes every assignment, lease, mortgage or encumbrance;

"Court" includes every court and judge having jurisdiction in the case;

"Foreign limited liability partnership" means a limited liability partnership or a registered limited liability partnership formed

pursuant to an agreement governed by the laws of any state or under the laws of any foreign country or other foreign jurisdiction and denominated as such under the laws of such state or foreign country or other foreign jurisdiction;

"Limited liability partnership" means a partnership formed pursuant to an agreement governed by the laws of this State, registered pursuant to section 8 of P.L.1995, c.96 (C.42:1-44) and in compliance with section 9 of P.L.1995, c.96 (C.42:1-45);

"Person" includes individuals, partnerships, corporations and other associations;

"Real property" includes land and any interest or estate in land.

2. R.S.42:1-6 is amended to read as follows:

Partnership defined.

42:1-6. 1. A partnership is an association of two or more persons to carry on as co-owners a business for profit, and includes a limited liability partnership.

2. But any association formed under any other statute of this State, or any statute adopted by authority, other than the authority of this State, is not a partnership under this chapter, unless such association would have been a partnership in this State prior to July fourth, one thousand nine hundred and nineteen; but this chapter shall apply to limited partnerships except in so far as the statutes relating to such partnerships are inconsistent herewith.

3. R.S.42:1-15 is amended to read as follows:

Liability of partners.

42:1-15. Except as provided in subsection c. of this section, all partners are liable:

a. Jointly and severally for everything chargeable to the partnership under R.S.42:1-13 and R.S.42:1-14.

b. Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract.

c. Subject to subsection d. of this section, a partner in a limited liability partnership is not liable, either directly or indirectly, by way of indemnification, contribution, assessment or otherwise, for debts, obligations and liabilities of or chargeable to the partnership, whether in tort, contract or otherwise, arising from negligence, omissions, malpractice, wrongful acts, or misconduct committed while the partnership is a limited liability partnership

and in the course of the limited liability partnership business by another partner or an employee, agent, or representative of the limited liability partnership.

d. Subsection c. of this section shall not affect the liability of a partner in a limited liability partnership for his own negligence, omissions, malpractice, wrongful acts, or misconduct, or that of any person under his direct supervision and control.

e. A partner in a limited liability partnership is not a proper party to a proceeding by or against a limited liability partnership, the object of which is to recover damages or enforce the obligations arising out of the negligence, omissions, malpractice, wrongful acts or misconduct of the type described in subsection c. of this section, unless such partner is personally liable under subsection d. of this section.

4. R.S.42:1-18 is amended to read as follows:

Rights, duties of partners; determining rules.

42:1-18. The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

a. Each partner shall be repaid his contributions, whether by way of capital or advances to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and, except as provided in subsection c. of R.S.42:1-15, shall contribute towards the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.

b. The partnership shall indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him in the ordinary and proper conduct of its business, or for the preservation of its business or property.

c. A partner who, in aid of the partnership, makes any payment or advance beyond the amount of capital which he agreed to contribute, shall be paid interest from the date of the payment or advance.

d. A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.

e. All partners have equal rights in the management and conduct of the partnership business.

f. No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his services in winding up the partnership affairs.

g. No person can become a member of a partnership without the consent of all the partners.

h. Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightly without the consent of all the partners.

5. R.S.42:1-34 is amended to read as follows:

Partner's liability to copartners.

42:1-34. Where the dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to his copartners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless

a. The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution;

b. The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy; or

c. The liability is for a debt or obligation for which the partner is not liable as provided in subsection c. of R.S.42:1-15.

6. R.S.42:1-36 is amended to read as follows:

Effect of dissolution on existing liability.

42:1-36. 1. The dissolution of a partnership does not of itself discharge the existing liability of any partner.

2. A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself, the partnership creditor and the person or partnership continuing the business; and such agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

3. Where a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from any liability to any creditor of the partnership, who, knowing of the agreement, consents to a material alteration in the nature or time of payment of such obligations.

4. The individual property of a deceased partner shall be liable for those obligations of the partnership incurred while he was a partner and for which the partner is liable pursuant to R.S.45:1-15, but subject to prior payment of his separate debts.

7. R.S.42:1-40 is amended to read as follows:

Rules in settling accounts after dissolution.

42:1-40. In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

a. The assets of the partnership are:

I. The partnership property;

II. The contributions of the partners specified in paragraph "d" of this section.

b. The liabilities of the partnership shall rank in order of payment as follows:

I. Those owing to creditors other than partners;

II. Those owing to partners other than for capital and profits;

III. Those owing to partners in respect of capital;

IV. Those owing to partners in respect of profits.

c. The assets shall be applied in the order of their declaration in paragraph "a" of this section to the satisfaction of the liabilities.

d. Except as provided in R.S.42:1-15: (1) The partners shall contribute, as provided by paragraph "a" of R.S.42:1-18 the amount necessary to satisfy the liabilities; and (2) If any, but not all, of the partners are insolvent, or not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.

e. An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in paragraph "d" of this section.

f. Any partner or his legal representative shall have the right to enforce the contributions specified in paragraph "d" of this section, to the extent of the amount which he has paid in excess of his share of the liability.

g. The individual property of a deceased partner shall be liable for the contributions specified in paragraph "d" of this section.

h. When partnership property and the individual properties of the partners are in the possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.

i. Where a partner has become bankrupt or his estate is insolvent the claims against his separate property shall rank in the following order:

I. Those owing to separate creditors;

II. Those owing to partnership creditors;

III. Those owing to partners by way of contribution.

C.42:1-44 Limited liability partnership; filing application, registration; annual reports.

8. a. To become a limited liability partnership, a partnership shall file in the Office of the Secretary of State an application stating the name of the partnership; the address of its principal office; the address of the registered office and name of the registered agent for service of process as required by this act; a brief statement of the business in which the partnership engages; any other matters that the partnership determines to include; and that the partnership thereby applies for status as a limited liability partnership.

b. Before doing business in this State, a foreign limited liability partnership shall register as a foreign limited liability partnership in the Office of the Secretary of State by filing an application setting forth the name of the partnership and, if different, the name under which it proposes to do business in this State; the State, territory or possession where formed; date of formation; the address of its principal office; if the partnership's principal office is not located in this State, the address of the registered office and the name and address of the registered agent for service of process, as required by this act; a statement that the partnership validly exists as a limited liability partnership under the laws of the jurisdiction of its formation; and a brief statement of the nature of the business or purpose to be conducted or promoted in this State.

c. The application shall be executed by a majority in interest of the partners or by one or more of the partners authorized to execute an application.

d. The Secretary of State shall register as a limited liability partnership or foreign limited liability partnership any partnership that files a completed application that substantially conforms with the requirements of this act, accompanied by the appropriate fee.

e. A partnership registered pursuant to this section shall file, in each year following the year in which its application is filed, on a date specified by the Secretary of State, an annual report. The annual report shall be on a form provided by the Secretary of State, and shall indicate any material change in the information contained in the partnership's application for registration. If the annual report is not filed or the filing fee is not paid for two consecutive years, the registration of a limited liability partnership or

foreign limited liability partnership shall, after written demand for the annual report by the Secretary of State by mail addressed to the limited liability partnership or foreign limited liability partnership at the last address appearing of record in the office of the Secretary of State, remain filed but be transferred to an inactive list. A limited liability partnership or foreign limited liability partnership shall not have its registration transferred to the inactive list if it shall, within 60 days after the written demand, file the annual report and fee required by this act.

f. Registration is effective immediately after the date an application is filed in the Office of the Secretary of State, and remains effective until it is voluntarily withdrawn by filing in the Office of the Secretary of State a written withdrawal notice executed by a majority in interest of the partners or by one or more partners of the partnership authorized to execute a withdrawal notice.

g. A partnership continues as a limited liability partnership if there has been substantial compliance with the requirements of this act. After the filing of an application, the status of a partnership as a limited liability partnership, or the liability of the partners thereof, shall not be affected by errors or changes in the information stated in the application.

h. If an instrument filed in the Office of the Secretary of State pursuant to this section is an inaccurate record of the facts stated therein, or was defectively or erroneously executed, the instrument may be corrected by filing in the Office of the Secretary of State a certificate of correction by a partner. The certificate of correction shall specify the inaccuracy or defect to be corrected and shall set forth the correction. The instrument so corrected shall be deemed to have been effective in its corrected form as of its original filing date except as to persons who actually relied in good faith upon the inaccurate portion of the instrument and who are adversely affected by the correction. As to these persons, the correction shall be effective as of the effective date of filing of the certificate of correction. Such filing shall only be made if the Secretary of State consents to the filing.

i. The Secretary of State may provide forms for application for registration, notice of changes or payment of the annual fee.

j. Any limited liability partnership formed pursuant to an agreement governed by this section or any foreign limited liability partnership transacting business in this State under this section shall be exempt from the filing requirements of R.S.56:1-1 et seq.

k. The fact that an application or annual report is on file in the Office of the Secretary of State is notice that the partnership is a limited liability partnership or foreign limited liability partnership and is notice of all other facts set forth in the application or annual report.

C.42:1-45 Naming of limited liability partnership.

9. a. The name of a limited liability partnership shall contain the words "Limited Liability Partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of its name.

b. The name of a foreign limited liability partnership doing business in this State shall contain the words "Registered Limited Liability Partnership" or "Limited Liability Partnership" or the abbreviation "L.L.P." or "LLP" or such other similar words or abbreviations as may be required or authorized by the law of the state, country or jurisdiction where the foreign limited liability partnership is registered, as the last words or letters of its name.

C.42:1-46 Conducting business, internal affairs; law applicable.

10. a. A partnership, including a limited liability partnership, formed and existing under chapter 1 of Title 42 of the Revised Statutes, may conduct its business, carry on its operations, and have and exercise the powers granted by chapter 1 of Title 42 of the Revised Statutes in any state, territory, district, or possession of the United States or in any foreign country.

b. It is the policy of this State that the internal affairs of partnerships, including limited liability partnerships, formed and existing under chapter 1 of Title 42 of the Revised Statutes, including the liability of partners for debts, obligations and liabilities of or chargeable to partnerships, shall be subject to and governed by the laws of this State.

c. The internal affairs of a foreign limited liability partnership, including the liability of partners for debts, obligations and liabilities of or chargeable to the partnership, shall be subject to and governed by the laws of the jurisdiction in which the foreign limited liability partnership is registered.

d. A foreign limited liability partnership registered to do business in this State pursuant to the "New Jersey Limited Liability Company Act," P.L.1993, c.210 (C.42:2B-1 et seq.), prior to the effective date of this act shall be deemed to be in compliance with the provisions of this act until the second anniversary of the registration, at which time the foreign limited liability partnership shall file an application in the Office of the Secretary of State pursuant to subsection b. of section 8 of this act.

C.42:1-47 Registered office, registered agent; changing, resigning.

11. a. Each limited liability partnership and foreign limited liability partnership shall have and maintain in this State:

(1) A registered office, which may but need not be a place of its business in this State; and

(2) A registered agent for service of process on the limited liability partnership or foreign limited liability partnership, which agent may be either an individual resident of this State whose business office is identical with the limited liability partnership's or foreign limited liability partnership's registered office, or a domestic corporation, or a foreign corporation authorized to do business in this State having a business office identical with the registered office of the limited liability partnership or foreign limited liability partnership itself.

(3) A registered agent may, with prior notice to the limited liability partnership or foreign limited liability partnership for which it is the registered agent, change the address of the registered office of any limited liability partnership or foreign limited liability partnership for which the registered agent is the registered agent to another address in this State by filing in the Office of the Secretary of State a certificate, executed by the registered agent, setting forth the names of each limited liability partnership or foreign limited liability partnership, and the address at which the registered agent has maintained the registered office for each limited liability partnership or foreign limited liability partnership, and further certifying to the new address to which the registered office will be changed on a given day, and at which new address the registered agent will thereafter maintain the registered office for each limited liability partnership or foreign limited liability partnership recited in the certificate. Upon the filing of such certificate, thereafter, or until further change of address, as authorized by law, the registered office in this State of each limited liability partnership or foreign limited liability partnership recited in the certificate shall be located at the new address of the registered agent thereof as given in the certificate.

(4) In the event of a change of name of any person acting as a registered agent of a limited liability partnership or foreign limited liability partnership, the registered agent shall file in the Office of the Secretary of State a certificate, executed by the registered agent, setting forth the new name of the registered agent, the name of the registered agent before it was changed, the name of each limited liability partnership or foreign limited liability partnership

represented by the registered agent, and the address at which the registered agent has maintained the registered office for each limited liability partnership or foreign limited liability partnership.

b. Filing a certificate under this section shall be deemed to be a change to the registration of each partnership affected thereby and no partnership shall be required to take any further action with respect thereto, to change its registration under this act.

c. The registered agent of a limited liability partnership or foreign limited liability partnership registered or authorized to do business in this State may resign by complying with the following provisions:

(1) The registered agent of a limited liability partnership or foreign limited liability partnership may resign and appoint a successor registered agent by filing a certificate in the Office of the Secretary of State, stating that the agent resigns and the name and address of the successor registered agent. There shall be attached to the certificate a statement executed by the affected limited liability partnership or foreign limited liability partnership ratifying and approving the change of registered agent.

(2) Upon the filing of a certificate of resignation of registered agent, the successor registered agent shall become the registered agent of each partnership which has ratified and approved the substitution and the successor registered agent address, as stated in the certificate, shall become the registered address of each partnership. Filing of a certificate under this paragraph shall be deemed to be a change to the registration of each partnership affected thereby and no partnership shall be required to take any further action with respect thereto, to change its registration under this act.

d. The registered agent of a limited liability partnership or foreign limited liability partnership may resign without appointing a successor registered agent by complying with the following provisions:

(1) The registered agent or, in the case of a registered agent who is deceased or has been declared incompetent by a court of competent jurisdiction, his legal representative, shall serve a notice of resignation by certified mail, return receipt requested, upon the limited liability partnership or foreign limited liability partnership at the address last known to the agent, and shall make an affidavit of this service. If service cannot be made the affidavit shall so state, and shall state briefly why service cannot be made. The affidavit, together with a copy of notice of resignation, shall be filed in the Office of the Secretary of State.

(2) The resignation shall become effective 30 days after filing the affidavit of service in the Office of the Secretary of State or

upon the designation by the limited liability partnership or foreign limited liability partnership of a new registered agent pursuant to this act, whichever is earlier. If the limited liability partnership or foreign limited liability partnership fails to designate a new registered agent within the 30 day period, the limited liability partnership or foreign limited liability partnership shall thereafter be deemed to have no registered agent or registered office in this State, until the limited liability partnership or foreign limited liability partnership files a certificate of change of address of registered office and registered agent indicating the new registered office and registered agent.

C.42:1-48 Filing fees.

12. On filing any certificate or other papers relative to limited liability partnerships or foreign limited liability partnerships in the Office of the Secretary of State, there shall be paid to the Secretary of State, filing fees as follows:

Certificate of registration of a limited liability partnership	$100
Certificate of correction	$100
Notice of withdrawal	$100
Application for registration of foreign limited liability partnership	$100
Certified copy	$25
Photocopies, first page	$10
Photocopies, every page after first page	$2
Preclearance of any document	$50
Status report	$5
Short form "Good Standing" certificate	$50
Long form "Good Standing" certificate	$100
All other filings and services	$50
Same day service	$50
Expedited service	$10
Certificate of change of registered office or agent or both	$25
Certificate of resignation of registered agent without successor	$25
Certificate of resignation of registered agent with appointment of successor:	
(1) Certificate	$25
(2) Affidavit for each limited liability partnership or foreign limited liability partnership affected	$10
Annual report	$40

13. Section 2 of P.L.1993, c.210 (C.42:2B-2) is amended to read as follows:

C.42:2B-2 Definitions.

2. As used in this act unless the context otherwise requires:

"Bankruptcy" means an event that causes a person to cease to be a member as provided in section 24 of this act.

"Certificate of formation" means the certificate referred to in section 11 of this act, and the certificate as amended.

"Contribution" means any cash, property, services rendered or a promissory note or other obligation to contribute cash or property or to perform services, which a person contributes to a limited liability company in his capacity as a member; provided however, that services rendered and obligations to perform services are contributions only to the extent designated as contributions in the operating agreement.

"Foreign limited liability company" means a limited liability company formed under the laws of any state or under the laws of any foreign country or other foreign jurisdiction and denominated as such under the laws of such state or foreign country or other foreign jurisdiction.

"Limited liability company" and "domestic limited liability company" means a limited liability company formed under the laws of this State and having two or more members.

"Limited liability company interest" means a member's share of the profits and losses of a limited liability company and a member's right to receive distributions of the limited liability company's assets.

"Liquidating trustee" means a person carrying out the winding up of a limited liability company.

"Manager" means a person who is named as a manager of a limited liability company in, or designated as a manager of a limited liability company pursuant to, an operating agreement or similar instrument under which the limited liability company is formed.

"Member" means a person who has been admitted to a limited liability company as a member as provided in section 21 of this act or, in the case of a foreign limited liability company, in accordance with the laws of the state or foreign country or other foreign jurisdiction under which the foreign limited liability company is organized.

"Operating agreement" means a written agreement of the members as to the affairs of a limited liability company and the conduct of its business.

"Person" means a natural person, partnership (whether general or limited and whether domestic or foreign), limited liability

company, foreign limited liability company, trust, estate, association, corporation, custodian, nominee or any other individual or entity in its own or any representative capacity.

"State" means the District of Columbia or the Commonwealth of Puerto Rico or any state, territory, possession, or other jurisdiction of the United States other than this State.

14. N.J.S.54A:8-6 is amended to read as follows:

Requirements concerning returns, notices, records and statements.

54A:8-6. Requirements concerning returns, notices, records and statements. (a) General. The director may prescribe regulations as to the keeping of records, the content and form of returns and statements, and the filing of copies of federal income tax returns and determinations. The director may require any person, by regulation or notice served upon such person, to make such returns, render such statements, or keep such records, as the director may deem sufficient to show whether or not such person is liable under this act for tax or for collection of tax.

(b) Partnerships. Every partnership or limited liability partnership having a resident partner or having any income derived from New Jersey sources, shall make a return for the taxable year setting forth all items of income, gain, loss and deduction and such other pertinent information as the director may by regulations and instructions prescribe. The director shall prescribe a State return form that, at a minimum, includes the name and address of each partner of the partnership for taxable years ending on or after December 31, 1994. Such return shall be filed on or before the fifteenth day of the fourth month following the close of each taxable year.

Each partnership or limited liability partnership required to file a return under this subsection for any taxable year shall, on or before the day on which the return for the taxable year is required to be filed, furnish to each person who is a partner or who holds an interest in such partnership as a nominee for another person at any time during that taxable year a copy of such information required to be shown on such return as the director may prescribe.

For the purposes of this subsection, "taxable year" means a year or period which would be a taxable year of the partnership if it were subject to tax under this act.

(c) Information at source. The director may prescribe regulations and instructions requiring returns of information to be made

and filed on or before February 15 of each year as to the payment or crediting in any calendar year of amounts of $100.00 or more to any taxpayer under this act. Such returns may be required of any person, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of this State, or of any municipal corporation or political subdivision of this State, having the control, receipt, custody, disposal or payment of interest, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, profits or income, except interest coupons payable to bearer. A duplicate of the statement as to tax withheld on wages, required to be furnished by an employer to an employee, shall constitute the return of information required to be made under this section with respect to such wages.

(d) Notice of qualification as receiver, et cetera. Every receiver, trustee in bankruptcy, assignee for benefit of creditors, or other like fiduciary shall give notice of his qualification as such to the director, as may be required by regulation.

15. This act shall take effect 60 days after enactment.

Approved May 1, 1995.

CHAPTER 97

AN ACT concerning run-off elections in certain municipalities and amending P.L.1981, c.379.

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

1. Section 2 of P.L.1981, c.379 (C.40:45-6) is amended to read as follows:

C.40:45-6 Application of act.

2. This act shall govern all municipalities having adopted a plan or form of government, or a charter, which provides for the election of municipal officers at regular municipal elections held on the second Tuesday in May, including municipalities holding regular municipal elections under the "Optional Municipal Char-

ter Law," P.L.1950, c.210 (C.40:69A-1 et seq.), under the "commission form of government law" (R.S.40:70-1 et seq.), under the "municipal manager form of government law" N.J.S.40A:63-8, under the "village form of government" (R.S.40:157-16 et seq.), or under any plan or form of government, or charter, hereafter authorized which provides for the holding of regular municipal elections at that time. This act shall govern these municipalities only with respect to the time, manner and method of election of municipal officers. The officers to be elected, and their number, the length of their terms of office, and their powers and responsibilities shall be determined by the laws authorizing the plan or form of government, or charter, which the municipalities have adopted.

2. Section 14 of P.L.1981, c.379 (C.40:45-18) is amended to read as follows:

C.40:45-18 Municipalities with run-off elections; election of councilmen-at-large or commissioners or village trustees with less than majority of votes.

14. Notwithstanding the provisions of section 13 of P.L.1981, c.379 (C.40:45-17), if the voters of any municipality shall adopt the proposition of holding run-off elections in the municipality, either prior to or subsequent to May 2, 1990, at the regular municipal election held in that municipality the candidates receiving the greatest number and a majority of votes cast shall be elected to the respective offices, except that if:

a. Nine councilmen-at-large (or commissioners, or village trustees) are to be elected and four or more candidates for that office receive a majority of the votes cast, the nine candidates receiving the greatest number of votes shall be elected; or

b. Eight councilmen-at-large (or commissioners, or village trustees) are to be elected and four or more candidates for that office receive a majority of the votes cast, the eight candidates receiving the greatest number of votes shall be elected; or

c. Seven councilmen-at-large (or commissioners, or village trustees) are to be elected and three or more candidates for that office receive a majority of the votes cast, the seven candidates receiving the greatest number of votes shall be elected; or

d. Six councilmen-at-large (or commissioners, or village trustees) are to be elected and three or more candidates for that office receive a majority of the votes cast, the six candidates receiving the greatest number of votes shall be elected; or

e. Five councilmen-at-large (or commissioners, or village trustees) are to be elected and two or more candidates for that office receive a majority of the votes cast, the five candidates receiving the greatest number of votes shall be elected; or

f. Four councilmen-at-large (or commissioners, or village trustees) are to be elected and two or more candidates for that office receive a majority of the votes cast, the four candidates receiving the greatest number of votes shall be elected; or

g. Three councilmen-at-large (or commissioners, or village trustees) are to be elected and one or more candidates for that office receive a majority of the votes cast, the three candidates receiving the greatest number of votes shall be elected; or

h. Two councilmen-at-large (or commissioners, or village trustees) are to be elected and one or more candidates for that office receive a majority of the votes cast, the two candidates receiving the greatest number of votes shall be elected.

For the purpose of this section, the number constituting a majority of the votes cast shall be computed by dividing by two the number of voters who cast a vote for at least one candidate for councilman-at-large (or commissioner, or village trustee) and then adding one. Voting machines to be used in the election shall be equipped, as soon as practicable, with one or more counters so connected as to keep a tally of the number of voters who cast votes for one or more of the candidates for councilman-at-large (or commissioner, or village trustee). Until suitable counters have been provided, or whenever the tally of the number of voters cannot be determined for any reason, then the number constituting the majority of the votes cast shall be computed by adding all the votes cast for each candidate for that office, dividing that total by twice the number of councilmen-at-large (or commissioners, or village trustees) to be elected and then adding one.

3. Section 15 of P.L.1981, c.379 (C.40:45-19) is amended to read as follows:

C.40:45-19 Run-off elections; votes necessary for election.

15. In any regular municipal election held under section 14 of P.L.1981, c.379 (C.40:45-18), if a sufficient number of candidates do not receive a majority of the votes cast to elect the required number of councilmen-at-large (or commissioners, or village trustees) or no candidate for mayor or no candidate for ward councilman receives a majority of the votes cast for his

respective office, a run-off election in the municipality or ward, as the case may be, shall be held on the fourth Tuesday next following that municipal election; unless in any year that Tuesday shall be the date upon which a primary election shall be held, in which case the run-off election shall be held on the fifth Tuesday next following the municipal election.

At the run-off election, the candidates for councilman-at-large (or commissioner, or village trustee) shall be those candidates not elected at the regular municipal election who received the greatest number of votes at that election, but the candidates shall be equal in number to twice the number of councilmen-at-large (or commissioners, or village trustees) remaining to be elected. The candidates for mayor or ward councilmen at the run-off election shall be the two candidates for the office who received the greatest number of votes at the regular municipal election. Military service ballots shall be printed and distributed for the run-off election in the same manner, so far as possible, as for other municipal elections.

The candidate or candidates who receive the greatest number of votes at the run-off election shall be elected to the office or offices to be filled. If two or more candidates shall be equal and greatest in votes for any of the purposes of this section, they shall draw lots to determine which one shall enter the run-off election, or be elected, as the case may be.

If any candidate to be voted for at the run-off election dies seven or more days prior to the run-off election, the candidate for the office not theretofore included in the run-off election, but next highest in number of votes for that purpose shall be substituted at the run-off election in the place of the deceased candidate and his name shall be substituted on the ballots for that of the deceased candidate.

4. This act shall take effect immediately.

Approved May 8, 1995.

CHAPTER 98

AN ACT concerning the provision of interpreting services, amending N.J.S.2B:8-1 and P.L.1985, c.404.

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

1. N.J.S.2B:8-1 is amended to read as follows:

Interpreters.

2B:8-1. Interpreters. Each county shall provide interpreting services necessary for cases from that county in the Law Division and the Family Part of the Chancery Division. A county may provide interpreting services through the use of persons hired for that purpose. If interpreters are employed, they shall be appointed and shall perform their duties in the manner established by the Chief Justice, and shall serve at the pleasure of the appointing authority. For the purpose of determining their compensation, these employees shall be considered county employees.

As used in this section "interpreting services" shall include the provision of services to assist a developmentally disabled person, as that term is defined in section 3 of P.L.1977, c.82 (C.30:6D-3), and to assist a hearing impaired person to understand questions and to frame and express answers in a criminal proceeding; provided that the person is not otherwise disqualified as a witness.

2. Section 6 of P.L.1985, c.404 (C.52:4B-44) is amended to read as follows:

C.52:4B-44 Standards for law enforcement agencies to ensure rights of crime victims.

6. a. The Attorney General shall, through the Office of Victim-Witness Advocacy in the Division of Criminal Justice in the Department of Law and Public Safety and in consultation with the county prosecutors, promulgate standards for law enforcement agencies to ensure that the rights of crime victims are enforced.

b. The standards shall require that the Office of Victim-Witness Advocacy in the Division of Criminal Justice and each county prosecutor's office provide the following services upon request for victims and witnesses involved in the prosecution of a case:

(1) Orientation information about the criminal justice system and the victim's and witness's role in the criminal justice process;

(2) Notification of any change in the case status and of final disposition;

(3) Information on crime prevention and on available responses to witness intimidation;

(4) Information about available services to meet needs resulting from the crime and referrals to service agencies, where appropriate;

(5) Advance notice of the date, time and place of the defendant's initial appearance before a judicial officer, submission to the court of any plea agreement, the trial and sentencing;

(6) Advance notice of when presence in court is not needed;

(7) Advice about available compensation, restitution and other forms of recovery and assistance in applying for government compensation;

(8) A waiting or reception area separate from the defendant for use during court proceedings;

(9) An escort or accompaniment for intimidated victims or witnesses during court appearances;

(10) Information about directions, parking, courthouse and courtroom locations, transportation services and witness fees, in advance of court appearances;

(11) Assistance for victims and witnesses in meeting special needs when required to make court appearances, such as transportation and child care arrangements;

(12) Assistance in making travel and lodging arrangements for out-of-State witnesses;

(13) Notification to employers of victims and witnesses, if cooperation in the investigation or prosecution causes absence from work;

(14) Notification of the case disposition, including the trial and sentencing;

(15) Assistance to victims in submitting a written statement to a representative of the county prosecutor's office about the impact of the crime prior to the prosecutor's final decision concerning whether formal charges will be filed;

(16) Advice to victims about their right to make a statement about the impact of the crime for inclusion in the presentence report or at time of parole consideration, if applicable;

(17) Notification to victims of the right to make an in-person statement, prior to sentencing, directly to the sentencing court concerning the impact of the crime;

(18) Expediting the return of property when no longer needed as evidence;

(19) Advise and counsel, or refer for advice or counseling, victims of sexual assault, or other criminal acts involving a risk of transmission of disease, concerning available medical testing and assist such victims, or refer such victims for assistance, in obtaining appropriate testing, counseling and medical care and in making

application to the Violent Crimes Compensation Board for compensation for the costs of such testing, counseling and care;

(20) Assistance to victims in submitting a written impact statement to a representative of the county prosecutor's office concerning the impact of the crime which shall be considered prior to the prosecutor's accepting a negotiated plea agreement containing recommendations as to sentence and assistance to victims in securing an explanation of the terms of any such agreement and the reasons for the agreement;

(21) Notification to the victim of the defendant's release from custody which shall include:

(a) notice of the defendant's escape from custody and return to custody following escape;

(b) notice of any other release from custody, including placement in an Intensive Supervision Program or other alternative disposition, and any associated conditions of release;

(c) notice of the filing by an inmate of an application for commutation of sentence pursuant to N.J.S.2A:167-4 and its disposition;

(d) notice of parole consideration pursuant to provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.); and

(e) notice of the pending release of an inmate due to expiration of sentence; and

(22) Interpreting services for victims and witnesses when necessary to assist a victim or witness who is hearing impaired or developmentally disabled as defined in section 3 of P.L.1977, c.82 (C.30:6D-3) to understand questions and frame answers.

c. In a case involving a victim of aggravated sexual assault or sexual assault as defined in subsection a. or c. of N.J.S.2C:14-2, the Office of Victim-Witness Advocacy or the county prosecutor's office involved in the case shall:

(1) Notify the victim of the victim's right to obtain an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS, and assist the victim, or refer the victim for assistance, in obtaining a test and appropriate counseling and medical care;

(2) Notify the victim of the victim's right to obtain a court order pursuant to subsection a. of section 4 of P.L.1993, c.364 (C.2C:43-2.2) requiring the offender to submit to an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of

AIDS in the event that the offender is indicted, formally charged, convicted or adjudicated delinquent;

(3) Communicate the request of a victim who agrees to seek an order pursuant to subsection a. of section 4 of P.L.1993, c.364 (C.2C:43-2.2) to the prosecutor handling the case and notify the victim or arrange for the victim to be notified of the test result; and

(4) Assist the victim in applying to the Violent Crimes Compensation Board for compensation for the costs of testing, counseling and medical care.

3. This act shall take effect immediately.

Approved May 9, 1995.

CHAPTER 99

AN ACT concerning aid to municipalities for certain transportation projects and amending P.L.1984, c.73.

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

1. Section 25 of P.L.1984, c.73 (C.27:1B-25) is amended to read as follows:

C.27:1B-25 County, municipal projects.

25. a. Notwithstanding the provisions of subtitle 4 of Title 27 of the Revised Statutes and P.L.1946, c.301 (C.27:15A-1 et seq.), the commissioner may, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law, allocate to counties and municipalities funds for the planning, acquisition, engineering, construction, reconstruction, repair, resurfacing and rehabilitation of public highways and the planning, acquisition, engineering, construction, reconstruction, repair, maintenance and rehabilitation of public transportation projects and of other transportation projects which a county or municipality may be authorized by law to undertake. In the case of a county or municipality for which an allocation has been made for the federal fiscal year beginning October 1, 1983, of an amount of federal aid for the federal aid urban system, as defined

in 23 U.S.C.§103, the amount of State aid allocated under this section in any fiscal year shall not be less than the amount of federal aid so allocated, together with the amount of matching funds required under federal law. No allocation shall be made to a county or municipality without certification by the commissioner: (1) that there exists with respect to that county or municipality a comprehensive plan, or plans, which he has approved, for the effective allocation, utilization and coordination of available federal and State transportation aid, and (2) that the county or municipality has agreed that State aid provided under this section is provided in lieu of federal aid for the federal aid urban system program and that any federal aid for the federal aid urban system program attributable to the area will be programmed by the Department of Transportation for projects of regional significance. In any year in which insufficient funds have been appropriated to meet the minimum county allocations established in this section, or if no appropriation is provided, the commissioner shall determine on a prorated basis the amount of the deficiency for each county having a minimum allocation and allocate from funds available under the federal aid urban system program sufficient funds to meet the minimum allocations.

b. The commissioner shall, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law and pursuant to the provisions of subsection d. of this section, allocate at his discretion State aid to municipalities for public highways under their jurisdiction and for emergency transportation projects, except that the amount to be appropriated for this program shall be 15% of the amount appropriated pursuant to the provisions of paragraph (2) of subsection d. of this section.

c. The commissioner shall, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law and pursuant to the provisions of subsection d. of this section, allocate State aid to municipalities for public highways under their jurisdiction, except that the amount to be appropriated for this purpose shall be 85% of the amount appropriated pursuant to the provisions of paragraph (2) of subsection d. of this section. The amount to be appropriated shall be allocated on the basis of the following distribution factor:

$$DF = \frac{Pc}{Ps} + \frac{Cm}{Sm}$$

where, DF equals the distribution factor
Pc equals county population
Ps equals State population
Cm equals municipal road mileage within the county
Sm equals municipal road mileage within the State.

After the amount of aid has been allocated based on the above formula, the commissioner shall determine priority for the funding of municipal projects within each county, based upon criteria relating to volume of traffic, safety considerations, growth potential, readiness to obligate funds and local taxing capacity. In addition to the above criteria used in determining priority of funding of municipal projects in each county, the commissioner shall consider whether a project is intended to remedy hazardous conditions as identified for the purposes of providing transportation pursuant to N.J.S.18A:39-1.2 for school pupils.

For the purposes of this subsection, (1) "population" means the official population count as reported by the New Jersey Department of Labor; and (2) "municipal road mileage" means that road mileage under the jurisdiction of municipalities, as determined by the department.

d. There shall be appropriated at least $30,000,000.00 in each fiscal year for the purposes provided herein and in subsections b. and c. of this section. (1) Of that appropriation, the commissioner shall allocate $5,000,000.00 as State aid to any municipality qualifying for aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.). The commissioner shall allocate the aid to each municipality in the same proportion that the municipality receives aid under P.L.1978, c.14. (2) The remaining amount of the appropriation shall be allocated pursuant to the provisions of subsections b. and c. of this section.

2. This act shall take effect immediately.

Approved May 9, 1995.

CHAPTER 100

AN ACT concerning health insurance and requiring health insurers to offer benefits for certain treatments of cancer under certain conditions and supplementing P.L.1938, c.366 (C.17:48-1 et seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985, c.236 (C.17:48E-1 et seq.), chapters 26 and 27 of Title 17B of the New Jersey Statutes and P.L.1973, c.337 (C.26:2J-1 et seq.).

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

C.17:48-6k Benefits for certain cancer treatments.

1. In addition to benefits provided under regulations adopted pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.) and P.L.1992, c.162 (C.17B:27A-17 et seq.), a hospital service corporation shall offer under every group or individual hospital service corporation contract providing hospital or medical expense benefits delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Insurance, on or after the effective date of this act to provide benefits for the treatment of cancer by dose-intensive chemotherapy/autologous bone marrow transplants and peripheral blood stem cell transplants when performed by institutions approved by the National Cancer Institute or pursuant to protocols consistent with the guidelines of the American Society of Clinical Oncologists. Benefits for such treatment shall be provided to the same extent as for any other illness under the contract.

The offer required pursuant to this section shall apply to all hospital service corporation contracts in which the hospital service corporation has reserved the right to change the premium. Nothing in this section shall be construed to limit a hospital service corporation in adjusting premium amounts, or providing for reasonable deductibles or copayments, with respect to benefits provided pursuant to this section.

C.17:48A-7j Benefits for certain cancer treatments.

2. In addition to benefits provided under regulations adopted pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.) and P.L.1992, c.162 (C.17B:27A-17 et seq.), a medical service corporation shall offer under every group or individual medical service corporation contract providing hospital or medical expense benefits delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Insurance, on or after the effective date of this act to provide benefits for the treatment of cancer by dose-intensive chemotherapy/autologous bone marrow transplants and peripheral blood stem cell transplants when performed by institutions approved by the National Cancer Institute or pursuant to protocols consistent with the guidelines of the American Society of Clinical Oncologists. Benefits for such treatment shall be provided to the same extent as for any other illness under the contract.

The offer required pursuant to this section shall apply to all medical service corporation contracts in which the medical ser-

vice corporation has reserved the right to change the premium. Nothing in this section shall be construed to limit a medical service corporation in adjusting premium amounts, or providing for reasonable deductibles or copayments, with respect to benefits provided pursuant to this section.

C.17:48E-35.8 Benefits for certain cancer treatments.

3. In addition to benefits provided under regulations adopted pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.) and P.L.1992, c.162 (C.17B:27A-17 et seq.), a health service corporation shall offer under every group or individual health service corporation contract providing hospital or medical expense benefits delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Insurance, on or after the effective date of this act to provide benefits for the treatment of cancer by dose-intensive chemotherapy/autologous bone marrow transplants and peripheral blood stem cell transplants when performed by institutions approved by the National Cancer Institute or pursuant to protocols consistent with the guidelines of the American Society of Clinical Oncologists. Benefits for such treatment shall be provided to the same extent as for any other illness under the contract.

The offer required pursuant to this section shall apply to all health service corporation contracts in which the health service corporation has reserved the right to change the premium. Nothing in this section shall be construed to limit a health service corporation in adjusting premium amounts, or providing for reasonable deductibles or copayments, with respect to benefits provided pursuant to this section.

C.17B:26-2.1j Benefits for certain cancer treatments.

4. In addition to benefits provided under regulations adopted pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.), an insurer shall offer under every individual policy providing health insurance coverage delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Insurance, on or after the effective date of this act to provide benefits for the treatment of cancer by dose-intensive chemotherapy/autologous bone marrow transplants and peripheral blood stem cell transplants when performed by institutions approved by the National Cancer Institute or pursuant to protocols consistent with the guidelines of the American Society of Clinical Oncologists. Benefits for such treatment shall be provided to the same extent as for any other illness under the policy.

The offer required pursuant to this section shall apply to all health insurance policies in which the insurer has reserved the right to change the premium. Nothing in this section shall be construed to limit an insurer in adjusting premium amounts, or providing for reasonable deductibles or copayments, with respect to benefits provided pursuant to this section.

C.17B:27-46.1j Benefits for certain cancer treatments.

5. In addition to benefits provided under regulations adopted pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.), an insurer shall offer under every group policy providing health insurance coverage delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Insurance on or after the effective date of this act to provide benefits for the treatment of cancer by dose-intensive chemotherapy/autologous bone marrow transplants and peripheral blood stem cell transplants when performed by institutions approved by the National Cancer Institute or pursuant to protocols consistent with the guidelines of the American Society of Clinical Oncologists. Benefits for such treatment shall be provided to the same extent as for any other illness under the policy.

The offer required pursuant to this section shall apply to all health insurance policies in which the insurer has reserved the right to change the premium. Nothing in this section shall be construed to limit an insurer in adjusting premium amounts, or providing for reasonable deductibles or copayments, with respect to benefits provided pursuant to this section.

C.26:2J-4.8 Benefits for certain cancer treatments.

6. In addition to benefits provided under regulations adopted pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.) and P.L.1992, c.162 (C.17B:27A-17 et seq.), no certificate of authority to establish and operate a health maintenance organization in this State shall be issued or continued on or after the effective date of this act unless the health maintenance organization offers to provide health care services to any contract holder for the treatment of cancer by dose-intensive chemotherapy/autologous bone marrow transplants and peripheral blood stem cell transplants when performed by institutions approved by the National Cancer Institute or pursuant to protocols consistent with the guidelines of the American Society of Clinical Oncologists. This treatment shall be provided to the same extent as for any other illness.

The offer required pursuant to this section shall apply to all contracts for health care services by health maintenance organizations under which the right to change the schedule of charges for enrollee coverage is reserved. Nothing in this section shall be construed to limit a health maintenance organization in adjusting the schedule of charges for enrollee coverage, or providing for reasonable deductibles or copayments, with respect to benefits provided pursuant to this section.

7. Nothing in this act shall be construed to diminish any current or future health care benefits contract in this State.

8. This act shall take effect on the 90th day after enactment.

Approved May 9, 1995.

CHAPTER 101

AN ACT concerning contracts between local government units and private firms for the provision of water supply services, supplementing Title 58 of the Revised Statutes and amending R.S.48:2-13 and P.L.1971, c.198.

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

C.58:26-19 Short title.

1. Sections 1 through 8 of P.L.1995, c.101 (C.58:26-19 et seq.) shall be known and may be cited as the "New Jersey Water Supply Public-Private Contracting Act."

C.58:26-20 Findings, determinations.

2. The Legislature finds that it is in the public interest and the policy of the State to foster and promote by all reasonable means the provision and distribution of an adequate supply of water for the public and private uses of counties and municipalities and their inhabitants; that while the "New Jersey Water Supply Privatization Act," P.L.1985, c.37 (C.58:26-1 et seq.), enabled local government units to enter into long-term contracts with private-sector firms, the time consuming procedures and the regulatory framework required therein have dissuaded private firms and

local government units from entering into contracts; that there is a need for an alternate statutory process which enables local government units to enter with private firms into long-term contracts that protect the rights and interests of residents of the local government unit, but allows the private firms to utilize their expertise, experience and resources to enable the local water system to comply with existing and more stringent future requirements of the federal Clean Water Act, 33 U.S.C.§1251 et seq., the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) and the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.); and that such contracts can adequately protect the interests of residents and water users and assure conformance with environmentally sound water quality standards.

The Legislature therefore determines that it is in the public interest to establish a comprehensive procedure designed to authorize local government units to enter into contracts with private firms for the financing, designing, construction, improvement, operation, maintenance, or administration, or any combination thereof, of a water supply facility.

C.58:26-21 Definitions.

3. As used in sections 1 through 8 of P.L.1995, c.101 (C.58:26-19 et seq.):

"Board" means the New Jersey Board of Public Utilities.

"Department" means the New Jersey Department of Environmental Protection.

"Division" means the Local Finance Board within the Division of Local Government Services in the Department of Community Affairs.

"Governing body" means the board of chosen freeholders in the case of the county; the board of chosen freeholders and the county executive, the county supervisor or the county manager, as appropriate, in the case of a county organized pursuant to the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.); the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality, in the case of a municipality; and the decision-making body of an authority or commission.

"Contract" means a long-term written agreement wherein a private firm agrees to provide water supply services for a public entity and wherein the private firm agrees to provide, during the term of the contract, capital expenditures on behalf of the public entity's water supply facilities, which expenditures are set forth in the contract.

"Private firm" means any privately or publicly held company qualified to do business in the State of New Jersey that is financially, technically, and administratively capable of providing water supply services to a public entity under the terms of a contract entered into pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

"Proposal document" means the document prepared by or on behalf of a public entity describing the water supply services that the public entity is considering having provided by a private firm pursuant to a contract. The proposal document shall include specific minimum qualifications that a private firm shall meet, as well as the criteria that will be used by a public entity to evaluate a proposal submitted by a private firm.

"Public entity" means a county, a municipality, a municipal or county authority or any commission or other political subdivision of the State, or any two or more counties, municipalities, municipal or county utility authorities or any commission or other political subdivision of the State, acting jointly, that are authorized by law to operate or maintain a public water supply system or to construct, rehabilitate, operate, or maintain water supply facilities or otherwise provide water for human consumption.

"Water supply facility" means the plants, structures, or other real or personal property acquired, constructed or operated, or to be acquired, constructed or operated, by or on behalf of a public entity for the collection, impoundment, storage, improvement, treatment, filtration, conservation, protection, transmission or distribution of water.

"Water supply services" means the financing, designing, construction, improvement, operation, maintenance, administration, or any combination thereof, of a water supply facility which services are provided pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

C.58:26-22 Contract for provision of water supply services.

4. Notwithstanding the provisions of any other law, rule or regulation to the contrary, a public entity may enter into a contract with a private firm pursuant to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of water supply services. The provisions of P.L.1995, c.101 (C.58:26-19 et al.) shall not be deemed or interpreted to permit, nor used to accomplish, the acquisition of water supply facilities by private firms from public entities.

C.58:26-23 Notice of intent, review of proposals, negotiation of contract, terms.

5. a. A public entity shall publish notice of its intent to enter into a contract pursuant to P.L.1995, c.101 (C.58:26-19 et al.) in at least one newspaper of general circulation in the jurisdiction or

service area that will receive water supply services under the terms of a contract and one newspaper of broad regional circulation, at least 60 days prior to conducting the public hearing required under section 6 of P.L.1995, c.101 (C.58:26-24). In addition, a public entity that intends to enter into a contract with a private firm for the provision of water supply services shall notify in writing the board, department and division of its intent.

b. The public notice required under subsection a. of this section shall describe the type of services desired and provide the name, address and phone number of the person who can provide additional information and a proposal document to an interested party. The notice shall specify a deadline, that shall be not less than 30 days from the date of the publication of the notice for the submission of proposals by private firms to the public entity. The public entity may at any time revise the proposal document and each private firm that received a proposal document shall be provided with the revised proposal document.

c. The public entity shall conduct a review of the proposals submitted by private firms to determine which proposals meet the minimum qualifications and standards. The review shall be conducted in a manner that avoids disclosure of the contents of a proposal to any private firm submitting a competing proposal. The public entity may conduct discussions with a private firm submitting a qualified proposal for the purpose of clarifying the information submitted in the proposal. The public entity may at any time revise its proposal document after the review of the submitted proposals if it notifies simultaneously and in writing each private firm that submitted a proposal of the revision and provides a uniform time within which a firm may submit a revised proposal for review.

d. A public entity shall select one qualified proposal from among those submitted. The public entity shall negotiate a contract with the private firm that submitted the selected proposal. If the public entity is unable to negotiate a satisfactory contract with the selected private firm, it may select another qualified proposal from among those submitted and proceed to negotiate a contract with the private firm that submitted the proposal. The public entity shall set forth in writing the reasons for the selection of the qualified proposal submitted by the private firm with which the public entity has negotiated a proposed contract and shall make this document available to the public along with the proposed contract upon request and during the public hearing conducted pursuant to section 6 of P.L.1995, c.101 (C.58:26-24).

e. A contract entered into pursuant to P.L.1995, c.101 (C.58:26-19 et al.) shall include provisions addressing the following:

(1) The charges, rates, fees or formulas to be used to determine the charges, rates, or fees to be charged by the public entity for the water supply services to be provided.

(2) The allocation of the risks of financing and constructing planned capital additions or upgrades to existing water supply facilities.

(3) The allocation of the risks of operating and maintaining the water supply facility.

(4) The allocation of the risks associated with circumstances or occurrences beyond the control of the parties to the contract.

(5) The defaulting and termination of the contract.

(6) The employment of current employees of the public entity whose positions or employment will be affected by the terms of the contract.

(7) The private firm's authority and the extent, or the procedures for the use, of that authority to initiate, negotiate and finalize the terms for a bulk sale of surplus water. The contract shall either grant the private firm such authority or specifically state that the firm is denied that authority. Nothing in P.L.1995, c.101 (C.58:26-19 et al.) shall be construed to authorize a public entity that enters into a contract pursuant to P.L.1995, c.101 (C.58:26-19 et al.) to provide for the bulk sale, lease or transfer of water if the water being transferred, leased or sold has been supplied to the public entity either by the New Jersey Water Supply Authority or by the North Jersey District Water Supply Commission, unless the authority pursuant to P.L.1981, c.293 (C.58:1B-1 et seq.) or the district pursuant to R.S.58:5-1 et seq., as appropriate, has agreed to the bulk sale, lease or transfer.

(8) The requirements for the provision of a performance bond by the private firm, if so required by the public entity.

A contract may contain any other terms and conditions that have been negotiated by the public entity and the private firm.

f. If a dispute over contract compliance, performance or termination cannot be resolved by the public entity and the private firm pursuant to the procedures set forth in the contract, either party to the contract may file with the Superior Court which has appropriate jurisdiction a request for an order either to terminate the contract based on the reasons stated in the request or for an order for other appropriate relief to the dispute. The court may take such action as it may deem necessary to facilitate the expeditious resolution of the dispute and an expeditious response to the request, including ordering the parties to undertake a dispute res-

olution or mediation process. The court shall use, as it deems necessary, the services of a financial expert in the area of water supply service contracts in its analysis of the contract and the issues before it. Within 90 days after the filing of a request, the court shall either grant the request or deny the request. If the request is granted, the court shall order such appropriate relief measures or remedies as it deems appropriate and necessary.

g. A public entity that has negotiated a contract with a private firm pursuant to P.L.1995, c.101 (C.58:26-19 et al.) shall obtain the written opinion of bond counsel as to effect of the contract on the tax exempt status of existing and future financing instruments executed by the public entity given the terms of the contract and the federal laws or regulations concerning this matter.

h. If a public entity entering a contract consists of multiple municipalities, a concession fee or other monetary benefit paid by a private firm as a result of the contract shall be paid directly to the municipalities constituting that public entity. Any concession fee or monetary benefit paid by a private firm to a public entity shall be used for the purpose of reducing or off-setting property taxes.

C.58:26-24 Public hearing; ordinance; application.

6. a. A public entity that intends to enter into a contract with a private firm for the provision of water supply services pursuant to P.L.1995, c.101 (C.58:26-19 et al.) shall conduct a public hearing on the proposed contract negotiated pursuant to section 5 of P.L.1995, c.101 (C.58:26-23). A public entity shall also conduct pursuant to this section a public hearing on revisions to a contract required by subsection b. of section 7 of P.L.1995, c.101 (C.58:26-25) or on substantial amendments to a contract as required by subsection g. of section 7 of P.L.1995, c.101 (C.58:26-25).

b. The public entity shall provide at least 14 days' prior notice of the public hearing by publication in at least one newspaper of general circulation in the jurisdiction or service area of the public entity to be served under the terms of the proposed contract. The publication shall include notice of the date, time and place of the public hearing, notice of the place at which copies of the proposed contract will be available for public inspection, and the times during which such inspection will be permitted. The notice shall specifically state whether any concession fee or monetary benefit will be paid by a private firm to the public entity as a result of the contract for water supply services, the monetary amount of the fee or benefit and the potential impact of the fee or benefit on the

charges, rates or fees which will be paid for the supply of water by water users in the jurisdiction or service area that will receive the water supply services pursuant to the terms of the contract.

c. At the public hearing, the public entity shall explain the terms and conditions of the proposed contract and shall answer questions raised by prospective consumers and other interested parties. The public entity shall explain during the hearing the charges, rates or fees that will or may be charged by the public entity for the supply of water as a result of the proposed contract. In addition, the entity shall explain any concession fee or monetary benefit to be paid by a private firm to the public entity as a result of the contract for water supply services, the monetary amount of the fee or benefit and the potential impact of the fee or benefit on the charges, rates or fees which will be paid for the supply of water by water users in the jurisdiction or service area that will receive the water supply services pursuant to the terms of the contract.

d. The public entity shall produce a verbatim record of the public hearing. The record of the public hearing shall be kept open for a period of seven days following the conclusion of the hearing, during which time interested parties may submit written statements to be included in the hearing report. The public entity shall prepare a written hearing report, which shall include a copy of the proposed contract, a copy of the statement setting forth the public entity's reasons for the selection of the proposal submitted by the private firm with which the entity has negotiated a contract, the verbatim record of the public hearing, written statements submitted by interested parties, a copy of the bond counsel's written opinion required pursuant to subsection g. of section 5 of P.L.1995, c.101 (C.58:26-23) and a statement prepared by the public entity summarizing the major issues raised at the public hearing and the public entity's specific responses to those issues. The public entity shall make copies of the hearing report available to interested parties upon request at a cost not to exceed the actual cost of printing or copying.

e. The governing body of a public entity that has negotiated the proposed contract shall adopt an ordinance or a resolution, as appropriate, or parallel ordinances or resolutions, as the case may be, if there is more than one governing body involved, approving the proposed contract. The ordinance or resolution may be introduced at the first meeting of the governing body of the public entity held after the public hearing on the proposed contract, and shall acknowledge that the agreement needs to be approved pursuant to section 7 of P.L.1995, c.101 (C.58:26-25).

f. Within 30 days after the close of a public hearing on a proposed contract held pursuant to subsection a. of this section and upon at least 10 days' prior written notice, the public entity shall submit pursuant to section 7 of P.L.1995, c.101 (C.58:26-25) an application for approval to the division and the board and shall submit the hearing report to the department for review. The board and division shall specify the form of the application to be submitted.

C.58:26-25 Approval of application.

7. a. Within 60 days of receipt of the application, the board and division shall approve, or conditionally approve, an application submitted by a public entity pursuant to subsection f. of section 6 of P.L.1995, c.101 (C.58:26-24). Within 60 days of receipt of the hearing report, the department shall provide any comments on the hearing report it deems appropriate to the board, division and public entity. If the board or division fail to approve or conditionally approve the application within 60 days after receipt, the application shall be deemed approved, unless the public entity has agreed to an extension of the period.

b. If either the board or division conditionally approves the application, the board or division shall state in writing the revision to the proposed contract that is necessary in order for it to be approved. If the board or division determines that the required revision is substantial, the public entity shall hold a public hearing on the revision and adhere to the provisions of section 6 of P.L.1995, c.101 (C.58:26-24) in so doing. A substantial revision shall be a change that results in an increase in the charges, rates or fees of the private firm or that materially changes other terms and conditions of the contract. The proposed revision to the contract shall be submitted to the board, division and department 15 days prior to the date of the public hearing.

If the board or division determines that the required revision in the conditional approval is not substantial, the public entity shall submit the proposed revision to the contract to the board and the division for approval and to the department for review. The revision shall be approved if found to be consistent with the conditions set forth in the conditional approval, or disapproved with a written explanation as to why the revision is not consistent, within 15 days after the next public meeting of the board or division.

c. In its review of a contract, the board shall apply the following criteria in determining whether to approve the contract:

(1) The private firm entering into the contract has the financial capacity and technical and administrative experience to ensure continuity of service over the term of the contract and that the standards and requirements contained in the application documents concerning the financial, technical and administrative capacity of the private firm are necessary and sufficient to protect the public interest.

(2) The terms of the contract are not unreasonable. In determining whether the terms of the contract are not unreasonable, the board shall review the fees and charges to be charged or assessed under the contract to determine that they are reasonable to the public entity, taking into consideration all of the obligations undertaken by the private firm and all the benefits obtained by the public entity. In making this determination, the board shall not use the traditional rate based rate of return methodology.

(3) The franchise customers of a public utility participating in a contract are protected from the risks of the proposed contract and that they are not subsidizing the contract. If a private firm is not a public utility, the board shall ensure that under the terms of the proposed contract the users of water outside of the jurisdiction or service area that will receive water supply services under the contract are also protected from the risks of the contract and that water users outside the jurisdiction or service area are not subsidizing the contract through increased charges, rates or fees for the supply of water.

(4) The contract contains the provisions required by paragraphs (1), (2) and (6) of subsection e. of section 5 of P.L.1995, c.101 (C.58:26-23).

Upon approval of a contract as proposed or as revised in response to a conditional approval, the jurisdiction of the board over the contract shall terminate until or unless the contract is amended to change the formula or other basis of determining charges contained therein.

d. In its review of a contract, the division shall apply the following criteria in determining whether to approve the contract:

(1) The terms of the proposed contract do not materially impair the ability of the public entity to punctually pay principal and interest due on its outstanding indebtedness and to supply other essential public improvements and services.

(2) A concession fee or other monetary benefit paid by a private firm as a result of the contract is paid directly to the municipalities constituting that public entity, if a public entity consisting of multiple municipalities has entered into a contract. Any concession fee or monetary benefit paid by a private firm to a public entity is used for the purpose of reducing or off-setting property taxes.

(3) The contract contains the provisions required by paragraphs (3), (4), (5), (7) and (8) of subsection e. of section 5 of P.L.1995, c.101 (C.58:26-23).

The division shall also review and specifically approve any contract provision pursuant to which a public entity will or may execute a financing instrument for the purposes set forth in the contract.

e. The board or division may provide the public entity with any non-binding comments or advice during or after the review of the application as the board or division deem appropriate.

f. The board or division shall assess and the applicant shall pay a fee equal to the cost incurred by the board or division for an analysis of an application by an independent person who has expertise in the area of water supply services if during the review of an application the board or division determine that such an analysis is required and a person with the required expertise is not readily available from within any executive department of the State government.

g. If the public entity and private firm would like to amend a contract after approval of an application by the board and division, the public entity shall submit proposed amendments to the board and division for approval and to the department for review. At the next public meeting of the board and of the division after receipt of proposed amendments, the board and the division shall determine whether the proposed amendments are substantial. If the amendments are substantial in nature as determined by either the board or the division, the public entity shall conduct a hearing pursuant to section 6 of P.L.1995, c.101 (C.58:26-24). Within 60 days of the receipt of proposed amendments that are not determined to be substantial, or within 60 days of the receipt of an application for approval of proposed amendments that are determined to be substantial, the board and division shall approve or conditionally approve the amendments in accordance with the applicable procedures established for approval of an original contract pursuant to section 7 of P.L.1995, c.101 (C.58:26-25).

C.58:26-26 Issuance of bonds.

8. In order to pay its part of the cost of the water supply facility, a public entity may issue bonds in accordance with the "Local Bond Law," N.J.S.40A:2-1 et seq. If a public entity enters into a financing instrument the proceeds of which are used by the private firm for a capital expenditure for the benefit of a water supply facility, the expenditure of the funds provided by the public entity shall be in compliance with applicable public contracting statutes.

C.58:26-27 Jurisdiction, regulation, control.

9. Notwithstanding any other provision of P.L.1995, c.101 (C.58:26-19 et al.) whenever a private firm enters into a contract with a public entity to provide water supply services pursuant to P.L.1995, c.101 (C.58:26-19 et al.), and that public entity operates water supply facilities, in accordance with the provisions of N.J.S.40A:31-4, within another public entity, the private firm or public entity shall be subject to the jurisdiction, regulation and control of the Board of Public Utilities as provided in N.J.S.40A:31-23, to the extent the private firm or public entity operates water supply facilities within another public entity.

10. R.S.48:2-13 is amended to read as follows:

Powers of board; public utility defined; exemptions from jurisdiction.

48:2-13. The board shall have general supervision and regulation of and jurisdiction and control over all public utilities as hereinafter in this section defined and their property, property rights, equipment, facilities and franchises so far as may be necessary for the purpose of carrying out the provisions of this Title.

The term "public utility" shall include every individual, copartnership, association, corporation or joint stock company, their lessees, trustees or receivers appointed by any court whatsoever, their successors, heirs or assigns, that now or hereafter may own, operate, manage or control within this State any railroad, street railway, traction railway, autobus, charter bus operation, special bus operation, canal, express, subway, pipeline, gas, electric light, heat, power, water, oil, sewer, solid waste collection, solid waste disposal, telephone or telegraph system, plant or equipment for public use, under privileges granted or hereafter to be granted by this State or by any political subdivision thereof.

Nothing contained in this Title shall extend the powers of the board to include any supervision and regulation of, or jurisdiction and control over any vehicles engaged in ridesharing arrangements with a maximum carrying capacity of not more than 15 passengers, including the driver, where the transportation of passengers is incidental to the purpose of the driver or any vehicles engaged in the transportation of passengers for hire in the manner and form commonly called taxicab service unless such service becomes or is held out to be regular service between stated termini; hotel buses used exclusively for the transportation of hotel patrons to or from local railroad or other common carrier stations,

including local airports, or bus employed solely for transporting school children and teachers, to and from school, or any autobus with a carrying capacity of not more than 10 passengers now or hereafter operated under municipal consent upon a route established wholly within the limits of a single municipality or with a carrying capacity of not more than 20 passengers operated under municipal consent upon a route established wholly within the limits of not more than four contiguous municipalities within any county of the fifth or sixth class, which route in either case does not in whole or in part parallel upon the same street the line of any street railway or traction railway or any other autobus route.

Except as provided in section 7 of P.L.1995, c.101 (C.58:26-25), the board shall have no regulatory authority over the parties to a contract negotiated between a public entity and a private firm pursuant to P.L.1995, c.101 (C.58:26-19 et al.) in connection with the performance of their respective obligations thereunder. Nothing contained in this Title shall extend the powers of the board to include any supervision and regulation of, or jurisdiction and control over, any public-private contract for the provision of water supply services established pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

11. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to read as follows:

C.40A:11-2 Definitions.

2. As used herein the following words have the following definitions, unless the context otherwise indicates:

(1) "Contracting unit" means:

(a) Any county; or

(b) Any municipality; or

(c) Any board, commission, committee, authority or agency, which is not a State board, commission, committee, authority or agency, and which has administrative jurisdiction over any district other than a school district, project, or facility, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter into contracts or agreements for the performance of any work or the furnishing or hiring of any materials or supplies usually required, the cost or contract price of which is to be paid with or out of public funds.

New Jersey State Library

The term shall not include a private firm that has entered into a contract with a public entity for the provision of water supply services pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

(2) "Governing body" means:

(a) The governing body of the county, when the purchase is to be made or the contract or agreement is to be entered into by, or in behalf of, a county; or

(b) The governing body of the municipality, when the purchase is to be made or the contract or agreement is to be entered into by, or on behalf of, a municipality; or

(c) Any board, commission, committee, authority or agency of the character described in subsection (1)(c) of this section.

(3) "Contracting agent" means the governing body of a contracting unit, or any board, commission, committee, officer, department, branch or agency which has the power to prepare the advertisements, to advertise for and receive bids and, as permitted by this act, to make awards for the contracting unit in connection with purchases, contracts or agreements.

(4) "Purchase" is a transaction, for a valuable consideration, creating or acquiring an interest in goods, services and property, except real property or any interest therein.

(5) "Materials" includes goods and property subject to chapter 2 of Title 12A of the New Jersey Statutes, apparatus, or any other tangible thing, except real property or any interest therein.

(6) "Professional services" means services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law, and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services may also mean services rendered in the performance of work that is original and creative in character in a recognized field of artistic endeavor.

(7) "Extraordinary unspecifiable services" means services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor.

(8) "Project" means any work, undertaking, program, activity, development, redevelopment, construction or reconstruction of any area or areas.

(9) "Work" includes services and any other activity of a tangible or intangible nature performed or assumed pursuant to a contract or agreement with a contracting unit.

(10) "Homemaker--home health services" means at home personal care and home management provided to an individual or members of his family who reside with him, or both, necessitated by the individual's illness or incapacity. "Homemaker--home health services" includes, but is not limited to, the services of a trained homemaker.

(11) "Recyclable material" means those materials which would otherwise become municipal solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(12) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(13) "Marketing" means the marketing of designated recyclable materials source separated in a municipality which entails a marketing cost less than the cost of transporting the recyclable materials to solid waste facilities and disposing of the materials as municipal solid waste at the facility utilized by the municipality.

(14) "Municipal solid waste" means all residential, commercial and institutional solid waste generated within the boundaries of a municipality.

(15) "Distribution" (when used in relation to electricity) means the process of conveying electricity from a contracting unit who is a generator of electricity or a wholesale purchaser of electricity to retail customers or other end users of electricity.

(16) "Transmission" (when used in relation to electricity) means the conveyance of electricity from its point of generation to a contracting unit who purchases it on a wholesale basis for resale.

(17) "Disposition" means the transportation, placement, reuse, sale, donation, transfer or temporary storage of recyclable materials for all possible uses except for disposal as municipal solid waste.

12. Section 5 of P.L.1971, c.198 (C.40A:11-5) is amended to read as follows:

C.40A:11-5 Exceptions.

5. Exceptions. Any purchase, contract or agreement of the character described in section 4 of P.L.1971, c.198 (C.40A:11-4)

may be made, negotiated or awarded by the governing body without public advertising for bids and bidding therefor if:

(1) The subject matter thereof consists of:

(a) (i) Professional services. The governing body shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed once, in a newspaper authorized by law to publish its legal advertisements, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and contract are on file and available for public inspection in the office of the clerk of the county or municipality, or, in the case of a contracting unit created by more than one county or municipality, of the counties or municipalities creating such contracting unit; or (ii) Extraordinary unspecifiable services. The application of this exception shall be construed narrowly in favor of open competitive bidding, where possible, and the Division of Local Government Services is authorized to adopt and promulgate rules and regulations limiting the use of this exception in accordance with the intention herein expressed. The governing body shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed, in the manner set forth in subsection (1)(a)(i) of this section, a brief notice of the award of such contract;

(b) The doing of any work by employees of the contracting unit;

(c) The printing of legal briefs, records and appendices to be used in any legal proceeding in which the contracting party may be a party;

(d) The furnishing of a tax map or maps for the contracting party;

(e) The purchase of perishable foods as a subsistence supply;

(f) The supplying of any product or the rendering of any service by a public utility, which is subject to the jurisdiction of the Board of Public Utilities or the U.S. Federal Energy Regulatory Commission or its successor, in accordance with tariffs and schedules of charges made, charged or exacted, filed with the board or commission;

(g) The acquisition, subject to prior approval of the Attorney General, of special equipment for confidential investigation;

(h) The printing of bonds and documents necessary to the issuance and sale thereof by a contracting unit;

(i) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with such service, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;

(j) The publishing of legal notices in newspapers as required by law;

(k) The acquisition of artifacts or other items of unique intrinsic, artistic or historical character;

(l) Election expenses;

(m) Insurance, including the purchase of insurance coverage and consultant services, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;

(n) The doing of any work by handicapped persons employed by a sheltered workshop;

(o) The provision of any service or the furnishing of materials including those of a commercial nature, attendant upon the operation of a restaurant by any nonprofit, duly incorporated, historical society at or on any historical preservation site;

(p) Homemaker--home health services performed by voluntary, nonprofit agencies;

(q) The purchase of materials and services for a law library established pursuant to R.S.40:33-14, including books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial or graphic works, copyright and patent materials, maps, charts, globes, sound recordings, slides, films, filmscripts, video and magnetic tapes, and other audiovisual, printed, or published material of a similar nature; necessary binding or rebinding of law library materials; and specialized library services;

(r) On-site inspections undertaken by private agencies pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and the regulations adopted pursuant thereto;

(s) The marketing of recyclable materials recovered through a recycling program, or the marketing of any product intentionally produced or derived from solid waste received at a resource recovery facility or recovered through a resource recovery program, including, but not limited to, refuse-derived fuel, compost materials, methane gas, and other similar products;

(t) Emergency medical services provided by a hospital to the residents of a municipality or county, provided that: (a) such exception be allowed only after the governing body determines that the emergency services are available only from one provider; and (b) if the contract is awarded without advertising for bids or bidding the governing body shall in each instance state supporting reasons for its action in a resolution awarding the contract and cause to be printed once in a newspaper authorized by law to publish its legal advertisements a brief notice stating the nature, duration, service, and amount of the contract; and (c) the contract shall be kept on file for public inspection in the office of the clerk of the municipality;

(u) Contracting unit towing and storage contracts, provided that all such contracts shall be pursuant to reasonable non-exclusionary and non-discriminatory terms and conditions, which may include the provision of such services on a rotating basis, at the rates and charges set by the municipality pursuant to section 1 of P.L.1979, c.101 (C.40:48-2.49). All contracting unit towing and storage contracts for services to be provided at rates and charges other than those established pursuant to the terms of this paragraph shall only be awarded to the lowest responsible bidder in accordance with the provisions of the "Local Public Contracts Law" and without regard for the value of the contract therefor. Each of the aforementioned means of contracting shall be subject to any regulations adopted by the Commissioner of Insurance pursuant to section 60 of P.L.1990, c.8 (C.17:33B-47);

(v) The purchase of steam or electricity from, or the rendering of services directly related to the purchase of such steam or electricity from a qualifying small power production facility or a qualifying cogeneration facility as defined pursuant to 16 U.S.C.§796;

(w) The purchase of electricity or administrative or dispatching services directly related to the transmission of such purchased electricity by a contracting unit engaged in the generation of electricity;

(x) The printing of municipal ordinances or other services necessarily incurred in connection with the revision and codification of municipal ordinances;

(y) An agreement for the purchase of an equitable interest in a water supply facility or for the provision of water supply services entered into pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or an agreement entered into pursuant to P.L.1989, c.109 (N.J.S.40A:31-1 et al.), so long as such agreement is entered into no later than six months after the effective date of P.L.1993, c.381; or

(z) A contract for the provision of water supply services entered into pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

(2) It is to be made or entered into with the United States of America, the State of New Jersey, county or municipality or any board, body, officer, agency or authority thereof and any other state or subdivision thereof.

(3) The contracting agent has advertised for bids pursuant to section 4 of P.L.1971, c.198 (C.40A:11-4) on two occasions and (a) has received no bids on both occasions in response to its advertisement, or (b) the governing body has rejected such bids on two occasions because the contracting agent has determined that they are not reasonable as to price, on the basis of cost esti-

mates prepared for or by the contracting agent prior to the advertising therefor, or have not been independently arrived at in open competition, or (c) on one occasion no bids were received pursuant to (a) and on one occasion all bids were rejected pursuant to (b), in whatever sequence; any such contract or agreement may then be negotiated and may be awarded upon adoption of a resolution by a two-thirds affirmative vote of the authorized membership of the governing body authorizing such contract or agreement; provided, however, that:

(i) A reasonable effort is first made by the contracting agent to determine that the same or equivalent materials or supplies, at a cost which is lower than the negotiated price, are not available from an agency or authority of the United States, the State of New Jersey or of the county in which the contracting unit is located, or any municipality in close proximity to the contracting unit;

(ii) The terms, conditions, restrictions and specifications set forth in the negotiated contract or agreement are not substantially different from those which were the subject of competitive bidding pursuant to section 4 of P.L.1971, c.198 (C.40A:11-4); and

(iii) Any minor amendment or modification of any of the terms, conditions, restrictions and specifications, which were the subject of competitive bidding pursuant to section 4 of P.L.1971, c.198 (C.40A:11-4), shall be stated in the resolution awarding such contract or agreement; provided further, however, that if on the second occasion the bids received are rejected as unreasonable as to price, the contracting agent shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate, and afford each bidder a reasonable opportunity to negotiate, but the governing body shall not award such contract or agreement unless the negotiated price is lower than the lowest rejected bid price submitted on the second occasion by a responsible bidder, is the lowest negotiated price offered by any responsible supplier, and is a reasonable price for such work, materials, supplies or services.

Whenever a contracting unit shall determine that a bid was not arrived at independently in open competition pursuant to subsection (3) of this section it shall thereupon notify the county prosecutor of the county in which the contracting unit is located and the Attorney General of the facts upon which its determination is based, and when appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation of any State or federal antitrust law or laws relating to the unlawful restraint of trade.

13. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to read as follows:

C.40A:11-15 Duration of certain contracts.

15. All purchases, contracts or agreements for the performing of work or the furnishing of materials, supplies or services shall be made for a period not to exceed 12 consecutive months, except that contracts or agreements may be entered into for longer periods of time as follows:

(1) Supplying of:

(a) Fuel for heating purposes, for any term not exceeding in the aggregate, two years;

(b) Fuel or oil for use of airplanes, automobiles, motor vehicles or equipment for any term not exceeding in the aggregate, two years;

(c) Thermal energy produced by a cogeneration facility, for use for heating or air conditioning or both, for any term not exceeding 40 years, when the contract is approved by the Board of Public Utilities. For the purposes of this paragraph, "cogeneration" means the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam;

(2) (Deleted by amendment, P.L.1977, c.53.)

(3) The collection and disposal of municipal solid waste, the collection and disposition of recyclable material, or the disposal of sewage sludge, for any term not exceeding in the aggregate, five years;

(4) The collection and recycling of methane gas from a sanitary landfill facility, for any term not exceeding 25 years, when such contract is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and with the approval of the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection. The contracting unit shall award the contract to the highest responsible bidder, notwithstanding that the contract price may be in excess of the amount of any necessarily related administrative expenses; except that if the contract requires the contracting unit to expend funds only, the contracting unit shall award the contract to the lowest responsible bidder. The approval by the Division of Local Government Services of public bidding requirements shall not be required for those contracts exempted therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);

(5) Data processing service, for any term of not more than three years;

(6) Insurance, for any term of not more than three years;

(7) Leasing or servicing of automobiles, motor vehicles, machinery and equipment of every nature and kind, for a period not to exceed three years; provided, however, such contracts shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(8) The supplying of any product or the rendering of any service by a telephone company which is subject to the jurisdiction of the Board of Public Utilities for a term not exceeding five years;

(9) Any single project for the construction, reconstruction or rehabilitation of any public building, structure or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction;

(10) The providing of food services for any term not exceeding three years;

(11) On-site inspections undertaken by private agencies pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not more than three years;

(12) The performance of work or services or the furnishing of materials or supplies for the purpose of conserving energy in buildings owned by, or operations conducted by, the contracting unit, the entire price of which to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 10 years; provided, however, that such contracts shall be entered into only subject to and in accordance with rules and regulations promulgated by the Department of Environmental Protection establishing a methodology for computing energy cost savings;

(13) The performance of work or services or the furnishing of materials or supplies for the purpose of elevator maintenance for any term not exceeding three years;

(14) Leasing or servicing of electronic communications equipment for a period not to exceed five years; provided, however, such contract shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(15) Leasing of motor vehicles, machinery and other equipment primarily used to fight fires, for a term not to exceed seven years, when the contract includes an option to purchase, subject to and in accordance with rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(16) The provision of water supply services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility, or any component part or parts thereof, including a water filtration system, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et al.), except for those contracts otherwise exempted pursuant to subsection (30), (31), (34) or (35) of this section. For the purposes of this subsection, "water supply services" means any service provided by a water supply facility; "water filtration system" means any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, rehabilitated, or operated for the collection, impoundment, storage, improvement, filtration, or other treatment of drinking water for the purposes of purifying and enhancing water quality and insuring its potability prior to the distribution of the drinking water to the general public for human consumption, including plants and works, and other personal property and appurtenances necessary for their use or operation; and "water supply facility" means and refers to the real property and the plants, structures, interconnections between existing water supply facilities, machinery and equipment and other property, real, personal and mixed, acquired, constructed or operated, or to be acquired, constructed or operated, in whole or in part by or on behalf of a political subdivision of the State or any agency thereof, for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, or of conserving existing water resources, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering, conserving or transmitting of water and for the preservation and protection of these resources and facilities and providing for the conservation and development of future water supply resources;

(17) The provision of solid waste disposal services by a resource recovery facility, the furnishing of products of a resource recovery facility, the disposal of the solid waste delivered for disposal which cannot be processed by a resource recovery facility or the waste products resulting from the operation of a resource recovery facility, including hazardous waste and recovered metals and other materials for reuse, or the design,

financing, construction, operation or maintenance of a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection; and when the facility is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(18) The sale of electricity or thermal energy, or both, produced by a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Board of Public Utilities, and when the facility is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(19) The provision of wastewater treatment services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a wastewater treatment system, or any component part or parts thereof, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection pursuant to P.L.1985, c.72 (C.58:27-1 et al.). For the purposes of this subsection, "wastewater treatment services" means any services provided by a wastewater treatment system, and "wastewater treatment system" means equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge, or for the final disposal of residues resulting from the treatment of wastewater,

including, but not limited to, pumping and ventilating stations, facilities, plants and works, connections, outfall sewers, interceptors, trunk lines, and other personal property and appurtenances necessary for their operation;

(20) The supplying of materials or services for the purpose of lighting public streets, for a term not to exceed five years, provided that the rates, fares, tariffs or charges for the supplying of electricity for that purpose are approved by the Board of Public Utilities;

(21) In the case of a contracting unit which is a county or municipality, the provision of emergency medical services by a hospital to residents of a municipality or county as appropriate for a term not to exceed five years;

(22) Towing and storage contracts, awarded pursuant to paragraph u. of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) for any term not exceeding three years;

(23) Fuel for the purpose of generating electricity for a term not to exceed eight years;

(24) The purchase of electricity or administrative or dispatching services related to the transmission of such electricity, from a public utility company subject to the jurisdiction of the Board of Public Utilities, a similar regulatory body of another state, or a federal regulatory agency, or from a qualifying small power producing facility or qualifying cogeneration facility, as defined by 16 U.S.C. §796, by a contracting unit engaged in the generation of electricity for retail sale, as of the date of P.L.1991, c.407, for a term not to exceed 40 years;

(25) Basic life support services, for a period not to exceed five years. For the purposes of this subsection, "basic life support" means a basic level of prehospital care, which includes but need not be limited to patient stabilization, airway clearance, cardiopulmonary resuscitation, hemorrhage control, initial wound care and fracture stabilization;

(26) Claims administration services, for any term not to exceed three years;

(27) The provision of transportation services to elderly, disabled or indigent persons for any term of not more than three years. For the purposes of this subsection, "elderly persons" means persons who are 60 years of age or older. "Disabled persons" means persons of any age who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, are unable, without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected. "Indi-

gent persons" means persons of any age whose income does not exceed 100 percent of the poverty level, adjusted for family size, established and adjusted under section 673(2) of subtitle B, the "Community Services Block Grant Act," Pub.L.97-35 (42 U.S.C.§9902 (2));

(28) The supplying of liquid oxygen or other chemicals, for a term not to exceed five years, when the contract includes the installation of tanks or other storage facilities by the supplier, on or near the premises of the contracting unit;

(29) The performance of patient care services by contracted medical staff at county hospitals, correction facilities and long term care facilities, for any term of not more than three years;

(30) The acquisition of an equitable interest in a water supply facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or an agreement entered into pursuant to the "County and Municipal Water Supply Act," N.J.S.40A:31-1 et seq., if the agreement is entered into no more than six months after the effective date of this amendatory act, P.L.1994, c.71 (C.40A:11-15), for any term of not more than forty years;

(31) The provision of water supply services or the financing, construction, operation or maintenance or any combination thereof, of a water supply facility or any component part or parts thereof, by a partnership or copartnership established pursuant to a contract authorized under section 2 of P.L.1993, c.381 (C.58:28-2) for a period not to exceed 40 years;

(32) Laundry service and the rental, supply and cleaning of uniforms for any term of not more than three years;

(33) The supplying of any product or the rendering of any service, including consulting services, by a cemetery management company for the maintenance and preservation of a municipal cemetery operating pursuant to the "New Jersey Cemetery Act," N.J.S.8A:1-1 et seq., for a term not exceeding 15 years;

(34) A contract between a public entity and a private firm pursuant to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of water supply services may be entered into for any term which, when all optional extension periods are added, may not exceed 40 years; and

(35) An agreement for the purchase of a supply of water from a public utility company subject to the jurisdiction of the Board of Public Utilities in accordance with tariffs and schedules of charges made, charged or exacted or contracts filed with the Board of Public Utilities, for any term of not more than 40 years.

All multiyear leases and contracts entered into pursuant to this section, except contracts for the leasing or servicing of equipment supplied by a telephone company which is subject to the jurisdiction of the Board

of Public Utilities, contracts involving the supplying of electricity for the purpose of lighting public streets and contracts for thermal energy authorized pursuant to subsection (1) above, construction contracts authorized pursuant to subsection (9) above, contracts and agreements for the provision of work or the supplying of equipment to promote energy conservation authorized pursuant to subsection (12) above, contracts for water supply services or for a water supply facility, or any component part or parts thereof authorized pursuant to subsection (16), (34) or (35) above, contracts for resource recovery services or a resource recovery facility authorized pursuant to subsection (17) above, contracts for the sale of energy produced by a resource recovery facility authorized pursuant to subsection (18) above, contracts for wastewater treatment services or for a wastewater treatment system or any component part or parts thereof authorized pursuant to subsection (19) above, and contracts for the purchase of electricity or administrative or dispatching services related to the transmission of such electricity authorized pursuant to subsection (24) above, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

The Division of Local Government Services shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the fiscal year.

C.40:62-113.1 Nonapplicability to Passaic Valley Water Commission.

14. Notwithstanding any provision of P.L.1995, c.101 (C.58:26-19 et al.) or R.S.40:62-110 et seq., to the contrary, the Passaic Valley Water Commission shall not enter into a contract with a private firm for the provision of water supply services pursuant to P.L.1995, c.101 (C.58:26-19 et al.) unless the governing bodies of each of the member municipalities comprising the Passaic Valley Water Commission shall have first approved the contract.

C.58:26-23.1 Prior procedures deemed valid.

15. Any procurement commenced prior to the effective date of P.L.1995, c.101 (C.58:26-19 et al.) which was advertised as being undertaken pursuant to that act in anticipation of its enactment and which is in substantial compliance with the provisions of P.L.1995, c.101 (C.58:26-19 et al.), is hereby deemed valid and undertaken under valid legal authority.

16. This act shall take effect immediately.

Approved May 11, 1995.

CHAPTER 102

AN ACT authorizing the sale of certain surplus real property owned by the State and of easements to certain State property.

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

1. The Department of Human Services is authorized to sell and convey as surplus real property all of the State's interest in:

0.172 acres located at 49 Union Avenue, Township of Maplewood, Essex County, and designated as Block 38-5, Lots 103 and 104 on the Township of Maplewood tax map;

0.310 acres located at 34 Centre Street, Township of South Orange, Essex County, and designated as Block 805, Lot 1 on the Township of South Orange tax map;

0.836 acres located at 49 Hance Boulevard, Township of Freehold, Monmouth County, and designated as Block 28.01, Lot 4 on the Township of Freehold tax map; and

0.475 acres located at 98 Oak Creek Road, Township of East Windsor, Mercer County, and designated as Block 58.03, Lot 30 on the Township of East Windsor tax map.

2. a. The Department of Military and Veterans' Affairs is authorized to sell and convey as surplus real property all of the State's interest in 1.53± acres known as the East Orange Armory located in the City of East Orange, Essex County, and designated as Block 270, Lot 15 on the City of East Orange tax map.

b. The Department of Military and Veterans' Affairs is authorized to sell and convey the State's interest in an easement to .519± acres located at the Sea Girt Training Center, Borough of Sea Girt, Monmouth County, and designated as Block 85, P/O Lot 1 on the Borough of Sea Girt tax map.

3. a. The Department of Corrections is authorized to sell and convey the State's interest in an easement to .52 acres located at the East Jersey State Prison, Township of Woodbridge, Middlesex County, and designated as Block 905, P/O Lot 10 on the Township of Woodbridge tax map.

b. The Department of Corrections is authorized to sell and convey as surplus real property all of the State's interest in 1.5 acres known as the Lloyd McCorkle Training Center located in

the Township of Montgomery, Somerset County, and designated as Block 16001, Lot 24 on the Township of Montgomery tax map.

4. The sales authorized by this act shall be upon terms and conditions approved by the State House Commission.

5. The proceeds from the sale of property and easements authorized by this act shall be deposited in the General Fund of the State.

6. This act shall take effect immediately.

Approved May 11, 1995.

CHAPTER 103

AN ACT concerning the cooperative marketing of recyclable materials, amending and supplementing P.L.1987, c.102, and amending P.L.1971, c.198.

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

1. Section 18 of P.L.1987, c.102 (C.13:1E-99.26) is amended to read as follows:

C.13:1E-99.26 Cooperative purchase, marketing.

18. a. The Director of the Division of Local Government Services in the Department of Community Affairs shall, pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), permit counties, municipalities and authorities, and the State Board of Education shall, pursuant to the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., permit any board of education to cooperatively purchase recycled paper or products made from recycled paper products procured by the Division of Purchase and Property.

b. The Director of the Division of Local Government Services in the Department of Community Affairs shall, pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), permit counties, municipalities and authorities to engage in the cooperative marketing of recyclable materials recovered through a recycling program.

C.13:1E-99.13b Written cooperative marketing agreement.

2. For the purposes of implementing the State Recycling Plan goals, any county, municipality or authority may enter into a written cooperative agreement for the cooperative marketing of the recyclable materials designated in a district recycling plan required pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13).

3. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to read as follows:

C.40A:11-2 Definitions.

2. As used herein the following words have the following definitions, unless the context otherwise indicates:

(1) "Contracting unit" means:

(a) Any county; or

(b) Any municipality; or

(c) Any board, commission, committee, authority or agency, which is not a State board, commission, committee, authority or agency, and which has administrative jurisdiction over any district other than a school district, project, or facility, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter into contracts or agreements for the performance of any work or the furnishing or hiring of any materials or supplies usually required, the cost or contract price of which is to be paid with or out of public funds.

The term shall not include a private firm that has entered into a contract with a public entity for the provision of water supply services pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

(2) "Governing body" means:

(a) The governing body of the county, when the purchase is to be made or the contract or agreement is to be entered into by, or in behalf of, a county; or

(b) The governing body of the municipality, when the purchase is to be made or the contract or agreement is to be entered into by, or on behalf of, a municipality; or

(c) Any board, commission, committee, authority or agency of the character described in subsection (1)(c) of this section.

(3) "Contracting agent" means the governing body of a contracting unit, or any board, commission, committee, officer, department, branch or agency which has the power to prepare the

advertisements, to advertise for and receive bids and, as permitted by this act, to make awards for the contracting unit in connection with purchases, contracts or agreements.

(4) "Purchase" is a transaction, for a valuable consideration, creating or acquiring an interest in goods, services and property, except real property or any interest therein.

(5) "Materials" includes goods and property subject to chapter 2 of Title 12A of the New Jersey Statutes, apparatus, or any other tangible thing, except real property or any interest therein.

(6) "Professional services" means services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law, and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services may also mean services rendered in the performance of work that is original and creative in character in a recognized field of artistic endeavor.

(7) "Extraordinary unspecifiable services" means services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor.

(8) "Project" means any work, undertaking, program, activity, development, redevelopment, construction or reconstruction of any area or areas.

(9) "Work" includes services and any other activity of a tangible or intangible nature performed or assumed pursuant to a contract or agreement with a contracting unit.

(10) "Homemaker--home health services" means at home personal care and home management provided to an individual or members of his family who reside with him, or both, necessitated by the individual's illness or incapacity. "Homemaker--home health services" includes, but is not limited to, the services of a trained homemaker.

(11) "Recyclable material" means those materials which would otherwise become municipal solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(12) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(13) "Marketing" means the marketing of designated recyclable materials source separated in a municipality which entails a marketing cost less than the cost of transporting the recyclable materials to solid waste facilities and disposing of the materials as municipal solid waste at the facility utilized by the municipality.

(14) "Municipal solid waste" means all residential, commercial and institutional solid waste generated within the boundaries of a municipality.

(15) "Distribution" (when used in relation to electricity) means the process of conveying electricity from a contracting unit who is a generator of electricity or a wholesale purchaser of electricity to retail customers or other end users of electricity.

(16) "Transmission" (when used in relation to electricity) means the conveyance of electricity from its point of generation to a contracting unit who purchases it on a wholesale basis for resale.

(17) "Disposition" means the transportation, placement, reuse, sale, donation, transfer or temporary storage of recyclable materials for all possible uses except for disposal as municipal solid waste.

(18) "Cooperative marketing" means the joint marketing by two or more contracting units within the same county, or adjacent or proximate counties, of the source separated recyclable materials designated in a district recycling plan required pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written cooperative agreement entered into by the participating contracting units therefor.

4. Section 5 of P.L.1971, c.198 (C.40A:11-5) is amended to read as follows:

C.40A:11-5 Exceptions.

5. Exceptions. Any purchase, contract or agreement of the character described in section 4 of P.L.1971, c.198 (C.40A:11-4) may be made, negotiated or awarded by the governing body without public advertising for bids and bidding therefor if:

(1) The subject matter thereof consists of:

(a) (i) Professional services. The governing body shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed once, in a newspaper authorized by law to publish its legal advertisements, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and contract are on file and available for public inspection in the office of the clerk of the county or municipality, or, in the case of a contracting unit

created by more than one county or municipality, of the counties or municipalities creating such contracting unit; or (ii) Extraordinary unspecifiable services. The application of this exception shall be construed narrowly in favor of open competitive bidding, where possible, and the Division of Local Government Services is authorized to adopt and promulgate rules and regulations limiting the use of this exception in accordance with the intention herein expressed. The governing body shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed, in the manner set forth in subsection (1)(a)(i) of this section, a brief notice of the award of such contract;

(b) The doing of any work by employees of the contracting unit;

(c) The printing of legal briefs, records and appendices to be used in any legal proceeding in which the contracting party may be a party;

(d) The furnishing of a tax map or maps for the contracting party;

(e) The purchase of perishable foods as a subsistence supply;

(f) The supplying of any product or the rendering of any service by a public utility, which is subject to the jurisdiction of the Board of Public Utilities or the U.S. Federal Energy Regulatory Commission or its successor, in accordance with tariffs and schedules of charges made, charged or exacted, filed with the board or commission;

(g) The acquisition, subject to prior approval of the Attorney General, of special equipment for confidential investigation;

(h) The printing of bonds and documents necessary to the issuance and sale thereof by a contracting unit;

(i) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with such service, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;

(j) The publishing of legal notices in newspapers as required by law;

(k) The acquisition of artifacts or other items of unique intrinsic, artistic or historical character;

(l) Election expenses;

(m) Insurance, including the purchase of insurance coverage and consultant services, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;

(n) The doing of any work by handicapped persons employed by a sheltered workshop;

(o) The provision of any service or the furnishing of materials including those of a commercial nature, attendant upon the operation of a restaurant by any nonprofit, duly incorporated, historical society at or on any historical preservation site;

(p) Homemaker--home health services performed by voluntary, nonprofit agencies;

(q) The purchase of materials and services for a law library established pursuant to R.S.40:33-14, including books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial or graphic works, copyright and patent materials, maps, charts, globes, sound recordings, slides, films, filmscripts, video and magnetic tapes, and other audiovisual, printed, or published material of a similar nature; necessary binding or rebinding of law library materials; and specialized library services;

(r) On-site inspections undertaken by private agencies pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and the regulations adopted pursuant thereto;

(s) The marketing of recyclable materials recovered through a recycling program, or the marketing of any product intentionally produced or derived from solid waste received at a resource recovery facility or recovered through a resource recovery program, including, but not limited to, refuse-derived fuel, compost materials, methane gas, and other similar products;

(t) Emergency medical services provided by a hospital to the residents of a municipality or county, provided that: (a) such exception be allowed only after the governing body determines that the emergency services are available only from one provider; and (b) if the contract is awarded without advertising for bids or bidding the governing body shall in each instance state supporting reasons for its action in a resolution awarding the contract and cause to be printed once in a newspaper authorized by law to publish its legal advertisements a brief notice stating the nature, duration, service, and amount of the contract; and (c) the contract shall be kept on file for public inspection in the office of the clerk of the municipality;

(u) Contracting unit towing and storage contracts, provided that all such contracts shall be pursuant to reasonable non-exclusionary and non-discriminatory terms and conditions, which may include the provision of such services on a rotating basis, at the rates and charges set by the municipality pursuant to section 1 of P.L.1979, c.101 (C.40:48-2.49). All contracting unit towing and storage contracts for services to be provided at rates and charges other than those established pursuant to the terms of this paragraph shall only be awarded to the lowest responsible bidder in accordance with the provisions of the "Local Public Contracts Law" and without regard for the value of the contract therefor. Each of the aforementioned means of contracting shall be subject

to any regulations adopted by the Commissioner of Insurance pursuant to section 60 of P.L.1990, c.8 (C.17:33B-47);

(v) The purchase of steam or electricity from, or the rendering of services directly related to the purchase of such steam or electricity from a qualifying small power production facility or a qualifying cogeneration facility as defined pursuant to 16 U.S.C. §796;

(w) The purchase of electricity or administrative or dispatching services directly related to the transmission of such purchased electricity by a contracting unit engaged in the generation of electricity;

(x) The printing of municipal ordinances or other services necessarily incurred in connection with the revision and codification of municipal ordinances;

(y) An agreement for the purchase of an equitable interest in a water supply facility or for the provision of water supply services entered into pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or an agreement entered into pursuant to P.L.1989, c.109 (N.J.S.40A:31-1 et al.), so long as such agreement is entered into no later than six months after the effective date of P.L.1993, c.381;

(z) A contract for the provision of water supply services entered into pursuant to P.L.1995, c.101 (C.58:26-19 et al.); or

(aa) The cooperative marketing of recyclable materials recovered through a recycling program.

(2) It is to be made or entered into with the United States of America, the State of New Jersey, county or municipality or any board, body, officer, agency or authority thereof and any other state or subdivision thereof.

(3) The contracting agent has advertised for bids pursuant to section 4 of P.L.1971, c.198 (C.40A:11-4) on two occasions and (a) has received no bids on both occasions in response to its advertisement, or (b) the governing body has rejected such bids on two occasions because the contracting agent has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the contracting agent prior to the advertising therefor, or have not been independently arrived at in open competition, or (c) on one occasion no bids were received pursuant to (a) and on one occasion all bids were rejected pursuant to (b), in whatever sequence; any such contract or agreement may then be negotiated and may be awarded upon adoption of a resolution by a two-thirds affirmative vote of the authorized membership of the governing body authorizing such contract or agreement; provided, however, that:

(i) A reasonable effort is first made by the contracting agent to determine that the same or equivalent materials or supplies, at a cost which is lower than the negotiated price, are not available from an agency or authority of the United States, the State of New Jersey or of the county in which the contracting unit is located, or any municipality in close proximity to the contracting unit;

(ii) The terms, conditions, restrictions and specifications set forth in the negotiated contract or agreement are not substantially different from those which were the subject of competitive bidding pursuant to section 4 of P.L.1971, c.198 (C.40A:11-4); and

(iii) Any minor amendment or modification of any of the terms, conditions, restrictions and specifications, which were the subject of competitive bidding pursuant to section 4 of P.L.1971, c.198 (C.40A:11-4), shall be stated in the resolution awarding such contract or agreement; provided further, however, that if on the second occasion the bids received are rejected as unreasonable as to price, the contracting agent shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate, and afford each bidder a reasonable opportunity to negotiate, but the governing body shall not award such contract or agreement unless the negotiated price is lower than the lowest rejected bid price submitted on the second occasion by a responsible bidder, is the lowest negotiated price offered by any responsible supplier, and is a reasonable price for such work, materials, supplies or services.

Whenever a contracting unit shall determine that a bid was not arrived at independently in open competition pursuant to subsection (3) of this section it shall thereupon notify the county prosecutor of the county in which the contracting unit is located and the Attorney General of the facts upon which its determination is based, and when appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation of any State or federal antitrust law or laws relating to the unlawful restraint of trade.

5. Section 10 of P.L.1971, c.198 (C.40A:11-10) is amended to read as follows:

C.40A:11-10 Joint agreements for purchase of work, materials, supplies; cooperative marketing; authorization.

10. (a) (1) The governing bodies of two or more contracting units within the same county, or adjoining counties, may provide by joint agreement for the purchase of work, materials and supplies for use by their respective jurisdictions.

(2) The governing bodies of two or more contracting units providing sewerage services pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), R.S.58:14-1 et seq. or R.S.40:63-68 et seq. may provide by joint agreement for the purchase of work related to sewage sludge disposal.

(3) The governing body of two or more contracting units providing electrical distribution services pursuant to and in accord with R.S.40:62-12 through R.S.40:62-25, may provide by joint agreement for the purchase of work, material and supplies related to the distribution of electricity.

(4) The governing bodies of two or more contracting units may provide for the cooperative marketing of recyclable materials recovered through a recycling program.

(b) The governing body of any county or municipality may provide by joint agreement with the board of education of any school district located wholly or partially within the geographic boundaries of the county or municipality for the purchase of work, materials and supplies for use by their respective jurisdictions.

(c) Such agreement shall be entered into by resolution or ordinance, as the case may be, adopted by each of the participating bodies and boards, which shall set forth the categories of work, materials and supplies to be purchased, the manner of advertising for bids and of awarding of contracts, the method of payment by each participating body and board, and other matters deemed necessary to carry out the purposes of the agreement.

(d) Each participating body's and board's share of expenditures for purchases under any such agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as for other expenses of the participating body and board.

6. This act shall take effect immediately.

Approved May 11, 1995.

CHAPTER 104

AN ACT designating a certain week in May of each year as "Special Education Week" and supplementing chapter 36 of Title 18A of the New Jersey Statutes.

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

1. The Legislature finds and declares that:

a. Every year tens of thousands of children receive special education instruction in New Jersey's public and private schools;

b. In addition, many special needs children are enrolled in preschool and early intervention programs in this State;

c. Thousands of special needs adults receive job counselling, housing assistance and continuing education instruction in New Jersey;

d. Thousands of parents, teachers, child study team members and school administrators give generously of their time and energy to support the learning needs of special education students;

e. The public school districts and the private schools of New Jersey make a major contribution to the public welfare by preparing thousands of exceptional persons to participate as citizens of this State and as members of society; and

f. Local public school board members as well as the boards of directors and trustees of the private schools and agencies for the handicapped in the State serve as advocates of the rights of exceptional citizens.

C.18A:36-5 "Special Education Week" designated.

2. The week beginning with the second Sunday in May of each year is designated as "Special Education Week" in the State of New Jersey in order to give the citizens of this State the opportunity to recognize the contribution of public school board members, schools and agencies for the handicapped, educators, parents and the students themselves, and to commend them for their dedication to ensuring quality education for the exceptional citizens of this State.

3. This act shall take effect immediately.

Approved May 17, 1995.

CHAPTER 105

AN ACT concerning the recall of elected officials and supplementing Title 19 of the Revised Statutes.

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

C.19:27A-1 Short title.

1. This act shall be known and may be cited as the "Uniform Recall Election Law."

C.19:27A-2 Power to recall elected officials.

2. Pursuant to Article I, paragraph 2b. of the New Jersey Constitution, the people of this State shall have the power to recall, after at least one year of service in the person's current term of office, any United States Senator or Representative elected from this State or any State or local elected official in the manner provided herein.

C.19:27A-3 Definitions.

3. As used in this act:

"circulator" means an individual, whether paid or unpaid, who solicits signatures for a recall petition;

"elected official" means any person holding the office of United States Senator or member of the United States House of Representatives elected from this State, or any person holding a State or local government office which, under the State Constitution or by law, is filled by the registered voters of a jurisdiction at an election, including a person appointed, selected or otherwise designated to fill a vacancy in such office, but does not mean an official of a political party;

"jurisdiction" means the electoral jurisdiction, including but not limited to the State, or any county or municipality thereof, within which the voters reside who are qualified to vote for an elected official who is sought to be recalled;

"notice of intention" means the notice filed with the recall election official by a recall committee for the purpose of initiating a recall effort;

"recall committee" means a committee formed by persons sponsoring the recall of an elected official which represents the sponsors and signers of a recall petition in matters relating to the recall effort;

"recall election" means an election held for the purpose of allowing the voters of a jurisdiction to decide whether an elected official shall be recalled from office;

"recall election official" means the official authorized by law to receive nominating petitions for an elective office, except that with respect to the recall of the county clerk, it means the Secretary of State;

"recall petition" means a petition prepared and circulated by a recall committee as provided by this act for the purpose of gather-

ing a sufficient number of valid signatures of registered voters to cause a recall election to be called; and

"sponsors" means the proponents of a recall effort who establish a recall committee.

C.19:27A-4 Recall; vote required, service of term, statements, procedures.

4. a. An elected official shall be recalled from office upon the affirmative vote of a majority of those voting on the question of recall at a recall election which shall have been held after the officeholder shall have served one year of the term of office from which the person is sought to be recalled. A person serving to fill a vacancy in the term of an elective office shall be subject to recall at such an election after one year of such service. No election to recall an elected official shall be held after the date occurring six months prior to the general election or regular election for that office, as appropriate, in the final year of the official's term.

No statement of reasons or grounds for the holding of a recall election or for the recall at such an election of an elected official shall be required in connection with the preparation or circulation of a recall petition, with the transmittal of any notice required under the provisions of this act, with the submission to the voters of the question of the recall of an elected official, or with any other action or procedure relating to such a recall, and to the extent that any such statement of reasons or grounds is offered by the sponsors of a recall petition or by any other person, the sufficiency of that statement shall be a political rather than a judicial question.

b. The procedures established in this act to initiate the calling of a recall election may be commenced not earlier than the 50th day preceding the completion of the first year of the term of office by the official sought to be recalled. In the case of an official serving to fill a vacancy in the term of an elective office, the procedures established in this act to initiate the calling of a recall election may be commenced not earlier than the 50th day preceding the completion of the first year of such service. However, the recall election itself shall not be held until after the official has completed one year of such term or service, as appropriate.

C.19:27A-5 Recall petition; signatures required.

5. A recall petition demanding that an election be held for the purpose of deciding whether an elected official shall be recalled from office shall be signed by a number of registered voters of the jurisdiction of the official sought to be recalled equal to at least 25% of the persons registered to vote in that jurisdiction on

the date of the general election preceding the date on which the sponsors of the petition file a notice of intention pursuant to section 6 of this act. A recall petition shall be filed with the appropriate recall election official. No recall petition shall demand the holding of an election to recall more than one elected official.

C.19:27A-6 Notice of intention; filing.

6. Prior to collecting any signatures, the sponsors of a recall petition shall file a notice of intention with the appropriate recall election official. The notice of intention shall contain the following information:

a. the name and office of the elected official sought to be recalled;

b. the name and business or residence address of at least three sponsors of the recall petition who shall constitute a recall committee which shall represent the sponsors and signers of the recall petition in matters relating to the recall effort, provided that no recall committee shall sponsor the recall of more than one officeholder and, if a recall effort fails at the ballot, the sponsoring recall committee and the members thereof shall not again sponsor, nor shall the recall committee again finance, an effort to recall the targeted officeholder during the same term of office in which the failed recall effort was attempted;

c. the name of the recall committee, which shall be expressed in the following form: "COMMITTEE TO RECALL (name of the official sought to be recalled) FROM THE OFFICE OF (name of the office)";

d. a statement certified by each member of the recall committee that the member is registered to vote in the jurisdiction of the official sought to be recalled and that the member supports the recall of the named official and accepts the responsibilities associated with serving on the recall committee;

e. at the option of the recall committee, a statement, not in excess of 200 words, of the reasons for the recall; and

f. a statement as to whether the recall election shall be held at the next general election or regular election, as appropriate, or at a special election, as provided in section 13 of this act.

C.19:27A-7 Review of notice of intention; approval; publication; answer.

7. a. Upon receiving a notice of intention, the recall election official shall review it for compliance with the provisions of section 6 of this act. If the notice of intention is found to be in compliance, the recall election official shall imprint on the face of that notice a statement of the official's approval thereof, which statement shall identify the public office held by the official and include the signature of the official and the date on which the

approval was given, and shall, within three business days of receiving the notice, return a certified copy of the approved notice to the recall committee. If the recall committee has requested that the recall election be held at a special election, the recall election official shall also prepare, within that same three-day period, an estimate of the cost of conducting the recall election which shall be added to the notice of intention and printed on the first page of each section of the petition as required by section 8 of this act. The official shall retain, and shall hold available for public inspection and copying, the original notice so approved for a period of not less than five years from the date of such approval. If the notice of intention is found not to be in compliance, the recall election official shall, within that period of three business days, return the notice, together with a written statement indicating the reasons for that finding, to the recall committee, which shall have the opportunity to file a corrected notice of intention.

b. Within five business days of approving a notice of intention, the recall election official shall serve a copy of the approved notice of intention on the official sought to be recalled by personal delivery or certified mail, and within two weeks of approving the notice of intention shall cause a copy thereof to be printed in a newspaper published in the jurisdiction or, if none exists, in a newspaper generally circulated within the jurisdiction, and affix to the approved notice of intention previously filed an affidavit of the time and manner of service and proof of publication. The copy of the notice of intention which is published shall be abbreviated to include information on only three members of the recall committee who shall be designated for that purpose by the committee. The recall election official shall retain on file the affidavit and proof for so long as the approved notice of intention is retained.

c. Within five business days of being served with a notice of intention, the official sought to be recalled may file an answer to the proposed recall, not to exceed 200 words, with the recall election official if the notice of intention contained a statement of the reasons for the recall. An answer shall be used solely to provide information to the voters and shall be printed on the first page of each section of the petition in the manner provided by section 8 of this act. If the notice of intention did not contain a statement of the reasons for the recall or the official sought to be recalled chooses not to file an answer, that official shall instead provide the recall election official with a written acknowledgment of receipt of a copy of the notice of intention. Within two business

days of the filing of such an answer or acknowledgment, the recall election official shall by personal delivery or certified mail serve a copy of that answer or acknowledgment on the recall committee. If no such answer or acknowledgment is filed within the period of time allowed therefor, the recall election official, within two business days of the expiration of that time period, shall by personal delivery or certified mail transmit to the recall committee a signed statement in writing that no such answer or acknowledgment was timely filed with the recall election official.

C.19:27A-8 Format of recall petition; requirements.

8. a. No signature appearing on any document other than a recall petition prepared in accordance with the provisions of this section shall be counted among the signatures required under section 5 of this act to determine whether a recall election shall be held.

b. A recall petition shall be prepared by the recall committee in accordance with a format, consistent with the provisions of this act, which shall have been approved for such purpose by the Secretary of State. A petition may consist of any number of separate sections which shall be identical except with respect to information required to be entered thereon by the signers and circulators and as otherwise provided herein. The size of the paper used in a recall petition and the number of pages included in each section thereof shall be determined by the recall committee. The back and the front of a piece of paper shall each constitute a page and signatures may be affixed to each such page.

c. Each page of each section of a recall petition shall be sequentially numbered and shall include, printed in bold letters in at least 10-point type, the heading "PETITION FOR THE RECALL OF (name of the official sought to be recalled) FROM THE OFFICE OF (name of the office)" and, where appropriate, the information required by subsection e. of this section. The first page of each section also shall bear, in type of uniform size but not less than 8-point type, (1) the information contained in the notice of intention, including any cost estimate prepared and the statement of the reasons for the recall, if one was provided, or a declaration that no such statement of reasons was provided, except that information on only three members of the recall committee need be listed; and (2) a copy of the answer provided by the official sought to be recalled, if one was provided, or a declaration that no such answer was provided, except that no such answer or declaration shall be included if a statement of the reasons for the recall was not provided.

d. Each page of a recall petition shall be arranged so that each signer of the petition shall personally affix the signer's signature; printed name and residence address, including street and number, or a designation of residence which is adequate to readily determine location; the municipality of residence; and the date on which the signer signed the petition. A space at least one inch wide shall be left blank after each name for use in verifying signatures when appropriate, as provided by this act. A box shall be provided after each name for the signer to indicate that the signer has had the opportunity to review the information on the first page of that section of the petition.

e. (1) Whenever the official sought to be recalled is the Governor or a United States Senator, separate sections of the petition shall be prepared for use by signers registered to vote in each county. Each page of a section shall bear in not less than 10-point type the name of the county in which that section is to be used and the statement, "Only eligible persons residing in (name of county) County shall sign this page." A signer shall not affix the signer's signature to any page of any section unless it bears the name of the county in which the signer is registered to vote.

(2) Whenever the official sought to be recalled is a member of the Legislature or a member of the United States House of Representatives and the official's jurisdiction includes parts of more than one county, separate sections of the petition shall be prepared for use by signers registered to vote in each county included within the member's jurisdiction. Each page of a section shall bear in not less than 10-point type the name of the county in which that section is to be used and the statement, "Only eligible persons residing in (name of county) County shall sign this page." A signer shall not affix the signer's signature to any page of any section unless it bears the name of the county in which the signer is registered to vote.

(3) The signature of any person to a page of a recall petition bearing the name of a county in which the person is not registered to vote shall be invalid, but the invalidity of such a signature shall not invalidate or otherwise impair the section wherein or page whereon that signature appears, nor shall it invalidate or otherwise impair any other signature to that or any other section of the petition.

f. Prior to use, the sections of a recall petition shall be reviewed by the recall election official for compliance with the provisions of this act. The recall election official shall complete the review of the petition within three business days of receipt. No section of a recall petition shall be used to solicit signatures

unless it has been so approved and a statement of such approval, signed by the recall election official, has been printed on the first page of that section.

g. No obstruction shall be placed over any portion of a page of a petition section at the time that page is presented to a voter to be signed.

h. Every member of a recall committee circulating a recall petition and every circulator of that petition shall sign the petition. If any member of the committee shall fail to sign the petition, the petition shall be deemed void. In the event that the signature to the petition of a member of the recall committee shall be deemed invalid, then notwithstanding the provisions of subsection e. of this section, the petition shall be deemed void.

i. If a solicitation for signatures to a recall petition is presented to prospective petition signers by a paid print advertisement or paid mailing, or if a recall petition is presented to such a prospective signer by a paid circulator, the solicitation or petition, respectively, shall disclose prominently in a statement printed in at least 10-point type (1) the identity of the person paying for the printed or personal solicitation, and (2) that the circulator is paid. The Election Law Enforcement Commission shall promulgate such rules and regulations as are necessary to implement the provisions and effectuate the purposes of this subsection.

j. No person who is ineligible to sign a recall petition shall, with knowledge of that ineligibility, sign such a petition. No person shall offer to pay or pay another to sign or to refrain from signing a recall petition or to vote or to refrain from voting in a recall election. A person who violates any of the foregoing provisions of this subsection is guilty of a crime of the fourth degree.

C.19:27A-9 Circulator of recall petition.

9. a. No person shall act as the circulator of a petition who is not a registered voter in the jurisdiction from which the official sought to be recalled was elected.

b. Each completed page of any section of a recall petition which is filed with the recall election official shall include at the bottom of that page an affidavit signed by the circulator of that section which sets forth the following:

(1) the printed name of the circulator;

(2) the address of the circulator;

(3) a statement that the circulator assumed responsibility for circulating that section, that the circulator witnessed the signing of that page by each person whose signature appears thereon,

that, to the best information and belief of the circulator, the signers are legal residents of the State and of the county in which the section was circulated, and that the section was circulated in absolute good faith for the purpose of causing the recall of the elected official named in the petition;

(4) the dates between which all signatures to that page were collected; and

(5) a statement, signed by the circulator, as to the truth and correctness of the aforesaid information.

C.19:27A-10 Filing of petition by recall committee; time.

10. a. A recall committee shall collect the required number of signatures and file a completed petition with the recall election official within the following time periods calculated from the date that the recall petition receives final approval for circulation from the recall election official:

(1) 320 days, when the Governor or a United States Senator is sought to be recalled; and

(2) 160 days, when any other elected official is sought to be recalled.

b. If a completed petition is not filed within the applicable time period, the petition shall be void. No part of a void petition shall be used in connection with any other recall effort.

c. If the official sought to be recalled resigns from office, the collection of signatures shall cease and the petition shall be void.

C.19:27A-11 Review of petition by recall election official.

11. All sections of a completed recall petition shall be filed with the recall election official at the same time. When a petition is presented for filing, the recall election official, within 10 business days, shall determine the total number of signatures affixed thereto and whether the completed petition complies with the other provisions of this act. A petition which contains an insufficient number of signatures or otherwise fails to comply with the provisions of this act shall be void.

C.19:27A-12 Contesting decisions of recall officials.

12. The determination of the recall election official as to whether a recall petition is signed by a sufficient number of registered voters and otherwise complies with the provisions of this act may, within 10 business days of issuance, be challenged by the official sought to be recalled or by the recall committee by filing a written objection thereto with the recall election official.

Upon the request of either of those parties, the recall election official shall provide the party with a duly certified copy of the recall petition and shall allow examination of the original recall petition during regular business hours. The recall election official shall pass upon the validity of an objection in an expedited manner. The decision of the recall election official may be contested, within 10 business days, by filing an action in the Superior Court, which shall hear the matter on an expedited basis and issue an order or determination as soon as possible after filing of the action. Whenever the decision of a recall election official with respect to a recall petition requiring more than 1,000 names is challenged by the official sought to be recalled or by a recall committee, the parties shall be permitted to introduce evidence that, under a random sample method which employs the theory, assumptions and methods of standard statistical analysis, the petition contains either a sufficient or an insufficient number of signatures. The introduction of such evidence shall create a rebuttable presumption that a petition is valid or invalid, as the case may be.

C.19:27A-13 Issuance of certificate as to sufficiency of petition; scheduling of recall election; notice.

13. a. (1) If the recall election official determines that a petition contains the required number of signatures and otherwise complies with the provisions of this act and if the official sought to be recalled makes no timely challenge to that determination, or if the official makes such a challenge but the original determination is confirmed by the recall election official or the court, the recall election official shall forthwith issue a certificate as to the sufficiency of the petition to the recall committee. A copy of the certificate shall be served by the recall election official on the elected official sought to be recalled by personal service or certified mail. If, within five business days of service of the certification, the official has not resigned from office, the recall election official shall order and fix the holding of a recall election on the date indicated in the certificate.

(2) In the case of an office which is ordinarily filled at the general election, a recall election shall be held at the next general election occurring at least 55 days following the fifth business day after service of the certification, unless it was indicated in the notice of intention that the recall election shall be held at a special election in which case the recall election official shall order and fix the date for holding the recall election to be the next Tuesday occurring during the period beginning with the 55th day

and ending on the 61st day following the fifth business day after service of the certification of the petition or, if that Tuesday falls on, or during the 28-day period before or after, a day on which any general, primary, nonpartisan municipal, school district or other recall election is to be held or shall have been held within all or any part of the jurisdiction, then the first Tuesday thereafter which does not fall within such period. In the case of an office which is ordinarily filled at an election other than the general election, a recall election shall be held at the next general election or the next regular election for that office occurring at least 55 days following the fifth business day after service of the certification, unless it was indicated in the notice of intention that the recall election shall be held at a special election in which case the recall election official shall order and fix the date for holding the recall election to be the next Tuesday occurring during the period beginning with the 55th day and ending on the 61st day following the fifth business day after service of the certification of the petition or, if that Tuesday falls on, or during the 28-day period before or after, a day on which any general, primary, nonpartisan municipal, school district or other recall election is to be held or shall have been held within all or any part of the jurisdiction, then the first Tuesday thereafter which does not fall within such period. A recall election to be held at a special election shall not be scheduled on the same day as a primary election. The date for a recall election shall not be fixed, and no recall election shall be held, after the date occurring six months prior to the general election or regular election for the office, as appropriate, in the final year of an official's term.

(3) A vacancy in an elective office resulting from the resignation of an elective official sought to be recalled prior to the expiration of the five-day period shall be filled in the manner provided by law for filling vacancies in that office.

b. The certificate issued by the recall election official shall contain:

(1) the name and office of the official sought to be recalled;

(2) the number of signatures required by law to cause a recall election to be held for that office;

(3) a statement to the effect that a valid recall petition, determined to contain the required number of signatures, has been filed with the recall election official and that a recall election will be held; and

(4) the date and time when the election will be held if the official does not resign.

c. The recall election official shall transmit a copy of the certificate to the officer or public body designated by law to be

responsible for publishing notice of any other election to be held in the jurisdiction on the same day as the recall election, and that officer or body shall cause notice of the recall election, including all of the information contained in the certificate as prescribed by subsection b. of this section, to be printed in a newspaper published in the jurisdiction of the official sought to be recalled or, if none exists, in a newspaper generally circulated in the jurisdiction. The notice of the recall election shall appear on the same schedule applicable to the notice of such other election. In the event that the recall election is to be held as a special election, the recall election official shall transmit a copy of the certificate to the county board or boards of elections, and the county board or boards shall cause notice of the recall election to be printed, in the manner hereinbefore prescribed, once during the 30 days next preceding the day fixed for the closing of the registration books for the recall election and once during the calendar week next preceding the week in which the recall election is held.

C.19:27A-14 Recall election, conduct.

14. A recall election shall be conducted in accordance with the provisions of Title 19 of the Revised Statutes which apply to all elections, except that in the case of an election to recall a member of the governing body of a municipality operating under the provisions of the "Uniform Nonpartisan Elections Law," P.L.1981, c.379 (C.40:45-5 et al.), or a member of the school board in a Type II school district, or any other elected official elected under the provisions of another title, the election shall be conducted in accordance with the appropriate provisions of that other title to the extent not inconsistent with the provisions of this act.

Notwithstanding the provisions of any other law to the contrary, for any election at which the question of the recall of an elected official is submitted to the voters, the county clerk or other appropriate officer shall cause samples of the entire ballot to be voted upon at that election to be printed and distributed to the voters of the jurisdiction wherein the recall election is to be held in the same manner as prescribed for the printing and distribution of sample ballots at the general election as provided by article 2 of chapter 14 of Title 19 of the Revised Statutes, except that in the case of an election other than the general election, any period of time calculated under the provisions of that article from the date of the general election shall be calculated instead from the date on which such other election is to be held.

C.19:27A-15 Ballot used at recall election; filling of vacancy.

15. a. Whenever the elected official sought to be recalled is the Governor or a member of the Legislature, the question of whether or not the Governor or member of the Legislature shall be recalled shall appear on the ballot but no candidates to succeed the Governor or member of the Legislature in the event the recall is successful shall be listed thereon. A vacancy in the office of Governor resulting from a recall election shall be filled pursuant to Article V, Section I of the State Constitution in the same manner as any other vacancy occurring in that office. A vacancy in the office of member of the Legislature resulting from a recall election shall be filled pursuant to Article IV, Section IV, paragraph 1 of the State Constitution in the same manner as any other vacancy occurring in that office, except that no member who is recalled shall be eligible to be selected to fill the vacancy created as a result of the recall.

b. Whenever the elected official sought to be recalled is other than the Governor or a member of the Legislature, candidates to succeed the elected official in the event the recall is successful may be nominated within nine days after the fifth business day following service of the certification of the petition by each political party in the manner prescribed in R.S.19:13-20 for selecting candidates to fill vacancies among candidates nominated at primary elections. Candidates may also be nominated within that time period by petition in a manner similar to that used for direct nomination by petition for a general election. In the case of offices in nonpartisan units of government, nomination shall be by petition. An elected official who is the subject of a recall election shall be eligible to be elected as that official's own successor in the event that the election results in the official's recall.

c. The ballot used at a recall election shall pose the following question to the voters: "Shall (insert name of elected official sought to be recalled) be recalled from the office of (insert title of office)?" To the right of the question, the words "Yes" and "No" shall appear and each voter shall indicate the voter's choice of one. A recall election sample ballot, but not the actual ballot, shall contain the statement of the reasons for the recall prepared by the recall committee and the answer thereto, if any, which appeared on the petition.

d. Whenever a successor is to be chosen at a recall election in the event the recall is successful, the ballot shall indicate: "Nominees for successor to (insert name and title of the elected official sought to be recalled) in the event he (or she) is recalled." The names of all persons

nominated as successors shall appear immediately thereafter in such manner as will allow each voter to vote for one.

C.19:27A-16 Results of recall election.

16. a. If a majority of votes cast on the question of the recall of an elected official are in the affirmative, the term of office of the elected official shall terminate upon the certification of the election results. Where nominees to succeed the recalled official are voted on at the same election, the successor receiving the greatest number of votes shall succeed to the office of the recalled official upon certification of the election results and shall serve for the remainder of the unexpired term.

b. If a majority of votes cast on the question of recall of an elected official are in the negative, the official shall continue in office as if no recall election had been held and the vote for the successor of such officer shall be void.

c. An elected official sought to be recalled who is not recalled as the result of a recall election shall not again be subject to recall until after having served one year of a term calculated from the date of the recall election.

C.19:27A-17 Recall committee, recall defense committee; regulation of contributions; reports.

17. a. Except as otherwise provided in this section, a recall committee shall be treated as a candidate committee for the purposes of "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83 (C.19:44A-1 et seq.), except that all contributions received by a recall committee shall be used only for (1) the payment of campaign expenses incurred in the course of and directly related to the committee's effort to promote the recall or the passage of the question of recall at the recall election, (2) the payment of overhead and administrative expenses related to the operation of the committee, or (3) the pro-rata repayment of contributors.

b. Except as provided in subsection c. of this section:

(1) an elected official sought to be recalled who receives contributions and makes expenditures for the purpose of opposing a recall effort shall establish a "recall defense committee," which shall be separate from, but subject to the same organizational and filing requirements and limitations on the receipt of contributions applicable to, any candidate committee under "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83 (C.19:44A-1 et seq.), except that a recall defense

committee shall be permitted to receive without limit contributions from the candidate committee or joint candidates committee of the elected official sought to be recalled. A recall defense committee, for all purposes relating to campaign finance, shall be in addition to any candidate committee or joint candidates committee which an official sought to be recalled may by law establish. If an elected official sought to be recalled transfers funds from the official's candidate committee or joint candidates committee to the official's recall defense committee, a new election cycle shall be deemed to begin with respect to the candidate committee or joint candidates committee after the recall election is held or the recall effort fails and such official shall be permitted to solicit and receive contributions thereto, including contributions from prior contributors, up to the limits imposed by P.L.1973, c.83 (C.19:44A-1 et seq.). A recall defense committee may be formed at any time after an official sought to be recalled is served with either form of notice provided for by subsection e. of this section. All contributions received by a recall defense committee shall be used only for (a) the payment of campaign expenses incurred in the course of and directly related to the committee's effort to oppose the recall effort or the passage of the question of recall at the recall election, (b) the payment of the overhead and administrative expenses related to the operation of the committee, or (c) the pro-rata repayment of contributors; and

(2) any nominee to succeed that elected official shall be treated as a candidate for the purposes of "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83 (C.19:44A-1 et seq.).

c. The limits on contributions established by 2 U.S.C.§441a shall apply to a federal elected official sought to be recalled, a candidate to succeed such an official and a recall committee seeking to recall a federal elected official.

d. A Governor who is sought to be recalled shall not be entitled to public support pursuant to P.L.1974, c.26 (C.19:44A-27 et seq.) for the purpose of opposing the recall effort.

e. Neither a recall committee nor a recall defense committee shall solicit or accept contributions in connection with a recall effort until after either: (1) the recall committee serves written notice of the recall effort on the official sought to be recalled by personal service or certified mail, with a copy thereof filed with the recall election official; or (2) a copy of an approved notice of intention is served on the official sought to be recalled as provided in subsection b. of section 7 of this act. If a recall

committee notifies an official sought to be recalled of its intention to initiate a recall effort by the method described in paragraph (1) of this subsection, it must file a notice of intention within 30 days of the date the notice is served on the official or cease the solicitation, acceptance and expenditure of funds.

f. Contributions to a recall committee by a candidate committee or joint candidates committee of a candidate who was defeated by the official sought to be recalled at the last election for that office shall be subject to the limits on contributions established by "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83 (C.19:44A-1 et seq.).

g. A recall committee shall submit, at the time of its initial filing with the Election Law Enforcement Commission, in addition to its depository account registration information, a registration statement which includes:

(1) the complete name or identifying title of the committee and the general category of entity or entities, including but not limited to business organizations, labor organizations, professional or trade associations, candidates for or holders of public offices, political parties, ideological groups or civic associations, the interests of which are shared by the leadership, members, or financial supporters of the committee;

(2) the mailing address of the committee and the name and resident address of a resident of this State who shall have been designated by the committee as its agent to accept service of process; and

(3) a descriptive statement prepared by the organizers or officers of the committee that identifies:

(a) the names and mailing addresses of the persons having control over the affairs of the committee, including but not limited to persons in whose name or at whose direction or suggestion the committee solicits funds;

(b) the name and mailing address of any person not included among the persons identified under subparagraph (a) of this paragraph who, directly or through an agent, participated in the initial organization of the committee;

(c) in the case of any person identified under subparagraph (a) or subparagraph (b) who is an individual, the occupation of that individual, the individual's home address, and the name and mailing address of the individual's employer, or, in the case of any such person which is a corporation, partnership, unincorporated association, or other organization, the name and mailing address of the organization; and

(d) any other information which the Election Law Enforcement Commission may, under such regulations as it shall adopt pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), require as being material to the fullest possible disclosure of the economic, political and other particular interests and objectives which the committee has been organized to or does advance. The commission shall be informed, in writing, of any change in the information required by this paragraph within three days of the occurrence of the change.

h. In accordance with the Election Law Enforcement Commission's regular reporting schedule, the commission may, by regulation, require a recall committee or a recall defense committee to file during any calendar year one or more additional cumulative reports of such contributions received and expenditures made to ensure that no more than three 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.

C.19:27A-18 Statutes inoperative.

18. On the effective date of this act, sections 88 through 98 of P.L.1972, c.154 (C.40:41A-88 et seq.); sections 17-19 through 17-29 of P.L.1950, c.210 (C.40:69A-168 et seq.); R.S.40:75-25 through R.S.40:75-44; R.S.40:81-6; and R.S.40:84-12 through R.S.40:84-19 shall become inoperative and shall have no force or effect unless a court of competent jurisdiction issues a final order invalidating the provisions of Article I, paragraph 2b. of the New Jersey Constitution, providing for the recall of elected officials, and the provisions of this act which permit the recall of county or municipal officials, in which case the aforesaid laws shall again become operative and shall have full force and effect as of the date of the court's ruling.

19. This act shall take effect immediately, except that the provisions of this act rendering existing recall statutes inoperative and of no force and effect shall not apply to any recall effort undertaken pursuant to said statutes if said effort shall have been commenced on or before this act's effective date. Any such recall efforts shall be completed under the provisions of statutory law under which they were commenced, the provisions of this act to the contrary notwithstanding.

Approved May 17, 1995.

CHAPTER 106

AN ACT concerning the transportation of certain pupils by boards of education and supplementing chapter 39 of Title 18A of the New Jersey Statutes and P.L.1990, c.52.

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

C.18A:39-1.3 Contract for transportation of certain pupils; costs.

1. Any board of education which transports pupils to and from school pursuant to N.J.S.18A:39-1 may enter into a contract for the transportation of elementary school pupils who live less than two miles from school and secondary school pupils who live less than two and a half miles from school, and may require that if the parent, guardian or other person having legal custody of the child elects to have the pupil transported pursuant to the contract, then the parent, guardian or other person having legal custody of the child shall pay all or a part of the costs of that transportation, including but not limited to the cost of fuel, driver salaries and insurance. A board of education may also enter into a contract for the transportation of elementary school pupils who live less than two miles and secondary school pupils who live less than two and a half miles from any not for profit nonpublic school which satisfies the maximum distance requirements set forth in N.J.S.18A:39-1 and may require that if the parent, guardian or other person having legal custody of the child elects to have the pupil transported pursuant to the contract, then the parent, guardian or other person having legal custody of the child shall pay all or a part of the costs of that transportation, including but not limited to the cost of fuel, driver salaries and insurance.

The costs of the transportation shall be paid at the time and in the manner determined by the board of education.

A board of education shall notify the Department of Education when it elects to provide transportation for pupils under the provisions of this act.

C.18A:39-1.4 Determination of financial hardship.

2. A board of education which enters into a contract for the transportation of pupils pursuant to section 1 of this act may not exclude from this transportation any pupil whose parent, legal guardian or other person having legal custody of the child is unable to pay the cost of that transportation because of financial

hardship. In determining financial hardship, the criteria shall be the same as the Statewide eligibility standards established by the State Board of Education for free and reduced price meals under the State school lunch program.

3. The Commission on Business Efficiency in the Public Schools shall evaluate the transportation of pupils provided by school districts under this act and shall issue a report to the Senate and Assembly Education Committees within 18 months of the effective date of this act, including, but not limited to, an evaluation of the administrative and financial burdens on the districts, a determination of how well the transportation serves the pupils of all income levels, and any other matters the commission deems appropriate.

4. This act shall take effect immediately.

Approved May 19, 1995.

CHAPTER 107

AN ACT concerning the taking of striped bass, and amending P.L.1983, c.506 and P.L.1987, c.83.

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

1. Section 2 of P.L.1983, c.506 (C.23:5-44) is amended to read as follows:

C.23:5-44 Definitions.

2. As used in this act:

a. (Deleted by amendment, P.L.1985, c.211).

b. "Marine waters" means all the salt waters of this State, including the waters of the Atlantic Ocean, and all bays, inlets and estuarine waters located below the freshwater portion of any river, stream or creek, but shall not include any of the freshwaters of this State as defined in R.S.23:1-2;

c. (Deleted by amendment, P.L.1985, c.211).

d. "Spearfishing" means the taking of striped bass by means of a spear, harpoon, or other missile, while the swimmer is com-

pletely submerged in marine waters, but shall not include the use of blinding lights for the purpose of spearing striped bass, or spears, harpoons or other missiles with exploding heads;

e. "Striped bass" means a game fish of the species "Morone saxatilis" commonly referred to as rockfish, rock or striper.

2. Section 1 of P.L.1987, c.83 (C.23:5-45.1) is amended as follows:

C.23:5-45.1 Daily limits for taking striped bass.

1. a. Except as permitted pursuant to subsection c. of this section, a person shall not take from the marine waters of the State in any one day, or have in his possession at any time, more than two striped bass. The minimum size limit for any striped bass taken in accordance with this subsection shall be 28 inches in length.

b. The possession of any striped bass or parts of a striped bass from which the head or tail has been removed other than immediately prior to preparation or being served as food, which is less than the minimum size limits specified in subsections a. and c. of this section shall be presumed to be a violation of this section.

c. The Commissioner of Environmental Protection, by public notice placed in the New Jersey Register, shall establish management measures for striped bass in and upon the marine waters of the State, which management measures shall be consistent with the Striped Bass Management Plan of the Atlantic States Marine Fisheries Commission. Upon the approval of the Atlantic States Marine Fisheries Commission, these management measures shall provide for the taking in one day, or the possession at any time, of striped bass in addition to the two striped bass permitted pursuant to subsection a. of this section and shall include the size and quantity limits and the areas and the seasons for the taking of such additional striped bass.

The department shall monitor the catch provided for in this subsection and provide for its discontinuance as necessary to keep the State in compliance with the allowances of the commission.

3. This act shall take effect immediately.

Approved May 19, 1995.

CHAPTER 108

AN ACT concerning transportation funding, amending various parts of the statutory law and supplementing P.L.1984, c.73 (C.27:1B-1 et seq.) and repealing sections 3 and 5 of P.L.1992, c.10.

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

1. Section 3 of P.L.1984, c.73 (C.27:1B-3) is amended to read as follows:

C.27:1B-3 Definitions.

3. The following words or terms as used in this act shall have the following meaning unless a different meaning clearly appears from the context:

a. "Act" means this New Jersey Transportation Trust Fund Authority Act of 1984.

b. "Authority" means the New Jersey Transportation Trust Fund Authority created by section 4 of this act.

c. "Bonds" means bonds issued by the authority pursuant to the act.

d. "Commissioner" means the Commissioner of Transportation.

e. "Department" means the Department of Transportation.

f. "Federal aid highway" means any highway within the State in connection with which the State receives payment or reimbursement from the federal government under the terms of Title 23, United States Code or any amendment, successor, or replacement thereof, for the purposes contained in the act.

g. "Federal government" means the United States of America, and any officer, department, board, commission, bureau, division, corporation, agency or instrumentality thereof.

h. "South Jersey Transportation Authority" means the public corporation created by section 4 of P.L.1991, c.252 (C.27:25A-4) or its successor.

i. "New Jersey Highway Authority" means the public corporation created by section 4 of P.L.1952, c.16 (C.27:12B-4) or its successor.

j. "New Jersey Turnpike Authority" means the public corporation created by section 3 of P.L.1948, c.454 (C.27:23-3) or its successor.

k. "Notes" means the notes issued by the authority pursuant to the act.

l. "Public highways" means public roads, streets, expressways, freeways, parkways, motorways and boulevards, including bridges, tunnels, overpasses, underpasses, interchanges, rest

areas, express bus roadways, bus pullouts and turnarounds, park-ride facilities, traffic circles, grade separations, traffic control devices, the elimination or improvement of crossings of railroads and highways, whether at grade or not at grade, and any facilities, equipment, property, rights of way, easements and interests therein needed for the construction, improvement and maintenance of highways.

m. "Public transportation project" means, in connection with public transportation service, passenger stations, shelters and terminals, automobile parking facilities, ramps, track connections, signal systems, power systems, information and communication systems, roadbeds, transit lanes or rights of way, equipment storage and servicing facilities, bridges, grade crossings, rail cars, locomotives, motorbuses and other motor vehicles, maintenance and garage facilities, revenue handling equipment and any other equipment, facility or property useful for or related to the provision of public transportation service.

n. "State agency" means any officers, department, board, commission, bureau, division, agency or instrumentality of the State.

o. "Toll road authorities" means and includes the New Jersey Turnpike Authority, the New Jersey Highway Authority and the South Jersey Transportation Authority.

p. "Transportation project" means, in addition to public highways and public transportation projects, any equipment, facility or property useful or related to the provision of any ground, waterborne or air transportation for the movement of people and goods.

q. "Transportation system" means public highways, public transportation projects, other transportation projects, and all other methods of transportation for the movement of people and goods.

r. "Maintenance" means, in relation to public transportation projects, direct costs of work necessary for preserving or maintaining the useful life of public transportation projects, provided the work performed is associated with the acquisition, installation and rehabilitation of components which are not included in the normal operating maintenance of equipment and facilities or replaced on a scheduled basis. The work shall ensure the useful life of the project for not less than four years and shall not include routine maintenance or inspection of equipment and facilities that is conducted on a scheduled basis. This definition shall not apply to the term "maintenance" as used in subsection l. of this section.

s. "Circle of Mobility" means an essential group of related transit projects that include (1) the New Jersey Urban Core Project, as defined in section 3031 of the "Intermodal Surface

Transportation Efficiency Act of 1991," Pub.L.102-240, and consisting of the following elements: Secaucus Transfer, Kearny Connection, Waterfront Connection, Northeast Corridor Signal System, Hudson River Waterfront Transportation System, Newark-Newark International Airport-Elizabeth Transit Link, a rail connection between Penn Station Newark and Broad Street Station, Newark, New York Penn Station Concourse, and the equipment needed to operate revenue service associated with improvements made by the project, and (2) the modification and reconstruction of the West Shore Line in Bergen County connected to Allied Junction/Secaucus Transfer Meadowlands Rail Center; the construction of a rail station and associated components at the Meadowlands Sports Complex; the modification and reconstruction of the Susquehanna and Western Railway, as defined and provided in section 3035 (a) of the "Intermodal Surface Transportation Efficiency Act of 1991"; and the modification and reconstruction of the Lackawanna Cutoff Commuter Rail Line connecting Morris, Sussex and Warren Counties to the North Jersey Transportation Rail Centers.

2. Section 4 of P.L.1984, c.73 (C.27:1B-4) is amended to read as follows:

C.27:1B-4 New Jersey Transportation Trust Fund Authority.

4. a. There is hereby established in the department a public body corporate and politic, with corporate succession, to be known as the "New Jersey Transportation Trust Fund Authority." For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the authority is hereby allocated within the Department of Transportation, but notwithstanding said allocation, the authority shall be independent of any supervision or control by the department or by any board or officer thereof. The authority is hereby constituted as an instrumentality of the State, exercising public and essential governmental functions, no part of whose revenues shall accrue to the benefit of any individual, and the exercise by the authority of the powers conferred by the act shall be deemed and held to be an essential governmental function of the State.

b. The authority shall consist of five members as follows: the commissioner and the State Treasurer, who shall be members ex officio, and three public members, one of whom shall be appointed by the Governor, with the advice and consent of the

Senate, and the two remaining to be appointed by the Governor, one of whom upon recommendation of the President of the Senate and the other upon recommendation of the Speaker of the General Assembly. No more than three members of the authority shall be of the same political party. The public members appointed by the Governor shall serve a four-year term, except that the public member appointed by the Governor upon recommendation of the President of the Senate shall serve for a four-year term and the public member appointed upon recommendation of the Speaker of the General Assembly shall serve for a two-year term.

With respect to those public members first appointed by the Governor: the Senate shall advise and consent to the appointment of the member not appointed upon recommendation of the President and the Speaker within 30 days of the receipt thereof from the Governor, such appointment having been sent by the Governor to the Senate within 20 days following the effective date of this act; the President of the Senate and the Speaker of the General Assembly shall send their recommendations for public members to the Governor within 20 days following the effective date of this act. The Governor has an additional 10 days to accept or reject in writing these recommendations.

Each public member shall hold office for the term of the member's appointment and until the member's successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

c. Each public member, except those appointed upon recommendation of the President of the Senate and the Speaker of the General Assembly, may be removed from office by the Governor, for cause, after public hearing, and may be suspended by the Governor pending the completion of such hearing. All members before entering upon their duties shall take and subscribe an oath to perform the duties of their office faithfully, impartially and justly to the best of their ability. A record of such oaths shall be filed in the Office of the Secretary of State.

d. The authority shall not be deemed to be constituted and shall not take action or adopt motions or resolutions until at least three authorized members shall have been appointed and qualified in the manner provided in this section. The commissioner shall serve as chairperson of the authority. Prior to the authority being constituted, the chairperson is authorized to transfer up to $75

million to the department from the appropriations made to the authority for the fiscal year commencing July 1, 1984. The members shall annually elect one of their members as vice chairperson. The members shall elect a secretary and a treasurer, who need not be members, and the same person may be elected to serve both as secretary and treasurer. The powers of the authority shall be vested in the members thereof in office from time to time and three members of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of at least three members of the authority. No vacancy in the membership of the authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the authority, except that the authority shall not have the power to issue its initial offering of bonds, notes or other obligations unless all five members of the authority shall have been appointed and qualified.

e. The members of the authority shall serve without compensation, but the authority shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no member shall be deemed to have forfeited nor shall the member forfeit the member's office or employment or any benefits or emoluments thereof by reason of the member's acceptance of the office of ex officio member of the authority or the member's services therein.

f. Each ex officio member may designate an employee of the member's department or agency to represent the member at meetings of the authority. All designees may lawfully vote and otherwise act on behalf of the member for whom they constitute the designee. The designation shall be in writing delivered to the authority and shall continue in effect until revoked or amended in writing delivered to the authority.

g. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at the meeting by the authority shall have force or effect until 15 days after such copy of the minutes shall have been so delivered, unless during this 15-day period the Governor shall approve in writing the same or any part thereof, in which case the action shall become effective upon approval. If, in said 15-day period, the Governor returns a copy of the minutes with his veto of any action taken by the authority or any member thereof at the meet-

ing, the action shall be null and void and of no effect. Notwithstanding the foregoing, if the last day of the 15-day period shall be a Saturday, Sunday or legal holiday, then the 15-day period shall be deemed extended to the next following business day. The powers conferred in this paragraph upon the Governor shall be exercised with due regard for the rights of the holders of bonds, notes or other obligations of the authority at any time outstanding, and nothing in, or done pursuant to, this paragraph shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds, notes or other obligations or for the benefit, protection or security of the holders thereof.

h. The authority shall continue in existence until dissolved by act of the Legislature. However, any dissolution of this authority shall be on condition that the authority has no debts, contractual duties or obligations outstanding, or that provision has been made for the payment, discharge or retirement of these debts, contractual duties or obligations. Upon any dissolution of the authority, all property, rights, funds and assets thereof shall pass to and become vested in the State.

3. Section 6 of P.L.1984, c.73 (C.27:1B-6) is amended to read as follows:

C.27:1B-6 Powers of authority.

6. In addition to all other powers granted to the authority in the act, the authority shall have power:

a. To sue and be sued;

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

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

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

e. To acquire, hold, use and dispose of its income, revenues, funds and moneys;

f. To acquire, own, lease as lessee or lessor, hold, use, sell, transfer, and dispose of real or personal property for its purposes;

g. To borrow money and to issue its bonds, notes or other obligations and to secure the same by its revenues or other funds

and otherwise to provide for and secure the payment thereof and to provide for the rights of the holders thereof and to provide for the refunding thereof, all as provided in the act;

h. To issue subordinated indebtedness and to enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, 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 approved by the authority in connection with the issuance of bonds or notes;

i. In its own name, in the name of the New Jersey Transit Corporation or in the name of the State, to apply for and receive and accept appropriations or grants of property, money, services or reimbursements for money previously spent and other assistance offered or made available to it by or from any person, government agency, public authority or any public and private entity whatever for any lawful corporate purpose of the authority, including, without limitation, grants, appropriations or reimbursements from the State or federal government with respect to their respective shares under federal aid highway laws of the costs of planning, acquisition, engineering, construction, reconstruction, repair, resurfacing and rehabilitation of public highways or the costs of planning, acquisition, engineering, construction, reconstruction, repair, maintenance and rehabilitation of public transportation projects and other transportation projects in the State and the authority's operating expenses and to apply and negotiate for the same upon such terms and conditions as may be required by any person, government agency, authority or entity or as the authority may determine to be necessary, convenient or desirable;

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

k. Subject to any agreements with holders of bonds, notes or other obligations, to purchase bonds, notes or other obligations of the authority out of any funds or moneys of the authority available therefor, and to hold, cancel or resell the bonds, notes or other obligations;

l. For its sole purpose as established in section 5 of this act, to appoint and employ an executive director and such additional officers, who need not be members of the authority and such

other personnel and staff as it may require, at an annual expense not to exceed $100,000.00, all without regard to the provisions of Title 11A of the New Jersey Statutes;

m. To do and perform any acts and things authorized by the act under, through, or by means of its officers, agents or employees or by contract with any person, firm or corporation or any public body;

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

o. To make and enter into any and all contracts and agreements which the authority determines are necessary, incidental, convenient or desirable to the performance of its duties and the execution of its powers under the act; and

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

4. Section 9 of P.L.1984, c.73 (C.27:1B-9) is amended to read as follows:

C.27:1B-9 Issuance of bonds.

9. a. The authority shall have the power and is hereby authorized after November 15, 1984 and from time to time thereafter to issue its bonds, notes or other obligations in principal amounts as in the opinion of the authority shall be necessary to provide for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, notes or other obligations issued by it, whether the bonds, notes, obligations or interest to be funded or refunded have or have not become due; and to provide for the security thereof and for the establishment or increase of reserves to secure or to pay the bonds, notes or other obligations or interest thereon and all other reserves and all costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers; and in addition to its bonds, notes and other obligations, the authority shall have the power to issue subordinated indebtedness, which shall be subordinate in lien to the lien of any or all of its bonds or notes. No resolution or other action of the authority providing for the issuance of bonds, refunding bonds, notes, or other obligations shall be adopted or otherwise made effective by the authority without the prior approval in writing of the Governor and the State Treasurer.

b. Except as may be otherwise expressly provided in the act or by the authority, every issue of bonds or notes shall be general obligations payable out of any revenues or funds of the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or funds. The authority may provide the security and payment provisions for its bonds or notes as it may determine, including (without limiting the generality of the foregoing) bonds or notes as to which the principal and interest are payable from and secured by all or any portion of the revenues of and payments to the authority, and other moneys or funds as the authority shall determine. In addition, the authority may, in anticipation of the issuance of the bonds or the receipt of appropriations, grants, reimbursements or other funds, including without limitation grants from the federal government for federal aid highways or public transportation systems, issue notes, the principal of or interest on which, or both, shall be payable out of the proceeds of notes, bonds or other obligations of the authority or appropriations, grants, reimbursements or other funds or revenues of the authority. The authority may also enter into bank loan agreements, lines of credit and other security agreements as authorized pursuant to subsection h. of section 6 of P.L.1984, c.73 (C.27:1B-6) and obtain for or on its behalf letters of credit in each case for the purpose of securing its bonds, notes or other obligations or to provide direct payment of any costs which the authority is authorized to pay by this act and to secure repayment of any borrowings under the loan agreement, line of credit, letter of credit or other security agreement by its bonds, notes or other obligations or the proceeds thereof or by any or all of the revenues of and payments to the authority or by any appropriation, grant or reimbursement to be received by the authority and other moneys or funds as the authority shall determine.

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

d. Bonds or notes of the authority shall be authorized by a resolution or resolutions of the authority and may be issued in one or more series and shall bear the date, or dates, mature at the time or times, 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 the manner, be payable from the sources, in the

medium of payment, at the place or places within or without the State, and be subject to the terms of redemption (with or without premium) as the resolution or resolutions may provide. Bonds or notes may be further secured by a trust indenture between the authority and a corporate trustee within or without the State. All other obligations of the authority shall be authorized by resolution containing terms and conditions as the authority shall determine.

e. Bonds, notes or other obligations of the authority may be sold at public or private sale at a price or prices and in a manner as the authority shall determine, either on a negotiated or on a competitive basis. Every bond, or refunding bond, issued on or after the effective date of P.L.1995, c.108 (C.27:1B-25.1 et al.) shall mature and be paid no later than 21 years from the date of the issuance of that bond or refunding bond.

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

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

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

i. The authority shall minimize debt incurrence by first relying on appropriations and other revenues available to the authority before incurring debt to meet its statutory purposes.

Commencing on the 90th day following the date of enactment of this 1995 amendatory and supplementary act, the authority shall not incur debt in any fiscal year in excess of $700,000,000, except that if that permitted amount of debt, or any portion thereof, is not incurred in a fiscal year it may be incurred in a subsequent fiscal year. Any increase in this limitation shall only occur if so provided for by law.

j. Upon the decision by the authority to issue refunding bonds pursuant to this section, and prior to the sale of those bonds, the authority shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the authority relied when making the decision to issue refunding bonds. The report shall also disclose the intent of the authority to issue and sell the refunding bonds at public or private sale and the reasons therefor.

k. The Joint Budget Oversight Committee, or its successor, shall have authority to approve or disapprove the sale of refunding bonds as included in each report submitted in accordance with subsection j. of this section. The committee shall approve or disapprove the sale of refunding bonds within 10 business days after physical receipt of the report. The committee shall notify the authority in writing of the approval or disapproval as expeditiously as possible.

l. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee, or its successor, as set forth in subsection k. of this section.

m. Within 30 days after the sale of the refunding bonds, the authority shall notify the Joint Budget Oversight Committee, or its successor, of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, and the actual amount of debt service savings to be realized as a result of the sale of refunding bonds.

n. The Joint Budget Oversight Committee, or its successor, shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations and recommendations to the authority or to the Legislature, or both, as it deems appropriate.

5. Section 20 of P.L.1984, c.73 (C.27:1B-20) is amended to read as follows:

C.27:1B-20 Transportation Trust Fund Account.

20. There is hereby established in the General Fund an account entitled "Transportation Trust Fund Account." During the fiscal year beginning July 1, 1984 and during each succeeding fiscal year in which the authority has bonds, notes or other obligations outstanding, the treasurer shall credit to this account:

a. An amount equivalent to the revenue derived from $0.025 per gallon from the tax imposed on the sale of motor fuels pursuant to chapter 39 of Title 54 of the Revised Statutes, as provided in Article VIII, Section II, paragraph 4 of the State Constitution, provided, however, such amount during any fiscal year shall not be less than $100,000,000;

b. After approval by the voters of the constitutional amendment proposed in Senate Concurrent Resolution No. 2 of 1995 or Assembly Concurrent Resolution No. 9 of 1995, in addition to the amount credited in subsection a. of this section, for the fiscal year beginning July 1, 1996 and the fiscal year beginning July 1, 1997, an amount equivalent to the revenue derived from $0.045 per gallon from the tax imposed on the sale of motor fuels pursuant to chapter 39 of Title 54 of the Revised Statutes, provided, however, such amount shall not be less than $180,000,000 during each of those fiscal years, and for the fiscal year beginning July 1, 1998, an amount equivalent to the revenue derived from $0.055 per gallon from the tax, provided, however, that such amount shall not be less than $220,000,000, and for the fiscal year beginning July 1, 1999 and for each fiscal year thereafter, an amount equivalent to the revenue derived from $0.065 per gallon from the tax, provided, however, that such amount shall not be less than $260,000,000 in any fiscal year, as provided in Article VIII, Section II, paragraph 4 of the State Constitution; and

c. An amount equivalent to moneys received by the State in accordance with contracts entered into with toll road authorities or other State agencies, provided that effective with the fiscal year beginning July 1, 1988, the amount so credited shall not be less than $24,500,000.00 in any fiscal year.

The treasurer shall also credit to this account, in accordance with a contract between the treasurer and the authority, an amount equivalent to the sum of the revenues due from the increase of fees for motor vehicle registrations collected pursuant to the amendment to R.S.39:3-20 made by this act and from the increase in the tax on diesel fuels imposed pursuant to the amendment to R.S.54:39-27 made by this act and by P.L.1987, c.460, provided that the total amount credited during the fiscal year beginning July 1, 1984 shall not be less than $20,000,000.00 and that the total amount credited during the fiscal year beginning July 1, 1985 and during every fiscal year thereafter shall not be less than $30,000,000.00.

In addition to the amounts credited to the account by this section, commencing with the fiscal year beginning July 1, 1995 and every fiscal year thereafter, there shall be appropriated from the General Fund such additional amounts as are necessary to carry out the provisions of this act and after January 1, 1997 the fees collected pursuant to subsection a. of section 68 of P.L.1990, c.8 (C.17:33B-63) shall be available for crediting to the account for the purposes of this act.

No later than the fifth business day of the month following the month in which a credit has been made, the treasurer shall pay to the authority, for its purposes as provided herein, the amounts then credited to the Transportation Trust Fund Account, provided that the payments 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 the act.

6. Section 21 of P.L.1984, c.73 (C.27:1B-21) is amended to read as follows:

C.27:1B-21 Special Transportation Fund.

21. a. There is hereby established a separate fund entitled "Special Transportation Fund." This fund shall be maintained by the State Treasurer and may be held in depositories as may be selected by the treasurer and invested and reinvested as other funds in the custody of the treasurer, in the manner provided by law. The commissioner may from time to time (but not more frequently than monthly) certify to the authority an amount necessary to fund payments made, or anticipated to be made by or on behalf of the department, from appropriations established for or made to the department from revenues or other funds of the authority. The commissioner's certification shall be deemed conclusive for purposes of the act. The authority shall, within 15

days of receipt of the certificate, transfer from available funds of the authority to the treasurer for deposit in the Special Transportation Fund the amount certified by the commissioner, provided that all funds transferred shall only be expended by the department by project pursuant to appropriations made from time to time by the Legislature for the purposes of the act.

b. The department shall not expend any money except as appropriated by law. Commencing with appropriations for the fiscal years beginning on July 1, 1988, the department shall not expend any funds except as are appropriated by specific projects identified by a description of the projects, the county or counties within which they are located, and amounts to be expended on each project, in the annual appropriations act.

c. No funds appropriated, authorized or expended pursuant to this act shall be used to finance the resurfacing of highways by department personnel, where that resurfacing would require the use of more than 150,000 tons of bituminous concrete for that purpose in any calendar year, except that the commissioner may waive this provision when he determines the existence of emergency conditions requiring the use of department personnel for the resurfacing of highways, after the department has effectively reached the 150,000 ton limit.

d. In order to provide the department with flexibility in administering the specific appropriations by project identified in the annual appropriations act, the commissioner may transfer a part of any item to any other item subject to the approval of the Director of the Division of Budget and Accounting and of the Joint Budget Oversight Committee or its successor. Upon approval of the director and the committee, the transfer shall take effect.

e. Any federal funds which become available to the State for transportation projects which have not been appropriated to the department in the annual appropriations act, shall be deemed appropriated to the department and may, subject to approval by the Joint Budget Oversight Committee and the State Treasurer, be expended for any purpose for which such funds are qualified.

7. Section 8 of P.L.1987, c.460 (C.27:1B-21.1) is amended to read as follows:

C.27:1B-21.1 Annual funding maximums.

8. a. Commencing with the report of the commissioner required to be submitted pursuant to section 22 of P.L.1984, c.73

(C.27:1B-22) on or before March 1, 1996 for the fiscal year commencing July 1, 1996 and for each fiscal year thereafter the amount reported by the commissioner for proposed projects to be financed shall not exceed $700,000,000 exclusive of federal funds.

b. For the fiscal year beginning on July 1, 1995 and for each fiscal year thereafter, the total amount authorized to be appropriated from the revenues and other nonfederal funds of the New Jersey Transportation Trust Fund Authority for the projects listed in the appropriations act pursuant to section 21 of P.L.1984, c.73 (C.27:1B-21) shall not exceed $700,000,000 exclusive of federal funds.

c. (Deleted by amendment, P.L.1991, c.40).

d. (Deleted by amendment, P.L.1992, c.10).

e. The State Auditor shall provide for a unified annual audit of expenditures from the Special Transportation Fund, established by section 21 of P.L.1984, c.73 (C.27:1B-21), in order to determine that these funds are expended for costs eligible for funding from the authority and in a manner consistent with appropriations made by the Legislature. The findings of such audits shall be transmitted to the presiding officer of each House of the Legislature, and to the Chair of the Senate Budget and Appropriations Committee, the Senate Transportation Committee, the Assembly Appropriations Committee, and the Assembly Transportation and Communications Committee or their successors.

f. The State Auditor shall review bond issuances of the authority and report to the Joint Budget Oversight Committee and to the members of the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or their successors, on the status of the bonds of the authority and projects financed from the proceeds of the bonds. The report shall include the investment status of all unexpended bond proceeds and provide a description of any bond issues expected during a fiscal year, including type of issue, estimated amount of bonds to be issued and the expected month of sale.

8. Section 22 of P.L.1984, c.73 (C.27:1B-22) is amended to read as follows:

C.27:1B-22 Master plan; annual reports.

22. To the end that the transportation system of the State shall be planned in an orderly and efficient manner and that the Legislature shall be advised of the nature and extent of public highways, public transportation projects and other transportation

projects contemplated to be financed under this act, the department shall submit a master plan, as provided in subsection (a) of section 5 of P.L.1966, c.301 (C.27:1A-5). Notwithstanding the provisions of that act, the plan shall be for a period of five years and shall be submitted to the Commission on Capital Budgeting and Planning, the Chairman of the Senate Transportation Committee and the Chairman of the Assembly Transportation and Communications Committee, or their successors, and the Legislative Budget and Finance Officer, on or before December 15, 1984, and at five-year intervals thereafter.

On or before March 1 of each year, the commissioner shall submit a report of general project categories and proposed projects thereunder to be financed in an ensuing fiscal year, including therewith a description of the projects, the county or counties within which they are to be located, a distinction between State and local projects, and the amount estimated to be expended on each project and also including a financial plan designed to implement the financing of the proposed projects. The financial plan shall contain an enumeration of the bonds, notes or other obligations of the authority which the authority intends to issue, including the amounts thereof and the conditions therefor. The financial plan shall set forth a complete operating and financial statement covering the authority's proposed operations during the ensuing fiscal year, including amounts of income from all sources, including but not limited to the proceeds of bonds, notes or other obligations to be issued, as well as interest earned. In addition, the plan shall contain proposed amounts to be appropriated and expended, as well as amounts for which the department anticipates to obligate during the ensuing fiscal year for any future expenditures. The report shall be submitted to the Senate and General Assembly. Within 30 days of the receipt thereof, the Senate or the General Assembly may object in writing to the commissioner in regard to any project or projects it disapproves or which it is of the opinion should be modified or added to or any additional or alternative projects considered or in regard to any element of the financial plan. The commissioner shall consider the objections and recommendations and resubmit the report within 10 days, containing therein any modifications based upon the commissioner's consideration of the objections or recommendations.

C.27:1B-25.1 State aid to counties, municipalities, basis.

9. State aid to counties and municipalities pursuant to section 25 of P.L.1984, c.73 (C.27:1B-25), may, at the discretion of the commissioner, be disbursed to any individual county or municipality on a grant basis or on a cost reimbursement basis.

10. Notwithstanding the provisions of section 8 of P.L.1987, c.460 (C.27:1B-21.1), section 22 of P.L.1984, c.73 (C.27:1B-22) or any other law to the contrary, within ten days of the effective date of this section or on June 15, 1995, whichever is sooner, the commissioner shall submit to the Senate and the General Assembly a report of proposed projects to be financed in the fiscal year beginning July 1, 1995. The amount reported by the commissioner for proposed projects to be financed shall not exceed $700,000,000 exclusive of federal funds. The report shall include a description of the projects, the county or counties within which they are to be located, a distinction between State and local projects, and the amount estimated to be expended on each project and also include a financial plan designed to implement the financing of the proposed projects. The financial plan shall contain an enumeration of the bonds, notes or other obligations of the authority which the authority intends to issue, including the amounts thereof and the conditions therefor. The financial plan shall set forth a complete operating and financial statement covering the authority's proposed operations during the fiscal year beginning July 1, 1995, including amounts of income from all sources, including but not limited to the proceeds of bonds, notes or other obligations to be issued, as well as interest earned. In addition, the plan shall contain proposed amounts to be appropriated and expended, as well as amounts for which the department anticipates to obligate during the fiscal year beginning July 1, 1995 for any future expenditures. Within five days of the receipt thereof, the Senate or the General Assembly may object in writing to the commissioner in regard to any project or projects it disapproves or which it is of the opinion should be modified or added to or any additional or alternative projects considered or in regard to any element of the financial plan. The commissioner shall consider the objections and recommendations and resubmit the report within five days, containing therein any modifications based upon the commissioner's consideration of the objections or recommendations.

C.27:1B-21.4 Utilization of funds; allocation of costs.

11. The State amount appropriated from the revenues and other funds of the authority for any fiscal year commencing on or after July 1, 1995 may be utilized for any cost incurred in direct or indirect support or advancement of transportation projects authorized by the annual appropriations act, except that indirect costs shall not include the cost of routine operation and routine maintenance of a transportation project, or costs associated with the non-capital programs of the department and the New Jersey Transit Corporation. Costs which directly or indirectly support or

advance more than one transportation project may be allocated among those projects in a manner the commissioner finds reasonable, provided such costs are equitably and uniformly distributed among all work that was performed during the fiscal year or accounting period. The rate of indirect costs appropriated from the State amount in any fiscal year shall not exceed the indirect cost rate additive, as calculated pursuant to the United States Office of Management and Budget Circular A-87, "Cost Principles Applicable to Grants and Contracts with State and Local Governments," applicable to federal funds.

C.27:1B-21.5 Duties of commissioner; loans, conditions; reports.

12. a. Notwithstanding the provisions of any other law to the contrary, the commissioner is authorized to enter into agreements with public or private entities for the loan of federal funds appropriated to the department for the purpose of financing all, or a portion of, the costs incurred for the planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of a transportation project by that public or private entity.

b. The commissioner, with the approval of the State Treasurer, shall establish rules and regulations governing the qualifications of the applicants, the application procedures, the criteria for awarding loans, and the standards for establishing the amount, terms and conditions of each loan. The rules and regulations shall provide that the term of the loan agreement shall be no longer than five years and that the loan shall be secured by appropriate collateral or guarantees.

c. Loans granted pursuant to this section shall be considered an investment or reinvestment of Special Transportation Fund funds within the meaning of subsection a. of section 21 of P.L.1984, c.73 (C.27:1B-21). Payments of interest and principal on loans granted pursuant to this section shall be credited to a special subaccount of the Special Transportation Fund and may be used for financing authorized projects. Monies appropriated from the special subaccount pursuant to this section shall be in addition to the total State amount authorized to be appropriated in a fiscal year pursuant to section 8 of P.L.1987, c.460 (C.27:1B-21.1).

d. Each loan made pursuant to this section shall require the specific approval of the Joint Budget Oversight Committee. The Chairman of the Joint Budget Oversight Committee may request periodic reports from the commissioner on the status of any or all loans. The commissioner shall provide reports so requested on a timely basis.

e. Transportation projects which are the subject of a loan agreement entered into pursuant to this section shall be included in the annual report of proposed projects prepared pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22) for the fiscal year in which the loan amount for those projects is to be appropriated.

C.27:1B-21.6 Funding agreements for transportation projects.

13. The commissioner or the board of the New Jersey Transit Corporation with the approval of the commissioner is authorized to enter into agreements for a period of years for the advancement of a transportation project to be funded by future year appropriations to the authority, except that, in the case of a transportation project involving appropriations in excess of $100,000,000 in any fiscal year, the agreement shall be subject to approval of the Joint Budget Oversight Committee. The commissioner or the board of the New Jersey Transit Corporation may pledge grant monies or funds anticipated to be appropriated to those transportation projects in those agreements, provided, however that payment of monies pledged is subject to the availability of funds in the year in which the funds are to be appropriated. Any transportation project which is the subject of an agreement authorized by this section shall appear in the annual report of proposed projects prepared pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22) for each fiscal year in which the agreement is in effect and the report shall indicate the amount to be appropriated, if any, to the project in the upcoming fiscal year.

C.27:1B-21.7 Closing accounts, expenditure of remaining funds.

14. a. After the commissioner has determined that a project financed through the authority has been completed, the commissioner may direct that any account established for such project be closed, provided that the funds in any such account are less than $1,000,000. The commissioner may further direct that any appropriated funds remaining in such closed accounts be credited to a special subaccount of the Special Transportation Fund. In the event that an account for a project that has been completed exceeds $1,000,000, the account shall not be closed and the funds credited to the special subaccount unless such action is approved by the Joint Budget Oversight Committee.

b. Subject to approval by the State Treasurer, the commissioner may expend funds from the special subaccount established pursuant to subsection a. of this section for any purpose for which the Legislature has previously appropriated funds and which the authority is authorized to undertake pursuant to section 5 of

P.L.1984, c.73 (C.27:1B-5). Any claims or costs which would have been paid from an account closed pursuant to this section may be paid from the special subaccount established pursuant to subsection a. of this section, or from any other funds appropriated for such purposes.

C.27:1B-21.8 Credits to Airport Safety Fund.

15. Each year a sum of money shall be appropriated from funds held in the Special Transportation Fund, established pursuant to section 21 of P.L.1984, c.73 (C.27:1B-21), and credited to the Airport Safety Fund, established in the General Fund pursuant to section 4 of P.L.1983, c.264 (C.6:1-92), for use for any capital purpose pursuant to the "New Jersey Airport Safety Act of 1983," P.L.1983, c.264 (C.6:1-89 et al.) and that sum shall be included in the annual report of projects prepared pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22).

C.27:1B-21.9 Appropriation for operating expenses of New Jersey Transit Corporation.

16. Notwithstanding any other provision of law to the contrary, in any fiscal year in which the amount allocated by the Federal Government to the New Jersey Transit Corporation for public transportation operating expenses is less than in the previous fiscal year, an amount equal to the diminution may be appropriated from the revenues and other funds of the authority, excluding bond proceeds, to the department for the operating expenses of the New Jersey Transit Corporation, subject to approval therefor provided in the annual appropriations act.

17. Section 68 of P.L.1990, c.8 (C.17:33B-63) is amended to read as follows:

C.17:33B-63 Additional registration fees; exemptions.

68. a. In addition to the registration fees imposed pursuant to Article 2 of chapter 3 of Title 39 of the Revised Statutes, the Director of the Division of Motor Vehicles shall impose and collect additional registration fees as follows:

(1) For all motor vehicles, except commercial motor vehicles as defined by R.S.39:1-1 that were manufactured in any model year prior to the 1989 model year, the additional fee shall be $15, except that on and after January 1, 1998 the additional fee shall be $12.50, and on and after January 1, 1999 the additional fee shall be $10 and on and after January 1, 2000 the additional fee shall be $7.50;

(2) For all motor vehicles, except commercial motor vehicles as defined by R.S.39:1-1, that were manufactured in model year 1989 and thereafter, the additional fee shall be $40, except that on

and after January 1, 1998 the additional fee shall be $33.50, and on and after January 1, 1999 the additional fee shall be $27 and on and after January 1, 2000 the additional fee shall be $20 for the first two years of registration or renewal and $15, except that on and after January 1, 1998 the additional fee shall be $12.50, and on and after January 1, 1999 the additional fee shall be $10 and on and after January 1, 2000 the additional fee shall be $7.50 for each year thereafter;

(3) For all commercial motor vehicles as defined in R.S.39:1-1, the additional fee shall be $75, except that on and after January 1, 1998 the additional fee shall be $62.50, and on and after January 1, 1999 the additional fee shall be $50 and on and after January 1, 2000 the additional fee shall be $37.50;

(4) Notwithstanding the provisions of paragraphs (1) through (3) of this subsection, the additional fee on motorcycle registrations shall be $15, except that on and after January 1, 1998 the additional fee shall be $12.50, and on and after January 1, 1999 the additional fee shall be $10 and on and after January 1, 2000 the additional fee shall be $7.50 and further provided the additional registration fee on noncommercial trucks registered pursuant to section 2 of P.L.1968, c.429 (C.39:3-8.1) shall be $50, except that on and after January 1, 1997 the additional fee collected on noncommercial trucks registered pursuant to section 2 of P.L.1968, c.429 (C.39:3-8.1) shall be $15 for any vehicle manufactured in any model year prior to the 1996 model year and for any vehicle manufactured in the model year 1996 and thereafter, the additional fee shall be $40 for the first two years of registration or renewal and $15 for each year thereafter and on and after January 1, 1998 the additional fee collected on noncommercial trucks shall be collected pursuant to the provisions of paragraphs (1) and (2) of this subsection;

(5) Notwithstanding the provisions of paragraphs (1) through (3) of this subsection, there shall not be any additional fee imposed on any vehicle registered pursuant to R.S.39:3-24.

b. Fees collected pursuant to subsection a. of this section shall be collected on registrations issued and renewed on or after July 1, 1990.

(1) Fees collected pursuant to subsection a. of this section prior to October 1, 1991 shall be remitted to the New Jersey Automobile Full Insurance Underwriting Association created by section 16 of P.L.1983, c.65 (C.17:30E-4) and shall be income to the association for purposes of section 20 of P.L.1983, c.65 (C.17:30E-8).

(2) Fees collected pursuant to subsection a. of this section on or after October 1, 1991 through December 31, 1996 shall be remitted

to the New Jersey Automobile Insurance Guaranty Fund created pursuant to section 23 of this 1990 amendatory and supplementary act.

(3) Fees collected pursuant to subsection a. of this section on and after January 1, 1997, shall be remitted to the General Fund and so much thereof as is required pursuant to section 20 of P.L.1984, c.73 (C.27:1B-20) shall be credited to the "Transportation Trust Fund Account" created by section 20 of P.L.1984, c.73 (C.27:1B-20), such credited funds to be used for transportation projects, pursuant to the "New Jersey Transportation Trust Fund Authority Act of 1984," P.L.1984, c.73 (C.27:1B-1 et al.).

c. Notwithstanding any provision of subsection a. of this section to the contrary, no fees shall be imposed pursuant to this section on a registration for which no fee is presently collected pursuant to Article 2 of chapter 3 of Title 39 of the Revised Statutes or on a registration for a motor vehicle, except commercial vehicles, if the registrant or, in the case of a leased vehicle, the lessee is eligible for pharmaceutical assistance to the aged and disabled pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.). In the case of a leased vehicle, documentation verifying that the vehicle will be leased for the registration term to a lessee who is entitled to the exemption provided for in this subsection shall be provided according to the requirements established by the Director of the Division of Motor Vehicles. The lessor shall not collect from the lessee any payment for the registration of the vehicle that exceeds the amount that the lessor paid to register the vehicle.

Repealer.

18. Sections 3 and 5 of P.L.1992, c.10 (C.27:1B-21.2 and 27:1B-21.3) are repealed.

19. This act shall take effect immediately except that section 5 shall take effect on July 1, 1995.

Approved May 30, 1995.

CHAPTER 109

AN ACT concerning child pornography and amending N.J.S.2C:24-4.

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

1. N.J.S.2C:24-4 is amended to read as follows:

Endangering welfare of children.

2C:24-4. Endangering Welfare of Children.

a. Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who engages in sexual conduct which would impair or debauch the morals of the child, or who causes the child harm that would make the child an abused or neglected child as defined in R.S.9:6-1, R.S.9:6-3 and P.L.1974, c.119, s.1 (C.9:6-8.21) is guilty of a crime of the second degree. Any other person who engages in conduct or who causes harm as described in this subsection to a child under the age of 16 is guilty of a crime of the third degree.

b. As used in this subsection:

(1) "Child" shall mean any person under 16 years of age.

(2) "Prohibited sexual act" means

(a) Sexual intercourse; or

(b) Anal intercourse; or

(c) Masturbation; or

(d) Bestiality; or

(e) Sadism; or

(f) Masochism; or

(g) Fellatio; or

(h) Cunnilingus; or

(i) Nudity, if depicted for the purpose of sexual stimulation or gratification of any person who may view such depiction.

(3) Any person, including any parent, guardian, or other person legally charged with the care or custody of a child, who causes or permits a child to engage in a prohibited sexual act or in the simulation of such an act if the person knows, has reason to know or intends that the prohibited act may be photographed, filmed, reproduced, or reconstructed in any manner or may be part of an exhibition or performance is guilty of a crime of the second degree.

(4) Any person who photographs or films a child in a prohibited sexual act or in the simulation of such an act or who uses any device to reproduce or reconstruct the image of a child in a prohibited sexual act or in the simulation of such an act is guilty of a crime of the second degree.

(5) (a) Any person who knowingly receives for the purpose of selling or who knowingly sells, procures, manufactures, gives, provides, lends, trades, mails, delivers, transfers, publishes, distributes, circulates, disseminates, presents, exhibits, advertises, offers or agrees to offer any photograph, film, videotape, computer program, video game or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, is guilty of a crime of the second degree.

(b) Any person who knowingly possesses or knowingly views any photograph, film, videotape, computer program, video game or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, is guilty of a crime of the fourth degree.

(6) For purposes of this subsection, a person who is depicted as or presents the appearance of being under the age of 16 in any photograph or film shall be rebuttably presumed to be under the age of 16.

2. This act shall take effect immediately.

Approved June 1, 1995.

CHAPTER 110

AN ACT concerning racketeering and amending N.J.S.2C:41-1.

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

1. N.J.S.2C:41-1 is amended to read as follows:

Definitions.

2C:41-1. Definitions. For purposes of this section and N.J.S.2C:41-2 through N.J.S.2C:41-6:

a. "Racketeering activity" means (1) any of the following crimes which are crimes under the laws of New Jersey or are equivalent crimes under the laws of any other jurisdiction:

(a) murder

(b) kidnapping

(c) gambling
(d) promoting prostitution
(e) obscenity
(f) robbery
(g) bribery
(h) extortion
(i) criminal usury
(j) violations of Title 33 of the Revised Statutes
(k) violations of Title 54A of the New Jersey Statutes and Title 54 of the Revised Statutes
(l) arson
(m) burglary
(n) theft and related crimes
(o) forgery and fraudulent practices
(p) fraud in the offering, sale or purchase of securities
(q) alteration of motor vehicle identification numbers
(r) unlawful manufacture, purchase, use or transfer of firearms
(s) unlawful possession or use of destructive devices or explosives
(t) violation of sections 112 through 116 inclusive of the "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116)
(u) violation of N.J.S.2C:35-5 except possession of 84 grams or less of marijuana or of N.J.S.2C:35-4 or N.J.S.2C:35-6
(v) violation of subsection b. of N.J.S.2C:24-4 except for subparagraph (b) of paragraph (5) of subsection b.

(2) any conduct defined as "racketeering activity" under Title 18, U.S.C. § 1961(1)(A), (B) and (D).

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

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

d. "Pattern of racketeering activity" requires

(1) Engaging in at least two incidents of racketeering conduct one of which shall have occurred after the effective date of this act and the last of which shall have occurred within 10 years (excluding any period of imprisonment) after a prior incident of racketeering activity; and

(2) A showing that the incidents of racketeering activity embrace criminal conduct that has either the same or similar pur-

poses, results, participants or victims or methods of commission or are otherwise interrelated by distinguishing characteristics and are not isolated incidents.

e. "Unlawful debt" means a debt

(1) Which was incurred or contracted in gambling activity which was in violation of the law of the United States, a state or political subdivision thereof; or

(2) Which is unenforceable under state or federal law in whole or in part as to principal or interest because of the laws relating to usury.

f. "Documentary material" includes any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic or recording or video tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into useable form or other tangible item.

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

h. "Trade or commerce" shall include all economic activity involving or relating to any commodity or service.

2. This act shall take effect immediately.

Approved June 1, 1995.

CHAPTER 111

AN ACT excluding the value of certain qualified employee benefits under cafeteria plans from gross income under the gross income tax, 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:6-24 Cafeteria plan, qualified option, certain; not gross income.

1. Gross income shall not include the value of an employee's qualified option under a cafeteria plan if the employee does not

elect to receive cash and the value of the option is excludable from federal taxable income.

As used in this section:

"Cafeteria plan" means an employee benefit plan that meets the requirements of section 125 of the federal Internal Revenue Code of 1986, 26 U.S.C. § 125;

"Qualified option" means an option to receive cash in lieu of a qualified employer-provided benefit which option may only be exercised if the employee derives a substantially similar benefit from a source other than the employer;

"Qualified employer-provided benefit" means a benefit the value of which is excludable from federal taxable income under a cafeteria plan but which is not a benefit provided pursuant to a salary reduction agreement; and

"Salary reduction agreement" means an agreement between an employer and an employee under which the employee individually chooses to reduce the employee's compensation, or to forgo increases in compensation, and to have the amount provided, as an employer-provided benefit, by the employer to the employee; including but not limited to the agreements commonly known as flexible spending accounts and premium conversion options.

2. This act shall take effect immediately and section 1 shall apply to taxable years beginning after its enactment.

Approved June 1, 1995.

CHAPTER 112

AN ACT concerning motor vehicle inspection and registration, amending P.L.1994, c.67, the fiscal year 1995 annual appropriations act, and supplementing and amending various parts of the statutory law.

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

C.39:8-41 Short title.

1. Sections 1 through 18 of this act shall be known and may be cited as the "Federal Clean Air Mandate Compliance Act."

C.39:8-42 Findings, declarations.

2. The Legislature finds and declares that the federal Clean Air Act requires states that have been determined to be in nonattainment for certain ambient air quality standards to take extraordinary measures to reduce air emissions; and that among these measures is an enhanced motor vehicle inspection and maintenance program.

The Legislature further finds and declares that the standards established by the United States Environmental Protection Agency are based on computer modeling and not on scientific testing; that the requirements of the Environmental Protection Agency regulations therefore may not achieve the federal emission reduction goals for New Jersey; and that officials of the Environmental Protection Agency are no longer mandating that the State program require the use of the "I/M 240" test and have recently expressed a greater flexibility in allowing states to make certain decisions in the implementation of this enhanced inspection and maintenance program.

The Legislature further finds and declares that the inspection and maintenance program being imposed by the Environmental Protection Agency pursuant to the federal law will be expensive and burdensome on the citizens of this State, but that the alternative to adopting this program is a series of federal sanctions that would result in the loss of federal highway monies, more stringent permitting criteria for industry and the imposition of an air pollution control program by the Environmental Protection Agency.

The Legislature further finds and declares that it would not adopt this enhanced motor vehicle inspection and maintenance program if the federal government were not forcing such action by the threat of the above-mentioned sanctions.

The Legislature further finds and declares that it shall take this opportunity to improve the existing motor vehicle inspection system by authorizing competitive contracting for or privatization of motor vehicle inspections and making other necessary legislative reforms to the provisions of Title 39 of the Revised Statutes.

The Legislature therefore determines that an enhanced inspection and maintenance program shall be adopted, that this inspection and maintenance program shall be as consumer-friendly as possible and shall not use the "I/M 240" test, except as hereinafter specified, and that advanced testing technologies, including but not limited to remote sensing, shall be investigated and used for emission testing to the extent permitted by the Environmental Protection Agency.

C.39:8-43 Definitions.

3. As used in chapter 8 of Title 39 of the Revised Statutes:

"Certificate of Approval" means a document, in a form determined by the director, issued in accordance with guidelines set by the division certifying that a motor vehicle complies with the requirements of Title 39 and Title 26 of the Revised Statutes and the regulations regarding the inspection of motor vehicles adopted pursuant thereto;

"Director" means the Director of the Division of Motor Vehicles in the Department of Law and Public Safety;

"Division" means the Division of Motor Vehicles in the Department of Law and Public Safety;

"Federal Clean Air Act" means the federal "Clean Air Act," 42 U.S.C. §7401 et seq., and any subsequent amendments or supplements to that act;

"Gross weight" means gross vehicle weight rating, as that term is defined in section 3 of P.L.1990, c.103 (C.39:3-10.11);

"Official inspection facility" means a test-only inspection facility that is operated by the division or that the State Treasurer has contracted for pursuant to section 4 of P.L.1995, c.112 (C.39:8-44); and

"Private inspection facility" means an inspection facility licensed by the director pursuant to section 5 of P.L.1995, c.112 (C.39:8-45).

C.39:8-44 Official inspection facilities, options, contracts, specifications, etc.

4. a. The State Treasurer shall either:

(1) Assign to the State the full responsibility for the design, construction, renovation, equipment, establishment, maintenance, and operation of official inspection facilities and other aspects of the inspection and maintenance program, including safety inspections;

(2) Enter into a contract or contracts with a private contractor or contractors for the design, construction, renovation, equipment, establishment, maintenance, and operation of official inspection facilities and other aspects of the inspection and maintenance program, including safety inspections; or

(3) Assign to the State partial responsibility and enter into a contract or contracts with a private contractor or contractors for the remaining responsibility for the design, construction, renovation, equipment, establishment, maintenance, and operation of official inspection facilities and other aspects of the inspection and maintenance program, including safety inspections.

The State Treasurer shall choose one of the options pursuant to this subsection based on a determination of the best interests of the citizens of New Jersey. At least seven business days prior to

the award of a contract that includes the operation or maintenance of an official inspection facility pursuant to this section, the State Treasurer shall issue a notice of intent to award the contract and shall submit to the Legislature the notice of intent and a report describing the option chosen, which shall include an economic analysis of the three options listed in this subsection with respect to the operation or maintenance portion of the contract.

b. (1) A contract authorized by this section may, subject to the provisions of subsection f. of R.S.39:8-2, include the purchase, lease or sale of an interest in real or personal property. The State Treasurer is authorized to exercise all authority of the Directors of the Division of Purchase and Property and of the Division of Building and Construction to award the contract or contracts authorized by this section as a single contract, multiple branch contracts or multiple single contracts. Any contract awarded pursuant to this section shall be awarded in accordance with the provisions of P.L.1954, c.48 (C.52:34-6 et seq.) and any rules and regulations promulgated pursuant to that act. The provisions of R.S.52:32-2 shall not apply to any contract authorized by this section.

(2) Notwithstanding the provisions of chapter 35 of Title 52 of the Revised Statutes, the State Treasurer is not required to limit bids to persons who are prequalified. The State Treasurer is authorized to require each person who submits a bid for a contract pursuant to this section to submit statements under oath in response to a questionnaire that develops fully that person's financial ability, adequacy of plant and equipment, organization, prior experience and any other facts pertinent and material to qualification, including qualification of any subcontractors, for the contract sought. Any such questionnaire required shall be standardized with respect to, and shall be set forth in, each invitation to bid.

(3) Any other provision of law to the contrary notwithstanding, and subject to guidelines for conflict of interest established by the Attorney General, for the purposes of this section a State officer or employee or a group of State officers or employees may enter into a contract or contracts as a private contractor. A State officer or employee having any duties or responsibilities in connection with the evaluation or awarding of a contract pursuant to this section shall not individually or through any person or entity acting on behalf of that officer or employee bid on or enter into a contract as a private contractor.

(4) A contractor for the operation of an official inspection facility, or any of its officers or employees, may not be engaged

in the business of selling, maintaining, or repairing motor vehicles or selling motor vehicle replacement or repair parts. A contractor's employees shall not be deemed employees of the State for any purpose.

c. A contract for the operation of an official inspection facility shall provide for motor vehicle inspection services that are consumer-friendly to the maximum extent feasible. A contract shall at a minimum specify that:

(1) New or relocated inspection facilities shall be sited close to population centers, but in locations that remain convenient for suburban and rural residents;

(2) An inspection facility shall be open for inspections, exclusive of holidays, at least 55 hours each week, including hours prior to 9:00 am or after 5:00 pm on weekdays and hours on the weekend, except that the facility may lessen or expand these hours based on the results of a survey of persons who use the facility for motor vehicle inspections;

(3) An inspection facility shall maintain a climate-controlled waiting area for persons whose motor vehicles are being inspected;

(4) At least one lane at each inspection facility shall be reserved to the extent practicable for reinspections, although this lane may be opened to initial inspections whenever there are no reinspections being performed;

(5) The number of inspection lanes provided for in the contract to be constructed may be increased to meet the standards set by the director pursuant to subsection d. of this section only if the contractor can show that this increase is more cost-effective than extending the hours of operation;

(6) A toll-free telephone number and a network of computerized signs shall be established, and public service announcements shall be aired to advise motorists of the length of lines at inspection facilities. Periodic surveys concerning hours and methods of operation shall be conducted. Each motor vehicle operator who arrives at a facility for an inspection shall be provided with a written document containing the following statement:

"The motor vehicle emission test being conducted at this facility has been imposed on the residents of this State by an act of the Congress of the United States and the regulations of the United States Environmental Protection Agency."

In addition, the written document shall include the name and address of the Administrator of the federal Environmental Protection Agency and of each member of Congress elected from this State.

A contractor shall spend not less than one percent of its operating budget to provide an ongoing public information program; and

(7) All qualified full-time employees whose employment with the division is terminated as a result of P.L.1995, c.112 (C.39:8-41 et al.) shall be offered full-time employment. If more than one contract for the operation of official inspection facilities is awarded, each contractor shall offer full-time employment to a percentage of the number of such employees that is equal to the percentage of the total number of inspection lanes that will be operated by that contractor.

d. The director shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), regulations to establish the conduct of inspections by any person who has entered into a contract with the State pursuant to subsection a. of this section, and may issue directives or guidelines or enter into contracts or agreements for the oversight and regulation of any person who has entered into a contract with the State pursuant to subsection a. of this section. The director shall establish standards that are designed to achieve average wait times of 30 minutes or less and to keep the overall operating cost of the facilities to a minimum. The director shall develop a system of incentives that are designed to achieve average wait times of 15 minutes or less. Data generated at any official inspection facility shall be the property of the State and shall be fully accessible to the division at any time.

e. If a dispute over contract compliance, performance or termination cannot be resolved by the State Treasurer and the private contractor pursuant to the procedures set forth in a contract entered into pursuant to the provisions of this section, either party to the contract may file with the Superior Court a request either for an order either to terminate the contract or for an order for other appropriate relief to the dispute. Any provision of N.J.S.59:13-5 to the contrary notwithstanding, the State Treasurer may consent to the filing of such a request prior to the expiration of 90 days from the date that the notice of claim is received. The court may take such action as it may deem necessary to facilitate the expeditious resolution of the dispute and an expeditious response to the request, including ordering the parties to undertake dispute resolution, mediation, or arbitration as provided in N.J.S.59:13-7. Within 90 days after the filing of a request, the court shall either grant the request or deny the request. If the request is granted, the court shall order such appropriate relief measures or remedies as it deems appropriate and necessary.

f. (1) A person whose employment with the Division of Motor Vehicles is terminated as a result of a contract entered into pursuant to subsection a. of this section, who does not accept an offer of employment with a contractor pursuant to paragraph (7) of subsection c. of this section, and who undergoes counseling pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7), may apply for a training grant pursuant to section 6 of P.L.1992, c.43 (C.34:15D-6).

(2) Any provision of P.L.1992, c.43 (C.34:15D-1 et al.) to the contrary notwithstanding, the Workforce Development Program in the Department of Labor may provide a training grant to each person who applies pursuant to paragraph (1) of this subsection for a training grant to pay for employment and training services as provided pursuant to section 6 of P.L.1992, c.43 (C.34:15D-6).

C.39:8-45 Licensing of private inspection facility, requirements, application fee.

5. a. (1) The director, after appropriate inquiry and investigation, may license persons to operate private inspection facilities to inspect initially, reinspect and certify all motor vehicles that are subject to inspection pursuant to R.S.39:8-1. A person shall not be licensed unless qualified to conduct the inspections and reinspections, and in possession of the necessary equipment.

(2) The director, by regulation with the concurrence of the Department of Environmental Protection, may establish a limited number of distinct classes of licenses, may restrict the activities authorized by each distinct class of license, including restrictions as to the vehicles that may be inspected or reinspected, and may restrict the services that holders of each class may perform in addition to the activities authorized by the license. These regulations shall permit private inspection facilities to perform initial inspections on motor vehicles four years old or newer and, to the maximum extent feasible, permit private inspection facilities to perform initial inspections on motor vehicles that are more than four years old and to repair and reinspect all motor vehicles.

b. (1) The director may license as a private inspection facility any person that is the owner or lessee of 10 or more motor vehicles to initially inspect, reinspect and certify vehicles that the person owns or leases.

(2) The director, by regulation with the concurrence of the Department of Environmental Protection, may restrict the activities authorized by a license issued pursuant to this subsection, including restrictions as to the vehicles that may be inspected or reinspected,

and may restrict the services that holders of this license may perform in addition to the activities authorized by the license.

c. The director shall require a private inspection facility licensee to have in effect at all times liability insurance or such other proof of financial responsibility as the director may prescribe; and may require a performance bond.

d. The director shall prescribe the form and content of the application for a private inspection facility license, and may charge a nonrefundable application fee not to exceed $20. The director may charge a license fee, not to exceed $250, to be paid by a person for each year or part of a year in which that person holds a private inspection facility license. All fees collected pursuant to this subsection shall be paid to the State Treasurer and deposited in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2.

C.39:8-46 Inspections, reinspections by private inspection facility, charges.

6. a. Whenever a private inspection facility licensee conducts an initial inspection, the private inspection facility shall either reject the vehicle or certify that the vehicle was inspected pursuant to chapter 8 of Title 39 of the Revised Statutes and was found to conform to the standards established by law and regulation. When a vehicle is reinspected, the private inspection facility licensee shall either reject the vehicle or certify that the items for which a vehicle was initially rejected conform to the standards established by law and regulation. The certification shall be evidenced by a private inspection certificate of approval placed on the vehicle as prescribed by the director.

b. A private inspection facility licensee may charge an amount approved by and on file with the director for initial inspection, reinspection, and certification of a vehicle, which amount shall be subject to any maximum limits that may be established by the director by regulation. The director may establish maximum amounts that may be charged for initial inspection or reinspection based on the average length of time required to inspect a vehicle or reinspect a specific rejected item.

c. A private inspection facility licensee shall post a schedule of charges for initial inspection, reinspection and certification in a prominent place on the premises, and shall file a copy thereof with the director.

d. A private inspection facility licensee shall not require, as a condition of performing an inspection, that any needed repairs or adjustments be done by the licensee or at a specific facility identified by the licensee or by an agent thereof.

C.39:8-47 Private inspection facility, supplies, record keeping required; penalty.

7. a. The director shall provide each private inspection facility with as many certificates of approval and rejection stickers as may be required and may charge the private inspection facility licensee a fee of $1 for each certificate or sticker, which fee shall be refunded for any expired or unused certificates or stickers. All fees collected pursuant to this subsection shall be paid to the State Treasurer and deposited in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2. Every private inspection facility licensee shall:

(1) Keep such records of inspections and reinspections and of certificates and stickers issued in such form as the director may determine;

(2) Make such records available to the director upon demand;

(3) Institute such safeguards to secure the certificates and stickers from theft, loss or fraudulent use as the director may prescribe;

(4) Return any unused expired certificates or stickers to the director; and

(5) Upon request account to the director for all certificates and stickers.

b. An owner or operator of a private inspection facility that for any reason, including but not limited to theft, destruction, loss, or damage, does not upon request either promptly return or properly account for a certificate or sticker shall be liable to a civil penalty of not less than $100 for each such certificate or sticker, to be collected in a civil action commenced by the director. Any penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq. The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of "the penalty enforcement law" in connection with this subsection. Any fine collected pursuant to this subsection shall be paid to the State Treasurer and deposited in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2.

C.39:8-48 Fraudulent affixing of certificate of approval, waiver certificate; penalty.

8. A person who is employed by or under contract with a private inspection facility and who affixes a certificate of approval or a waiver certificate to a motor vehicle without having properly inspected the vehicle or without having determined that the condition of the vehicle conforms to standards established by law or regulation shall be liable to a civil penalty of not less than $500, to be collected in a civil action commenced by the director. Any

penalty imposed pursuant to this section may be collected with costs in a summary proceeding pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq. The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of "the penalty enforcement law" in connection with this section. A private inspection facility licensee shall be severally liable for any violation of this section by any person employed by or under contract with the private inspection facility licensee. Any fine collected pursuant to this section shall be paid to the State Treasurer and deposited in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2.

In addition to any civil penalty imposed, the director may suspend the license of a private inspection facility that violates this section for a period of not less than six months. The director may also file an action in Superior Court to enjoin any violation of this section.

C.39:8-49 Denial, suspension, revocation, refusal of renewal of private inspection facility license.

9. a. The director may, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), deny, suspend or revoke a private inspection facility license or refuse renewal thereof for cause, including but not limited to one or more of the following:

(1) Violation of any provision of P.L.1995, c.112 (C.39:8-41 et al.) or of any rule or regulation adopted pursuant thereto;

(2) Fraud or misrepresentation in securing the license or in the conduct of the licensed activity;

(3) Making initial inspection or reinspection service charges in excess of those posted on the licensed premises and filed with the director;

(4) Conviction of a crime involving fraud or moral turpitude;

(5) Violation of P.L.1960, c.39 (C.56:8-1 et seq.) or of any regulation adopted thereunder;

(6) Failure to successfully complete any training or testing requirements that are a prerequisite to licensure;

(7) Fraudulently, willfully or negligently performing an improper inspection on a motor vehicle;

(8) Failure to pay a fee required by law; or

(9) Other good cause.

b. If the director determines that the public interest requires immediate suspension of a private inspection facility license prior to hearing, the director may do so, provided that the private inspection facility licensee is afforded the opportunity to request

in writing a hearing within 10 days of the effective date of the suspension, and an administrative adjudication shall be held as soon thereafter as possible. The ordered suspension shall become final if a written request is not received by the director within 10 days of service of the notice or the scheduled suspension or order of suspension as the case may be. If the director determines it necessary to suspend a license prior to hearing and the private inspection facility licensee files a request for a hearing within the time prescribed by this section, the director may hold a preliminary hearing to determine whether sufficient cause exists to continue such suspension until a plenary hearing can be conducted.

C.39:8-50 Standards for certification of emission testing equipment.

10. A private inspection facility or an official inspection facility shall use emission testing equipment that has been certified by the Department of Environmental Protection. The Department of Environmental Protection shall adopt standards for the certification of the equipment, which may include but shall not be limited to any of the following:

a. An automated system to control test sequencing, the automatic pass or fail decision, and the format for the test report and electronic medium for storage and transmission of test results;

b. An exhaust gas analysis portion;

c. A device to accept and record vehicle identification information;

d. A device to provide a printed record of the test results to the owner or lessee; and

e. A chassis dynamometer.

C.39:8-51 Expiration of outstanding licenses, return of items to director.

11. All licenses issued pursuant to section 3 of P.L.1975, c.156 (C.39:8-11) shall expire and be of no force and effect on or after January 1, 1996, unless extended by the director. All licensed private inspection centers shall deliver to the director the license, all unused private inspection approval stickers, all inspection records and other items issued to the licensee or required by the director to be kept in connection with the operation of the private inspection center.

C.39:8-52 Licensing of emission inspectors; fees.

12. a. A person shall not conduct any emission inspection required by the director on a motor vehicle unless that person is licensed as an emission inspector by the director. The director may establish a fee not to exceed $50 for the licensure and relicensure of emission inspectors and shall establish standards and requirements for the licensure and relicensure of emission inspec-

tors including, at a minimum, the successful completion of emission training and testing requirements determined by the director in consultation with the Department of Environmental Protection as a prerequisite to licensing. Any license issued pursuant to this section shall be valid for the period set by the director, which shall not be longer than two years. The successful completion of refresher training and testing, at a minimum, shall be required prior to license renewal. All fees collected pursuant to this subsection shall be turned over to the State Treasurer and deposited in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2.

b. The director may deny, suspend or revoke any license authorized to be issued by this section or refuse renewal thereof for cause, including but not limited to one or more of the following:

(1) Violation of any provision of P.L.1995, c.112 (C.39:8-41 et al.) or of any regulation adopted pursuant thereto;

(2) Fraud, misrepresentation or misstatement in securing the license or in the conduct of the licensed activity;

(3) Conviction of a crime involving fraud or moral turpitude;

(4) Violation of P.L.1960, c.39 (C.56:8-1 et seq.) or of any regulation adopted pursuant thereto;

(5) Failure to successfully complete any training or testing requirements that are a prerequisite to licensure;

(6) Failure to pay any fee required by law; or

(7) Other good cause.

C.39:8-53 Registration, certification program, course of instruction for repair facilities, technicians.

13. a. The director shall adopt, after consultation with the Division of Consumer Affairs in the Department of Law and Public Safety, rules and regulations for the registration of facilities authorized to perform emission-related repairs on vehicles that fail a required emission test. A facility or business shall not correct, adjust or repair, for compensation, any motor vehicle that has failed an emission test required by the director unless it has first obtained from the director a motor vehicle repair facility registration authorizing the facility or business to repair vehicles that have failed an emission test required by the director. The director may establish an annual registration fee, which shall not exceed $50, to defray the cost of registering these businesses and facilities. All fees collected pursuant to this section shall be paid to the

State Treasurer and deposited in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2.

b. The director may deny, suspend or revoke any registration issued pursuant to this section, or refuse renewal thereof, for performance by a registered business or facility of an improper repair on a motor vehicle or for other good cause.

c. The director may establish or approve a repair technician certification program for persons who perform, for compensation, emission-related repairs on vehicles that fail a required emission test.

d. The Department of Education, in consultation with the Department of Environmental Protection, shall develop and make available a course of instruction, to be offered at State community colleges and other appropriate educational institutions, for the purpose of training repair technicians in the diagnosis and repair of motor vehicle emission control systems.

C.39:8-54 Misrepresentation, transfer of license; penalties.

14. A person who displays or causes or permits to be displayed any sign, mark, or advertisement, or otherwise identifies that person as a private inspection facility, a registered motor vehicle repair facility or an emission inspector when not holding a valid license or registration issued by the director, or who transfers or attempts to transfer a valid license or registration, shall be subject to a fine of not less than $1,000 or imprisonment for not more than 30 days, or both. Any fine collected under the provisions of this section shall be paid to the State Treasurer and deposited in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2.

C.39:8-55 Waiver from requirement that vehicle satisfy emission standards.

15. The director, either directly or through an agent, may grant a waiver from the requirement that a vehicle satisfy emission standards. A waiver shall be valid for one inspection cycle. The waiver may be issued to any vehicle that cannot successfully pass the emission tests upon reinspection, provided the vehicle owner or lessee demonstrates compliance with the following to the satisfaction of the director or agent:

a. All available warranty coverage for vehicle emission systems has been used to obtain needed repairs on the vehicle or written denial of warranty coverage in a form and manner prescribed by the director has been provided; and

b. The owner has expended, within 30 days prior to an emission test that is failed on or after January 1, 1998 or following the failed emission test, the amount for emission-related repairs specified in

rules and regulations adopted by the United States Environmental Protection Agency pursuant to the federal Clean Air Act; and

c. The repairs made on the vehicle were appropriate to the cause of the emission test failure; and

d. The repairs were made by a registered motor vehicle repair facility or by the owner of the vehicle provided he possesses a nationally recognized certification for emission-related diagnosis and repair; and

e. The vehicle complies with the safety inspection requirements of this chapter and the rules adopted by the director; and

f. Any other requirements established by the director by regulation; and

g. Any other requirements established by the Department of Environmental Protection with the concurrence of the director.

C.39:8-56 Required repairs under a recall.

16. The owner or lessee of a motor vehicle that is subject to inspection pursuant to R.S.39:8-1 and that is included in either a "Voluntary Emissions Recall" as defined at 40 C.F.R. §85.1902(d) or any amendment thereto or in a remedial plan determination made pursuant to section 207(c) of the federal Clean Air Act or any amendment thereto, for which owner notification occurs after the effective date of P.L.1995, c.112 (C.39:8-41 et al.), shall obtain the required repairs within the time period established by the director, in consultation with the Department of Environmental Protection, in order to obtain a certificate of approval. The director shall allow the owner or lessee of a motor vehicle which is subject to recall a minimum of 60 days in which to comply with such recall notice. It shall be the responsibility of the owner and lessee of a vehicle to submit proof of required repairs in response to such recall notice in a form and manner determined by the director. The director shall suspend the registration privileges or deny an application for registration for any vehicle that has failed to receive necessary repairs in response to a "Voluntary Emissions Recall" or to a remedial plan determination within the time period established by the director in consultation with the Department of Environmental Protection.

C.39:8-57 Rules, regulations.

17. The director shall adopt, after consultation with the Department of Environmental Protection and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to implement the provisions of P.L.1995, c.112 (C.39:8-41 et al.) or to place this State in substantial compliance with

the motor vehicle emission inspection and maintenance requirements established by federal law, except that these rules and regulations shall not require the use of the "I/M 240" test.

C.39:8-58 Nonapplicability of act.

18. The provisions of P.L.1995, c.112 (C.39:8-41 et al.) shall not apply to violations committed prior to its effective date, and prosecutions and dispositions for such violations shall be governed by the prior law, which is continued in effect for that purpose, as if P.L.1995, c.112 (C.39:8-41 et al.) were not in force.

19. R.S.39:8-1 is amended to read as follows:

Motor vehicle inspections, exceptions.

39:8-1. a. Every motor vehicle registered in this State which is used over any public road, street, or highway or any public or quasi-public property in this State, and every vehicle subject to enhanced inspection and maintenance programs pursuant to 40 C.F.R. § 51.356, except historic motor vehicles registered as such, collector motor vehicles designated as such pursuant to this subsection, and those vehicles over 8,500 pounds gross weight that are under the inspection jurisdiction of the Department of Transportation pursuant to Titles 27 and 48 of the Revised Statutes, shall be inspected by designated examiners or at official inspection facilities to be designated by the director or at licensed private inspection facilities. The director shall adopt rules and regulations establishing a procedure for the designation of motor vehicles as collector motor vehicles, which designation shall include consideration by the director of one or more of the following factors: the age of the vehicle, the number of such vehicles originally manufactured, the number of such vehicles that are currently in use, the total number of miles the vehicle has been driven, the number of miles the vehicle has been driven during the previous year or other period of time determined by the director, and whether the vehicle has a collector classification for insurance purposes.

b. The director shall determine the official inspection facility or private inspection facility at which a motor vehicle, depending upon its characteristics, shall be inspected. The director, with the concurrence of the Department of Environmental Protection, may exclude by regulation from this inspection requirement any category of motor vehicle if good cause for such exclusion exists, unless the exclusion is likely to prevent this State from meeting the applicable performance standard established by the United

States Environmental Protection Agency. The director may determine that a vehicle is in compliance with the inspection requirements of this section if the vehicle has been inspected and passed under a similar inspection program of another state, district, or territory of the United States.

20. R.S.39:8-2 is amended to read as follows:

Examiners of motor vehicles; rules, regulations; inspections; requirements; etc.

39:8-2. a. The director may designate and appoint, subject to existing laws, competent examiners of motor vehicles to conduct examinations, other than the periodic inspections required pursuant to subsection b. of this section, of motor vehicles required to be inspected in accordance with the provisions of this chapter. The examiners may be delegated to enforce the provisions of the motor vehicle and traffic law.

b. (1) The director shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations consistent with P.L.1966, c.16 (C.26:2C-8.1 et seq.) and with the requirements of the federal Clean Air Act with respect to the type and character of the inspections to be made, the facility at which the vehicle shall be inspected, the frequency of inspections of motor vehicles and the approval or rejection of motor vehicles as a result of these inspections. These rules and regulations shall require the use of inspection tests that are designed to meet the enhanced inspection and maintenance requirements of the federal Clean Air Act and that have been proven to be feasible and effective for the inspection of large numbers of motor vehicles, except that these tests shall not include the "I/M 240" test. Nothing in this subsection shall preclude the use of the "I/M 240" test in sampling for performance evaluations only or the use of the test at the option of a private inspection facility. The rules and regulations may distinguish between vehicles based on model year, type, or other vehicle characteristics in order to facilitate inspections or to comply with the federal Clean Air Act. A low mileage vehicle shall not be subject to a tailpipe inspection test utilizing a dynamometer but may be subject to an idle test and a purge and pressure test. For the purpose of this paragraph, "low mileage vehicle" means a motor vehicle that is driven less than 10,000 miles during the biennial inspection period, except that the director may set the qualifying number of miles for this exemption at a lower number in order to meet the federal enhanced inspection and maintenance performance standard.

(2) The Department of Environmental Protection and the director shall investigate advanced testing technologies, including but not limited to remote sensing and onboard diagnostics, and shall, to the extent permitted by law, pursue the use of such technologies, other than the "I/M 240" test, in motor vehicle emission inspections required by the United States Environmental Protection Agency pursuant to the federal Clean Air Act. The director shall adopt, to the extent practicable, advanced technologies to facilitate the retrieval of testing and other information concerning motor vehicles, which technologies shall include but not be limited to the use of computer bar codes and personal cards containing encoded information, such as a person's operating license, motor vehicle registration, and motor vehicle insurance, the inspection status of a motor vehicle, and mass transit fares, that can be accessed quickly by a computer.

c. Except as modified by the director to distribute evenly the volume of inspections, all motor vehicles required by the director, in accordance with the provisions of R.S.39:8-1, to be inspected under this chapter shall be inspected biennially, except that classes of vehicles that require more frequent inspections, such as school buses, shall be inspected at such shorter intervals as may be established by the director after consultation with the Department of Environmental Protection. At any time, the director may require the owner, lessee, or operator of a motor vehicle to submit the vehicle for inspection.

d. The director shall furnish to designated examiners or to other persons authorized to conduct inspections or to grant waivers official certificates of approval, rejection stickers or waiver certificates, the form, content and use of which he shall establish. The certificates of approval, rejection stickers and waiver certificates shall be of a type, such as a windshield sticker or license plate decal, that can be attached to the vehicle or license plate in a location that is readily visible to anyone viewing the vehicle. If a certificate of approval cannot be issued, the driver shall be provided with a written inspection report describing the reasons for rejection and, if appropriate, the repairs needed or likely to be needed to bring the vehicle into compliance with applicable standards.

e. The director may, with the approval of the State House Commission, purchase, lease or acquire by the exercise of the power of eminent domain any property for the purpose of assisting him in carrying out the provisions of this chapter. This property may also be used by the director for the exercise of the duties and powers conferred upon him by the other chapters of this Title.

f. For the purpose of implementing the motor vehicle inspection requirements of the federal Clean Air Act and subject to the approval of the Attorney General, the State Treasurer, prior to January 1, 1997, may:

(1) Purchase, lease or acquire by eminent domain any property for vehicle inspection purposes. Any other provision of law to the contrary notwithstanding, no further approval shall be required for transactions authorized by this paragraph, except that a proposed purchase, lease or acquisition by eminent domain shall require the approval of the Joint Budget Oversight Committee, and shall be submitted to the Joint Budget Oversight Committee, which shall review the proposed purchase, lease or acquisition by eminent domain within 15 business days; and

(2) Sell or lease, or grant an easement in, any property acquired, held or used for vehicle inspection purposes or any other suitable property held by the State that is not currently in use or dedicated to another purpose. For the purpose of this paragraph and notwithstanding any provision of R.S.52:20-1 et seq. to the contrary, the sale or lease of, or the granting of an easement in, real property owned by the State shall be subject to the approval of the State House Commission, which shall meet at the call of the Governor to act on a proposed sale or lease or grant of an easement pursuant to this paragraph. A member of the State House Commission may permit a representative to act on that member's behalf in considering and voting on a sale or lease or grant of an easement pursuant to this paragraph. Any other provision of law to the contrary notwithstanding, any moneys derived from a sale, lease or granting of an easement by the State pursuant to this paragraph shall not be expended unless approved by the Joint Budget Oversight Committee for the purpose of purchasing, leasing or acquiring property pursuant to paragraph (1) of this subsection, except that any moneys derived therefrom and not approved for that purpose shall be appropriated to the Department of Transportation to provide for mass transit improvements.

g. The director shall conduct roadside examinations of motor vehicles required to be inspected, using such inspection equipment and procedures, and standards established pursuant to section 1 of P.L.1966, c.16 (C.26:2C-8.1), including, but not limited to, remote sensing technology, as the director shall deem appropriate to provide for the monitoring of motor vehicles pursuant to this subsection. At least 20,000 vehicles or 0.5 percent of the total number of motor vehicles required to be inspected under this chapter, whichever is less, shall be inspected during each

inspection cycle by roadside examination teams under the supervision of the director. The director may require any vehicle failing a roadside examination to be inspected at an official inspection facility or a private inspection facility within a time period fixed by the director. Failure to appear and pass inspection within the time period fixed by the director shall result in registration suspension in addition to any other penalties provided in this Title. The director shall conduct an aggressive roadside inspection program to ensure that all motor vehicles that are required to be inspected in this State are in compliance with State law.

h. The director, and, when appropriate, the Department of Environmental Protection, shall conduct inspections and audits of licensed private inspection facilities, official inspection facilities and designated examiners to ensure accurate test equipment calibration and use, and compliance with proper inspection procedures and with the provisions of P.L.1995, c.112 (C.39:8-41 et al.) and any regulations adopted pursuant thereto by the Division of Motor Vehicles or by the Department of Environmental Protection. These inspections and audits shall be conducted at such times and in such manner as the director, upon consultation with the Department of Environmental Protection, shall determine in order to provide quality assurance in the performance of the inspection and maintenance program.

i. (1) The director shall make a charge of $2.50 for the initial inspection for each vehicle subject to inspection, which amount shall be paid to the director or his representative when payment of the registration fees fixed in chapter 3 of this Title is made. Any law or rule or regulation adopted pursuant thereto to the contrary notwithstanding, a registration fee authorized pursuant to chapter 3 of Title 39 of the Revised Statutes shall not be increased for the purpose of paying any costs associated in any manner with the establishment, implementation or operation of the motor vehicle inspection and maintenance program established pursuant to P.L.1995, c.112 (C.39:8-41 et al.).

(2) The director shall establish by regulation a fee to cover the costs of inspecting any vehicle that is required, or has the option, under federal law to be inspected in this State but is registered in another state or is owned or leased by the federal government. In determining these costs, the director shall include all capital and direct and indirect operating costs associated with the inspection of these vehicles including, but not limited to, the costs of the actual inspection, the creation and maintenance of the vehicle

inspection record, administrative, oversight and quality assurance costs and the costs associated with reporting inspection information to the owner, the federal government and agencies of other states. All fees collected pursuant to this subsection shall be paid to the State Treasurer and deposited in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of this section.

j. There is established in the General Fund a special dedicated, non-lapsing fund to be known as the "Motor Vehicle Inspection Fund," which shall be administered by the State Treasurer. The State Treasurer shall deposit into the "Motor Vehicle Inspection Fund" $11.50 from each motor vehicle registration fee received by the State after June 30, 1995. The Legislature shall annually appropriate from the fund an amount necessary to pay the reasonable and necessary expenses of the implementation and operation of the motor vehicle inspection program. The State Treasurer shall:

(1) Pay to a private contractor or contractors contracted to design, construct, renovate, equip, establish, maintain and operate official inspection facilities under a contract or contracts entered into with the State Treasurer pursuant to subsection a. of section 4 of P.L.1995, c.112 (C.39:8-44) from the fund the amount necessary to meet the costs agreed to under the contract or contracts; and

(2) Transfer from the fund to the Division of Motor Vehicles and the Department of Environmental Protection the amounts necessary to finance the costs of administering and implementing all aspects of the inspection and maintenance program, and to the Office of Telecommunications and Information Systems in the Department of the Treasury the amount necessary for computer support upgrades;

Moneys remaining in the fund and any unexpended balance of appropriations from the fund at the end of each fiscal year shall be reappropriated for the purposes of the fund. Any interest earned on moneys in the fund shall be credited to the fund.

21. R.S.39:8-3 is amended to read as follows:

Certificate of approval, issuance; owner's obligation for safety.

39:8-3. a. No certificate of approval shall be issued by an examiner, official inspection facility or private inspection facility until the motor vehicle inspected successfully passes all emission tests required by the director and the mechanism, brakes and equipment of the motor vehicle inspected have been found to be in a proper and safe condition and complying with the laws of this State.

b. Notwithstanding the issuance or non-issuance of a certificate of approval, the obligation to ensure that a vehicle is in a proper and safe condition rests with the owner, operator or lessee, as appropriate, of the vehicle.

22. R.S.39:8-4 is amended to read as follows:

Reinspection.

39:8-4. a. If inspections as required by R.S. 39:8-1 disclose the necessity for adjustments, corrections or repairs, the director shall cause a rejection sticker to be issued.

b. The director may require the owner of a motor vehicle requiring an adjustment, correction or repair that is not emission-related to have that adjustment, correction or repair made and thereafter have the vehicle reinspected at an official inspection facility or at a licensed private inspection facility within the period designated by the director.

The director may cause a certificate of approval to be issued for a motor vehicle needing an adjustment, correction or repair that is not emission-related in order to conform to the requirements of chapter 3 and chapter 8 of this Title, but which, in the director's determination, is nevertheless safe. In such cases the director shall issue notice to the vehicle owner to have the adjustment, correction or repair made within a specified period of time, subject to the penalties of R.S.39:8-9.

c. The director shall require the owner of a motor vehicle requiring an adjustment, correction or repair that is emission-related to have that adjustment, correction or repair made and thereafter have the vehicle reinspected at an official inspection facility or at a private inspection facility, as determined by the director, within the period designated by the director.

23. R.S.39:8-5 is amended to read as follows:

Reports to director; forms.

39:8-5. a. Every designated examiner, official inspection facility or private inspection facility shall make such reports to the director concerning inspections made and the results thereof, and in such form and at such time, as the director may require. The director may furnish to the examiners and inspection facilities forms for such reports. The director may require the use of electronic media for the gathering and transmission of inspection data

and reports when the director deems it appropriate or when electronic media are required by federal law.

b. Every motor vehicle repair facility that is registered pursuant to section 13 of P.L.1995, c.112 (C.39:8-53) shall make such reports to the director concerning emission repairs made and the results thereof, as the director may require. The director may furnish to registered motor vehicle repair facilities forms to be completed by them in documenting emission repairs to motor vehicles, which forms shall be presented by the operator of the vehicle to an emission inspector at the time of vehicle reinspection.

24. R.S.39:8-7 is amended to read as follows:

Suspension, revocation, denial of registration, reciprocity privilege for unsafe vehicles.

39:8-7. Except as otherwise provided pursuant to R.S.39:3-5, the director may suspend, revoke or deny the registration of a motor vehicle registered or required to be registered in this State, or the reciprocity privilege of a motor vehicle registered in another state, if the motor vehicle is subject to the inspection requirement of this State and operated or parked on any public road, street or highway or any public or quasi-public property in this State, and:

a. Does not have displayed upon it a current certificate of approval, current rejection sticker or current waiver certificate issued in accordance with this chapter; or

b. Has not successfully passed inspection or been granted a waiver within the time period prescribed by the director; or

c. Is shown by the inspection to be incapable of being placed in a proper condition to make its use safe on the highway or incapable of being brought within the emission standards or requirements established by law or regulation, and for which a certificate of approval or waiver certificate cannot be issued.

25. R.S.39:8-9 is amended to read as follows:

Enforcement; violations, penalties.

39:8-9. a. The enforcement of this chapter shall be vested in the director and the police or peace officers of any municipality, any county or the State.

b. An owner or lessee who:

(1) Fails or refuses to have a motor vehicle examined within the time period prescribed by the director; or

(2) After having had it examined, fails or refuses to place or display a certificate of approval, rejection sticker or waiver certificate upon the windshield or other location on the vehicle as may be prescribed by the director; or

(3) Fails or refuses to place the motor vehicle in proper condition after having had the same examined; or

(4) In any manner, fails to conform to the provisions of this chapter or the regulations adopted by the director pursuant thereto, shall be guilty of violating the provisions of this chapter, and shall be subject to a fine of not less than $100 or more than $200 or to imprisonment for not more than 30 days, or to both such fine and imprisonment.

c. A person who fraudulently obtains a certificate of approval, rejection sticker or waiver certificate, or displays or has in his possession a fictitious, altered, or stolen certificate of approval, rejection sticker or waiver certificate shall be subject to a fine of $500 for each such certificate or sticker.

d. The provisions of this chapter shall be enforced and all penalties for the violation thereof shall be recovered in accordance with the provisions of "the penalty enforcement law" (N.J.S.2A:58-1 et seq.), and in addition to the provisions and remedies therein contained, the following provisions and remedies shall be applicable in any proceeding brought for a violation of any of the provisions of this chapter:

(1) The several municipal courts shall have jurisdiction of such proceeding, in addition to the courts prescribed in "the penalty enforcement law";

(2) The complaint in any such proceeding may be made on information and belief by the director, or any police or peace officer of any municipality, any county or the State;

(3) A warrant may issue in lieu of summons;

(4) Any police or peace officer shall be empowered to serve and execute process in any such proceeding;

(5) The hearing in any such proceeding shall be without a jury;

(6) Any such proceeding may be brought in the name of the Director of the Division of Motor Vehicles in the Department of Law and Public Safety or in the name of the State of New Jersey;

(7) Any sums received in payment of any fines imposed in any such proceeding shall be paid to the Director of the Division of Motor Vehicles and shall be paid by him to the State Treasurer, who shall deposit one-half of such sums in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of

R.S.39:8-2, and who shall pay the remaining one-half of such sums to the county or municipality initiating the complaint or summons or, if initiated by State law enforcement personnel, to the State Treasury;

(8) The director or judge before whom any hearing under this chapter is had may revoke the registration certificate of any motor vehicle owned or leased by any person, when such person shall have been found to be in violation of any of the provisions of this chapter as shall in the discretion of the director or judge justify such revocation.

e. The director may order the suspension of the registration or reciprocity privilege of any motor vehicle found to be in violation of any of the provisions of this chapter. If the owner or lessee fails to surrender the license plates for that vehicle to the division within 45 days of the mailing of an order requiring their surrender, the director may order the confiscation of the license plates of the vehicle that is in violation. An order of license plate confiscation issued by the director shall include an order imposing a civil penalty of $200 on the owner or lessee of the vehicle. This civil penalty shall be paid to the State Treasurer, who shall deposit one-half of the amount in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2 and pay the remaining one-half to any municipality or county whose law enforcement, police or peace officers confiscated the plates in accordance with the order of the director, or if the plates were confiscated by State law enforcement personnel, to the State Treasury. A civil penalty imposed pursuant to this subsection shall be in addition to any other penalty provided by this chapter.

26. R.S.39:8-10 is amended to read as follows:

Powers of director.

39:8-10. The director shall have authority to make rules and regulations necessary for the administration and enforcement of this chapter. The director may employ, subject to existing laws, such persons as the director requires for the administration and enforcement of this chapter and the director may fix their compensation.

27. 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 director or the director's agent, on forms prepared and supplied by the director, 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 director if the vehicle does not have a vehicle identification number, and any other statement that may be required by the director. 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. 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. 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. A lessor of a leased motor vehicle shall notify the director in writing, on such form as the director may prescribe, of the termination of a lease or of a change of the lessee within seven days after the termination or change.

Thereupon the director 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 director.

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 director 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 director 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 director in amounts proportionately less or greater than the fees established by law. The director may fix the expiration date for registration certificates at a date other than 12 months if the director 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.

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 director 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 director 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 director, 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 director may extend the expiration date of a registration certificate without payment of a proportionate fee when the director 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 director as if no extension had been granted.

The Division of Motor Vehicles shall make a reasonable effort to notify any lessor whose name and address is on file with the division, or any other lessor the division may determine it is necessary to notify, of the requirements of this amendatory act.

28. R.S.39:3-5 is amended to read as follows:

Denial of registration, reciprocity.

39:3-5. The director may refuse registration in the case of any automobile, commercial motor vehicle, trailer, semitrailer, tractor or omnibus that shall not comply with the requirements of this title or that shall seem to him unsuitable for use on the roads and highways of this State. The director shall deny registration to any motor vehicle that has failed to comply with applicable inspection requirements of chapter 8 of Title 39, or of any rules and regulations adopted pursuant thereto, within the time limits established by the director and to any vehicle subject to the inspection jurisdiction of the Department of Transportation that has failed to comply with the applicable inspection requirements of Titles 27 and 48 of the Revised Statutes or of any rules and regulations adopted pursuant thereto. The director may suspend or revoke the registration reciprocity privilege of any motor vehicle that has failed to undergo inspection in accordance with chapter 8 of Title 39 or that is subject to the inspection jurisdiction of the Department of Transportation and has failed to undergo inspection in accordance with the requirements of Titles 27 and 48 of the Revised Statutes or of any rules and regulations adopted pursuant thereto.

29. R.S.39:3-20 is amended to read as follows:

Commercial motor vehicle registrations; fees.

39:3-20. For the purpose of this section, gross weight means the weight of the vehicle or combination of vehicles, including load or contents.

a. The director is authorized to issue registrations for commercial motor vehicles other than omnibuses or motor-drawn vehicles

upon application therefor and payment of a fee based on the gross weight of the vehicle, including the gross weight of all vehicles in any combination of vehicles of which the commercial motor vehicle is the drawing vehicle. The gross weight of a disabled commercial vehicle or combination of disabled commercial vehicles being removed from a highway shall not be included in the calculation of the registration fee for the drawing vehicle.

Except as otherwise provided in this subsection, every registration for a commercial motor vehicle other than an omnibus or motor-drawn vehicle shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued; provided, however, that the director may require registrations which shall expire, and issue certificates thereof which shall become void, on a date fixed by the director, which shall not be sooner than three months or later than 26 months after the date of issuance of such certificates, and the fees for such registrations or registration applications, including any other fees or charges collected in connection with the registration fee, shall be fixed by the director in amounts proportionately less or greater than the fees established by law. The director may fix the expiration date for registration certificates at a date other than 11 months if the director determines that such change is necessary, appropriate or convenient in order to aid in implementing the vehicle inspection requirements of chapter 8 of Title 39 or for other good cause. The minimum registration fee shall be as follows:

For vehicles not in excess of 5,000 pounds, $53.50.

For vehicles in excess of 5,000 pounds and not in excess of 18,000 pounds, $53.50 plus $8.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

For vehicles in excess of 18,000 pounds and not in excess of 50,000 pounds, $53.50 plus $9.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

For vehicles in excess of 50,000 pounds, $53.50 plus $10.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

b. The director is also authorized to issue registrations for commercial motor vehicles having three or more axles and a gross weight over 40,000 pounds but not exceeding 70,000 pounds, upon application therefor and proof to the satisfaction of the director that the applicant is actually engaged in construction work or in the business of supplying material, transporting material, or using such registered vehicle for construction work.

Except as otherwise provided in this subsection, every registration for these commercial motor vehicles shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued; provided, however, that the director may require registrations which shall expire, and issue certificates thereof which shall become void on a date fixed by the director, which shall not be sooner than three months or later than 26 months after the date of issuance of such certificates, and the fees for such registrations or registration applications, including any other fees or charges collected in connection with the registration fee, shall be fixed by the director in amounts proportionately less or greater than the fees established by law. The director may fix the expiration date for registration certificates at a date other than 11 months if the director determines that such change is necessary, appropriate or convenient in order to aid in implementing the vehicle inspection requirements of chapter 8 of Title 39 or for other good cause.

The registration fee shall be $19.50 for each 1,000 pounds or portion thereof.

For purposes of calculating this fee, weight means the gross weight, including the gross weight of all vehicles in any combination of which such commercial motor vehicle is the drawing vehicle.

Such commercial motor vehicle shall be operated in compliance with the speed limitations of Title 39 of the Revised Statutes and shall not be operated at a speed greater than 30 miles per hour when one or more of its axles has a load which exceeds the limitations prescribed in R.S.39:3-84.

c. The director is also authorized to issue registrations for each of the following solid waste vehicles: two-axle vehicles having a gross weight not exceeding 42,000 pounds; tandem three-axle and four-axle vehicles having a gross weight not exceeding 60,000 pounds; four-axle tractor-trailer combination vehicles having a gross weight not exceeding 60,000 pounds. Registration is based upon application to the director and proof to his satisfaction that the applicant is actually engaged in the performance of solid waste disposal or collection functions and holds a certificate of convenience and necessity therefor issued by the Department of Environmental Protection.

Except as otherwise provided in this subsection, every registration for a solid waste vehicle shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued.

The registration fee shall be $50 plus $8.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

d. The director is also authorized to issue registrations for commercial motor-drawn vehicles upon application therefor. The registration year for commercial motor-drawn vehicles shall be April 1 to the following March 31 and the fee therefor shall be $18 for each such vehicle.

At the discretion of the director, an applicant for registration for a commercial motor-drawn vehicle may be provided the option of registering such vehicle for a period of four years. In the event that the applicant for registration exercises the four-year option, a fee of $64 for each such vehicle shall be paid to the director in advance.

If any commercial motor-drawn vehicle registered for a four-year period is sold or withdrawn from use on the highways, the director may, upon surrender of the vehicle registration and plate, refund $16 for each full year of unused prepaid registration.

e. It shall be unlawful for any vehicle or combination of vehicles registered under this act, having a gross weight, including load or contents, in excess of the gross weight provided on the registration certificate to be operated on the highways of this State.

The owner, lessee, bailee or any one of the aforesaid of a vehicle or combination of vehicles, including load or contents, found or operated on any public road, street or highway or on any public or quasi-public property in this State with a gross weight of that vehicle or combination of vehicles, including load or contents, in excess of the weight limitation permitted by the certificate of registration for the vehicle or combination of vehicles, pursuant to the provisions of this section, shall be assessed a penalty of $500 plus an amount equal to $100 for each 1,000 pounds or fractional portion of 1,000 pounds of weight in excess of the weight limitation permitted by the certificate of registration for that vehicle or combination of vehicles. A vehicle or combination of vehicles for which there is no valid certificate of registration is deemed to have been registered for zero pounds for the purposes of the enforcement of this act, in addition to any other violation of this Title, but is not deemed to be lawfully or validly registered pursuant to the provisions of this Title.

This section shall not be construed to supersede or repeal the provisions of section 39:3-84, 39:4-75, or 39:4-76 of this Title.

f. In addition to the registration fees imposed pursuant to this section, the director shall impose and collect an additional fee of

$35 for every registration for a commercial motor vehicle, other than an omnibus, motor-drawn vehicle or non-commercial truck registered pursuant to section 2 of P.L.1968, c.439 (C.39:3-8.1), having a gross weight of 10,000 pounds or more. All fees collected by the director shall be forwarded to the State Treasurer for deposit in a special non-lapsing fund. Moneys in the fund shall be used exclusively by the Department of Law and Public Safety for enforcement of laws and regulations governing commercial motor vehicles, except that the fees collected shall be allocated first to the division to defray the costs necessary to implement the provisions of this subsection.

30. Section 1 of P.L.1944, c.228 (C.39:3-22.1) is amended to read as follows:

C.39:3-22.1 Refund of registration fee for members of military; application procedure.

1. Any person, who has entered or shall enter into active service in any branch of the naval or military forces of the United States and who has or shall have registered his motor vehicle in this State for any registration period, shall be entitled to a refund on the registration fee paid for such vehicle for the number of full months remaining of the registration period for which the vehicle will not be operated on the public highways of this or any other state; provided, that such person makes written application to the director for such refund, under oath, in such form as the director shall require and surrenders the certificate of registration and license plates of such motor vehicle.

31. R.S.39:3-25 is amended to read as follows:

"Farmer" license plate, issuance, fee, expiration.

39:3-25. In addition to the motor vehicle licenses authorized to be issued pursuant to the provisions of this chapter, the director shall issue, upon application therefor, a license plate for trucks marked "farmer," which shall be issued upon evidence satisfactory to the director that the applicant is a farmer and is actually engaged in the growing, raising and producing of farm products as an occupation. License plates issued under authority of this section shall be placed upon motor trucks engaged exclusively in the carrying or transportation of applicant's farm products, raised or produced on his farm, and farm supplies, and not engaged in hauling for hire.

Applicants for license plates herein authorized shall pay a registration fee of $25 plus $4.25 for each 1,000 pounds or portion

thereof in excess of 5,000 pounds. If the registration cycle established by the director is for more or less than 11 months, applicants shall pay amounts proportionately less or greater than the fees established by law.

Except as otherwise provided in this section, every registration for a farm truck shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued; except that the director may require registrations which shall expire, and issue certificates thereof which shall become void, on a date fixed by the director, which shall not be sooner than three months or later than 26 months after the date of issuance of such certificates, and the fees for such registrations, including any other fees or charges collected in connection with the registration fee, shall be fixed by the director in amounts proportionately less or greater than the fees established by law. The director may fix the expiration date for registration certificates at a date other than 11 months if the director determines that such change is necessary, appropriate or convenient in order to aid in implementing the vehicle inspection requirements of chapter 8 of Title 39 or for other good cause.

The term "farmer" as used in this section means any person engaged in the commercial raising, growing and producing of farm products on a farm not less than five acres in area, and who does not engage in the business of buying farm products for resale; and the term "farm products" means any crop, livestock or fur products.

32. R.S.39:3-27 is amended to read as follows:

Registration fee not charged for certain vehicles.

39:3-27. No fee shall be charged for the registration of motor vehicles not used for pleasure or hire, owned by the United States, the State of New Jersey, a municipality, county, Regional Air Pollution Control Agency, Passaic Valley Sewerage Commissioners, North Jersey District Water Supply Commission, a county improvement authority created under the "county improvement authorities law" (P.L.1960, c.183), a local school district, a regional school district, a county vocational or technical school, a duly authorized volunteer fire department, a duly authorized volunteer first aid, rescue or emergency squad, any duly recognized auxiliary or reserve police organization of any municipality, hospital, humane society, and anticruelty society in this State, New Jersey wing of the Civil Air Patrol incorporated

by the Act of July 1946 (Public Law 476-79th Congress), the American Red Cross, chartered local councils in New Jersey of the Boy Scouts of America or the Girl Scouts of the United States of America, chartered local councils in New Jersey of the Boys' Clubs of America or the Girls' Clubs of America, or chartered local organizations of the Police Athletic League or for the registration of ambulances owned by any nonprofit organization. These vehicles shall be registered and display number plates as provided in this title or the director may, in his discretion, issue special registration certificates and special number plates for any of these motor vehicles which shall be valid for such motor vehicle for a period fixed by the director which may correspond with the inspection expiration date applicable to such vehicles, which date shall not be later than 26 months after the date of issuance of such certificates. Upon the expiration or nonrenewal of any special registration the registration certificate and special number marker shall be returned to the director; provided, however, upon proper application to the director the special registration and special number marker may be transferred to another motor vehicle acquired by the owner to whom the special registration and marker were issued.

33. Section 2 of P.L.1981, c.139 (C.39:3-27.19) is amended to read as follows:

C.39:3-27.19 Commuter vans, issuance of registration, plates.

2. The Director of the Division of Motor Vehicles may issue, upon application on a form prepared by him, a registration certificate and registration plates for commuter vans as the application may indicate is warranted in accordance with the definition of these vehicles contained in R.S.39:1-1 for the registration period as fixed by the director.

For each vehicle used as a commuter van the applicant for the registration thereof shall pay an annual fee of $50 or, if the registration is not annual, the fee shall be fixed by the director in an amount proportionately less or greater than $50 and proportionately less or greater than any other fees or charges imposed by law and collected in connection with the registration fee.

The director shall design a plate to identify a vehicle as a commuter van.

34. R.S.39:3-30 is amended to read as follows:

Registration void upon transfer of ownership, destruction of vehicle.

39:3-30. Upon the transfer of ownership or the destruction of any motor vehicle or vehicle its registration shall become void. If the motor vehicle or vehicle is sold the original owner shall remove the license plates therefrom, and surrender them to the division in a manner specified by the director if such plates are not transferred to another vehicle pursuant to this section.

The original owner may, by proper sworn application on a form to be furnished by the division, register another motor vehicle for the unexpired portion of the registration period of the original vehicle. A person applying to use the unexpired portion of a registration under this section shall pay a fee of $4.50 if the vehicle is of a weight or other classification equal with or less than the one originally registered, and shall pay a fee of $4.50 and the difference between the fee originally paid and that due if the new motor vehicle is properly registerable in a higher class. Unless the original license plates have been destroyed, the owner shall be assigned the license number previously issued to him and shall receive a new registration certificate. If the original license plates have been destroyed, replacement of the plates will be made under the provisions of R.S.39:3-32.

The surviving husband, wife, child or children of a deceased registered owner of any motor vehicle in whom title thereto shall vest by virtue of the terms of the will of such deceased owner, or otherwise, shall, upon application to the director, and upon the payment of a fee of $4.50, be entitled to have the registration of such vehicle transferred to his or her name.

The registered owner of any motor vehicle shall, upon application to the director, and payment of a fee of $4.50, be entitled to have the vehicle registered jointly in the name of the registered owner and the spouse of said owner. The registration certificate and certificate of ownership shall be amended accordingly without the payment of any additional fee.

35. R.S.39:3-37 is amended to read as follows:

Falsifying application, examination; punishment, revocation of registration, license.

39:3-37. A person who gives a fictitious name or address or makes any other intentional misstatement of a material fact in an application for registration of a motor vehicle, an application for a waiver pursuant to section 15 of P.L.1995, c.112 (C.39:8-55) of the emission standards requirement, or an application for a driv-

er's license or in a preliminary application, examination or proceeding, or a person who knowingly sells, loans or gives an identification document to another person for the purpose of aiding that person to obtain a driver's license, registration certificate or waiver certificate for which that person is not qualified, shall be subject to a fine of not less than $200 or more than $500, or imprisonment for not more than six months or both, at the discretion of the court. The director shall, upon proper evidence not limited to a conviction, revoke the registration of the motor vehicle or driver's license of a person who violates this section for a period of not less than six months or more than two years.

36. Section 11 of P.L.1968, c.410 (C.52:14B-11) is amended to read as follows:

C.52:14B-11 Revocation, refusal to renew license, hearing required; exceptions.

11. No agency shall revoke or refuse to renew any license unless it has first afforded the licensee an opportunity for hearing in conformity with the provisions of this act applicable to contested cases. If a licensee has, in accordance with law and agency rules, made timely and sufficient application for a renewal, his license shall not expire until his application has been finally determined by the agency. Any agency that has authority to suspend a license without first holding a hearing shall promptly upon exercising such authority afford the licensee an opportunity for hearing in conformity with the provisions of this act.

This section shall not apply (1) where a statute provides that an agency is not required to grant a hearing in regard to revocation, suspension or refusal to renew a license, as the case may be; or (2) where the agency is required by any law to revoke, suspend or refuse to renew a license, as the case may be, without exercising any discretion in the matter, on the basis of a judgment of a court of competent jurisdiction; or (3) where the suspension or refusal to renew is based solely upon failure of the licensee to maintain insurance coverage as required by any law or regulation; or (4) where the suspension or refusal to renew a motor vehicle registration is based upon the failure of the vehicle to be presented for inspection or to satisfy the inspection requirements of chapter 8 of Title 39 of the Revised Statutes.

37. Section 1 of P.L.1966, c.16 (C.26:2C-8.1) is amended to read as follows:

C.26:2C-8.1 Codes, rules, regulations concerning motor vehicles.

1. a. The department, after consultation with the Director of the Division of Motor Vehicles, shall have the power to formulate and promulgate, amend and repeal codes, rules and regulations establishing standards and requirements for the control of air contaminants from motor vehicles.

b. The department, after consultation with the Director of the Division of Motor Vehicles, shall adopt rules and regulations, consistent with the federal Clean Air Act, establishing exhaust emission standards and test methods and standards for emission control apparatus and related items. The department shall not require the "I/M 240" test, but shall adopt an alternative test that is acceptable to the United States Environmental Protection Agency. The department may provide that the standards and test methods vary according to the model year, type, or other vehicle characteristic that the department deems necessary to facilitate inspections or to comply with the federal Clean Air Act. The emission standards and test methods adopted pursuant to this subsection shall not set any quota for emission test failures and shall not require the failure of motor vehicles at any predetermined rate. This subsection shall not preclude the use of the "I/M 240" test in sampling for performance evaluation only or the use of the test at the option of a private inspection facility.

c. Within one year of the effective date of P.L.1995, c.112 (C.39:8-41 et al.) the Department of Transportation and the Department of Environmental Protection, in conjunction with the Department of Law and Public Safety and in consultation with the New Jersey Institute of Technology, shall:

(1) Develop and implement a program for the roadside enforcement of smoke opacity and air pollutant standards for all classes of motor vehicles with a gross vehicle weight greater than 18,000 pounds; and

(2) Develop a program for the roadside enforcement of smoke opacity and air pollutant standards for all classes of motor vehicles with a gross vehicle weight greater than 8,500 pounds and less than or equal to 18,000 pounds, and provide a written report on the feasibility of implementation of this program and reasonable timeframes for that implementation to the Senate Natural Resources, Trade and Economic Development Committee and to the Assembly Environment and Energy Committee, or to their successors.

Motor vehicles used for construction or farming purposes may be exempted from these programs at the discretion of the Com-

missioner of Environmental Protection, except that buses and other commercial motor vehicles shall not be exempted.

A roadside inspection of a bus to enforce smoke opacity and air pollutant standards adopted pursuant to this section shall be conducted only in conjunction with a roadside safety inspection that is conducted pursuant to law, rule or regulation.

38. Section 2 of P.L.1966, c.16 (C.26:2C-8.2) is amended to read as follows:

C.26:2C-8.2 Applicability of code, rule, regulation to classes of vehicles.

2. Any code, rule or regulation establishing standards and requirements for the control of air contaminants from motor vehicles shall be applicable to such classification of motor vehicles as the department shall determine to be necessary to carry out the purpose of P.L.1966, c.16 (C.26:2C-8.1 et seq.).

39. Section 9 of P.L.1954, c.212 (C.26:2C-9) is amended to read as follows:

C.26:2C-9 Department's duties relative to air pollution control; fees.

9. a. The department shall conduct ambient air quality tests, on at least a monthly basis and wherever possible in conjunction with the county college or other county facility, which are representative of every county of the State. The department shall report the results of these tests to the county health officers, the Legislature, and the news media.

b. The department shall control air pollution in accordance with the provisions of any applicable code, rule or regulation promulgated by the department and for this purpose shall have power to:

(1) Conduct and supervise research programs for the purpose of determining the causes, effects and hazards of air pollution;

(2) Conduct and supervise Statewide programs of air pollution control education including the preparation and distribution of information relating to air pollution control;

(3) Require the registration of persons engaged in operations which may result in air pollution and the filing of reports by them containing information relating to location, size of outlet, height of outlet, rate and period of emission and composition of effluent, and such other information as the department shall prescribe to be filed relative to air pollution, all in accordance with applicable codes, rules or regulations established by the department;

(4) Enter and inspect any building or place, except private residences, for the purpose of investigating an actual or suspected source of air pollution and ascertaining compliance or noncompliance with any code, rules and regulations of the department. Any information relating to secret processes or methods of manufacture or production obtained in the course of such inspection, investigation or determination, shall be kept confidential and shall not be admissible in evidence in any court or in any other proceeding except before the department as herein defined. If samples are taken for analysis, a duplicate of the analytical report shall be furnished promptly to the person suspected of causing air pollution;

(5) Receive or initiate complaints of air pollution, hold hearings in connection with air pollution and institute legal proceedings for the prevention of air pollution and for the recovery of penalties, in accordance with this act;

(6) With the approval of the Governor, cooperate with, and receive money from, the federal government, the State government, or any county or municipal government or from private sources for the study and control of air pollution;

(7) The department may in accordance with a fee schedule adopted as a rule or regulation establish and charge fees for any of the services it performs, which fees shall be annual or periodic as the department shall determine. The fees charged by the department pursuant to this section shall not be less than $10 nor more than $500 based on criteria contained in the fee schedule.

40. The following language in section 1 of P.L.1994, c.67, the fiscal year 1995 annual appropriations act, at page 156, is amended to read as follows:

CAPITAL CONSTRUCTION
66 DEPARTMENT OF LAW AND PUBLIC SAFETY
10 Public Safety and Criminal Justice
11 Vehicular Safety

The amount hereinabove for Reserve for Clean Air Act Implementation shall only be expended upon the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee; provided however, that there are allocated from the Reserve for Clean Air Act Implementation account without such approval the amount of $100,000 to the Bureau of Research, Division of Design and Right of Way, in the Department of Transportation to conduct a study of the use of

drones to monitor air quality and of devices that reduce pollutants in the air through the modification of a vehicle exhaust system or fuel intake system, and the amount of $100,000 for grants to the Environmental and Occupational Health Sciences Institute of Rutgers, The State University, to study the health effects of federally mandated reformulated fuels on service station attendants and motorists, and to the New Jersey Institute of Technology, to study the fuel efficiency of federally mandated reformulated fuels, the amount of which grants shall be determined by the Secretary of State.

41. This act shall take effect immediately.

Approved June 2, 1995.

CHAPTER 113

AN ACT concerning the exemption and abatement of dwellings, multiple dwellings and commercial and industrial structures from taxation in areas in need of rehabilitation and amending P.L.1991, c.441.

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

1. Section 3 of P.L.1991, c.441 (C.40A:21-3) is amended to read as follows:

C.40A:21-3 Definitions.

3. As used in this act:

a. "Abatement" means that portion of the assessed value of a property as it existed prior to construction, improvement or conversion of a building or structure thereon, which is exempted from taxation pursuant to this act.

b. "Area in need of rehabilitation" means a portion or all of a municipality which has been determined to be an area in need of rehabilitation or redevelopment pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), a "blighted area" as determined pursuant to the "Blighted Areas Act," P.L.1949, c.187 (C.40:55-21.1 et seq.), or which has been determined to be in need of rehabilitation pursuant to P.L.1975,

c.104 (C.54:4-3.72 et seq.), P.L.1977, c.12 (C.54:4-3.95 et seq.), or P.L.1979, c.233 (C.54:4-3.121 et seq.).

c. "Assessor" means the officer of a taxing district charged with the duty of assessing real property for the purpose of general taxation.

d. "Commercial or industrial structure" means a structure or part thereof used for the manufacturing, processing or assembling of material or manufactured products, or for research, office, industrial, commercial, retail, recreational, hotel or motel facilities, or warehousing purposes, or for any combination thereof, which the governing body determines will tend to maintain or provide gainful employment within the municipality, assist in the economic development of the municipality, maintain or increase the tax base of the municipality and maintain or diversify and expand commerce within the municipality. It shall not include any structure or part thereof used or to be used by any business relocated from another qualifying municipality unless: the total square footage of the floor area of the structure or part thereof used or to be used by the business at the new site together with the total square footage of the land used or to be used by the business at the new site exceeds the total square footage of that utilized by the business at its current site of operations by at least 10%; and the property that the business is relocating to has been the subject of a remedial action plan costing in excess of $250,000 performed pursuant to an administrative consent order entered into pursuant to authority vested in the Commissioner of Environmental Protection under P.L.1970. c.33 (C.13:1D-1 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), and the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.).

e. "Completion" means substantially ready for the intended use for which a building or structure is constructed, improved or converted.

f. "Condominium" means a property created or recorded as a condominium pursuant to the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).

g. "Construction" means the provision of a new dwelling, multiple dwelling or commercial or industrial structure, or the enlargement of the volume of an existing multiple dwelling or commercial or industrial structure by more than 30%, but shall not mean the conversion of an existing building or structure to another use.

h. "Conversion" or "conversion alteration" means the alteration or renovation of a nonresidential building or structure, or hotel, motel, motor hotel or guesthouse, in such manner as to convert the building or structure from its previous use to use as a dwelling or multiple dwelling.

i. "Cooperative" means a housing corporation or association, wherein the holder of a share or membership interest thereof is entitled to possess and occupy for dwelling purposes a house, apartment, or other unit of housing owned by the corporation or association, or to purchase a unit of housing owned by the corporation or association.

j. "Cost" means, when used with respect to abatements for dwellings or multiple dwellings, only the cost or fair market value of direct labor and materials used in improving a multiple dwelling, or of converting another building or structure to a multiple dwelling, or of constructing a dwelling, or of converting another building or structure to a dwelling, including any architectural, engineering, and contractor's fees associated therewith, as the owner of the property shall cause to be certified to the governing body by an independent and qualified architect, following the completion of the project.

k. "Dwelling" means a building or part of a building used, to be used or held for use as a home or residence, including accessory buildings located on the same premises, together with the land upon which such building or buildings are erected and which may be necessary for the fair enjoyment thereof, but shall not mean any building or part of a building, defined as a "multiple dwelling" pursuant to the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.). A dwelling shall include, as they are separately conveyed to individual owners, individual residences within a cooperative, if purchased separately by the occupants thereof, and individual residences within a horizontal property regime or a condominium, but shall not include "general common elements" or "common elements" of such horizontal property regime or condominium as defined pursuant to the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.), or the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.), or of a cooperative, if the residential units are owned separately.

l. "Exemption" means that portion of the assessor's full and true value of any improvement, conversion alteration, or construction not regarded as increasing the taxable value of a property pursuant to this act.

m. "Horizontal property regime" means a property submitted to a horizontal property regime pursuant to the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.).

n. "Improvement" means a modernization, rehabilitation, renovation, alteration or repair which produces a physical change in an existing building or structure that improves the safety, sanitation, decency or attractiveness of the building or structure as a place for human habitation or work, and which does not change its permitted use. In the case of a multiple dwelling, it includes only improvements which affect common areas or elements, or three or more dwelling units within the multiple dwelling. In the case of a multiple dwelling or commercial or industrial structure, it shall not include ordinary painting, repairs and replacement of maintenance items, or an enlargement of the volume of an existing structure by more than 30%. In no case shall it include the repair of fire or other damage to a property for which payment of a claim was received by any person from an insurance company at any time during the three year period immediately preceding the filing of an application pursuant to this act.

o. "Multiple dwelling" means a building or structure meeting the definition of "multiple dwelling" set forth in the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), and means for the purpose of improvement or construction the "general common elements" and "common elements" of a condominium, a cooperative, or a horizontal property regime.

2. This act shall take effect immediately.

Approved June 2, 1995.

CHAPTER 114

AN ACT concerning endangering the welfare of a child and amending P.L.1979, c.179.

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

1. Section 6 of P.L.1979, c.179 (C.2C:39-7) is amended to read as follows:

C.2C:39-7 Certain persons not to have weapons.

6. Certain Persons Not to Have Weapons.

a. Except as provided in subsection b. of this section, any person, having been convicted in this State or elsewhere of the crime of aggravated assault, arson, burglary, escape, extortion, homicide, kidnapping, robbery, aggravated sexual assault, sexual assault or endangering the welfare of a child pursuant to N.J.S.2C:24-4, whether or not armed with or having in his possession any weapon enumerated in subsection r. of N.J.S.2C:39-1, or any person convicted of a crime pursuant to the provisions of N.J.S.2C:39-3, N.J.S.2C:39-4 or N.J.S.2C:39-9, or any person who has ever been committed for a mental disorder to any hospital, mental institution or sanitarium unless he possesses a certificate of a medical doctor or psychiatrist licensed to practice in New Jersey or other satisfactory proof that he is no longer suffering from a mental disorder which interferes with or handicaps him in the handling of a firearm, or any person who has been convicted of other than a disorderly persons or petty disorderly persons offense for the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2 who purchases, owns, possesses or controls any of the said weapons is guilty of a crime of the fourth degree.

b. A person having been convicted in this State or elsewhere of the crime of aggravated assault, arson, burglary, escape, extortion, homicide, kidnapping, robbery, aggravated sexual assault, sexual assault or endangering the welfare of a child pursuant to N.J.S.2C:24-4, whether or not armed with or having in his possession a weapon enumerated in subsection r. of N.J.S.2C:39-1, or a person having been convicted of a crime pursuant to the provisions of N.J.S.2C:35-3 through N.J.S.2C:35-6, inclusive; section 1 of P.L.1987, c.101 (C.2C:35-7); N.J.S.2C:35-11; N.J.S.2C:39-3; N.J.S.2C:39-4; or N.J.S.2C:39-9 who purchases, owns, possesses or controls a firearm is guilty of a crime of the second degree.

c. Whenever any person shall have been convicted in another state, territory, commonwealth or other jurisdiction of the United States, or any country in the world, in a court of competent jurisdiction, of a crime which in said other jurisdiction or country is comparable to one of the crimes enumerated in subsection a. or b. of this section, then that person shall be subject to the provisions of this section.

2. This act shall take effect immediately.

Approved June 2, 1995.

CHAPTER 115

AN ACT concerning unclaimed child support payments and amending R.S.46:30B-74.

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

1. R.S.46:30B-74 is amended to read as follows:

Deposits of funds by administrator.

46:30B-74. Deposits of funds by administrator. The administrator shall establish and manage three separate trust funds to be known as the Unclaimed County Deposits Trust Fund, the Unclaimed Child Support Trust Fund and the Unclaimed Personal Property Trust Fund.

a. All moneys received as unclaimed county deposits and the accretions thereon shall be deposited into the Unclaimed County Deposits Trust Fund. Each year, unless the administrator deems it prudent and advisable to do otherwise, the administrator shall pay to each county, within 45 days of the receipt of such funds, 75% of the unclaimed county deposits received from that county by the administrator. The remaining portion shall be retained in the trust fund, administered and invested by the State Treasurer, and used to pay claims duly presented and allowed and all expenses and costs incurred by the State of New Jersey. If the Unclaimed County Deposits Trust Fund is insufficient to pay specific claims against a county, the administrator shall report the fact to the county governing body and the unpaid claim shall become an affirmative obligation of that county.

Upon the effective date of this act, any county deposits paid to the administrator between April 18, 1989 and the effective date of this act shall be transferred from the Unclaimed Personal Property Trust Fund to the Unclaimed County Deposits Trust Fund.

b. All other moneys received as unclaimed property presumed abandoned, the accretions thereon, and the proceeds of sale of unclaimed property shall be deposited into the Unclaimed Personal Property Trust Fund. Unless the administrator deems it prudent and advisable to do otherwise, 75% of all funds received shall be transferred to the General State Fund. The remaining portion shall be retained in the trust fund, administered and invested by the State Treasurer, and used to pay claims duly presented and allowed and all expenses and costs incurred by the State of New Jersey.

Upon the effective date of this act, all funds and assets of the trust funds established pursuant to N.J.S.2A:37-41, section 8 of P.L.1945,

c.199 (C.17:9-25), and N.J.S.17B:31-7, shall be transferred to and become part of the Unclaimed Personal Property Trust Fund established by this act, which shall be responsible for payment of any allowed claims for restitution of unclaimed property paid into those three funds.

c. All moneys received as abandoned child support and the accretions thereon shall be deposited in the Unclaimed Child Support Trust Fund. Each year, the administrator shall pay to the judiciary, within 45 days of the receipt of such funds, the federal government's Title IV-D share of the abandoned child support received from the Probation Division of the Superior Court. The remaining portions shall be retained in the trust fund, administered and invested by the State Treasurer, and used to pay claims duly presented and allowed and all expenses and costs incurred by the State of New Jersey. If the Unclaimed Child Support Trust Fund is insufficient to pay specific claims against a county, the administrator shall report the fact to the judiciary and the unpaid claim shall become an affirmative obligation of the judiciary.

Upon the effective date of P.L.1995, c.115, any abandoned child support paid to the administrator between April 18, 1989 and that effective date shall be transferred from the Unclaimed Personal Property Trust Fund to the Unclaimed Child Support Trust Fund.

d. As used in this section:

(1) "County deposits" means the proceeds of a judgment received in favor of a minor and placed under the control of a county surrogate or any devise or distribution from an estate paid into the county surrogate's court prior to April 14, 1989; any unclaimed bail and any interest thereon deposited prior to January 1, 1995 and 50% of any unclaimed bail and any interest thereon deposited after January 1,1995;

(2) "Abandoned child support" means any payments for the support of a child or a child and the custodial parent paid to the Probation Division of the Superior Court pursuant to a court order that could not be distributed to the payee or returned to the payor within one year of its receipt;

(3) "Title IV-D" means Part D, "Child Support and Establishment of Paternity," of subchapter IV of the Social Security Act (42 U.S.C. 651 et seq.) under which states receive partial federal reimbursement of their administrative expenses for establishing paternity and collecting child support.

2. This act shall take effect immediately.

Approved June 5, 1995.

CHAPTER 116

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, 1995 and regulating the disbursement thereof," approved June 30, 1994 (P.L.1994, c.67).

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.1994, c.67, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES
34 DEPARTMENT OF EDUCATION
30 Educational, Cultural and Intellectual Development
34 Educational Support Services

30-5063 Educational Programs and Student Services	$181,500
Special Purpose:	
Commission on Holocaust Education	($181,500)

2. This act shall take effect immediately.

Approved June 5, 1995.

CHAPTER 117

AN ACT requiring added security measures at automated teller machine locations.

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

C.17:16K-7 Definitions.

1. As used in this act:

"Access area" means any paved walkway or sidewalk which is within 50 feet of an automated teller machine or the entrance of

an automated teller machine facility and is used by the public to access the machine or facility. The term does not include publicly maintained sidewalks or roads.

"Access device" means a card, code, or other means of access to a customer's credit or deposit account, or any combination thereof, that may be used by the customer for the purpose of effecting a transaction at an automated teller machine.

"Automated teller machine" means any electronic information processing device located in the State of New Jersey which accepts or dispenses cash in connection with a credit or deposit account. The term does not include tellers' stations staffed by a person or other manned facilities.

"Automated teller machine facility" means an enclosed area, the principal purpose of which is the housing of one or more operating automated teller machines to which customers have access to conduct transactions with respect to a credit or deposit account.

"Candlefoot power" means the light intensity of candles on a horizontal plane at 36 inches above ground level and five feet in front of the area to be measured.

"Control" of an access area or defined parking area means the present authority to determine how, when, and by whom any such area is to be used, and how it is to be maintained, lighted, and landscaped.

"Customer" means a natural person to whom an access device has been issued for personal, family, or household use.

"Defined parking area" means that portion of any parking area open for customer parking which is (1) contiguous to an access area; (2) regularly, principally, and lawfully used for parking by users of an automated teller machine or automated teller machine facility while conducting automated teller machine transactions during hours of darkness; and (3) owned or leased by the operator of an automated teller machine or owned or controlled by the party leasing an automated teller machine or automated teller machine facility site to the operator. The term does not include any parking area which is not open or regularly used for parking by users who are conducting automated teller machine transactions during hours of darkness. A parking area is not open if it is physically closed to access or if conspicuous signs indicate that it is closed. If a multiple level parking area satisfies the conditions of this definition of "defined parking area" and would therefore otherwise be a defined parking area, only the single parking level deemed by the operator of an automated teller machine or auto-

mated teller machine facility to be the most directly accessible to users shall be a defined parking area.

"Hours of darkness" means the period that commences 30 minutes after sunset and ends 30 minutes before sunrise.

"Operator" means any State or federally chartered bank, savings bank, savings and loan association, credit union, or other entity, which operates an automated teller machine.

"User" means any person to whom an access device has been issued.

"Video camera" includes any image recording device which is capable of recording a clear image of the required areas of coverage as provided in section 3 of this act.

C.17:16K-8 Evaluation of automated teller machines for safety.

2. a. Operators of all automated teller machines in operation after the effective date of this act shall evaluate the safety of automated teller machines. This evaluation shall include consideration of:

(1) The extent to which the lighting for the automated teller machine or automated teller machine facility complies with the standards required by section 4 of this act.

(2) The presence of landscaping, vegetation, or structures in the area of an automated teller machine or automated teller machine facility, the access area, or a defined parking area which might obstruct views so as to adversely affect the safety of users.

b. It is not the intent of the Legislature in enacting this section to impose a duty to close, relocate or modify automated teller machines or automated teller machine facilities upon the occurrence of any particular events or circumstances, but rather to establish a standard of good faith for the evaluation thereof.

C.17:16K-9 Video camera required.

3. Every automated teller machine facility shall contain a video camera which at least shall view and record all persons entering the facility or all persons who effect a transaction.

C.17:16K-10 Minimum lighting requirements.

4. Each operator and any person or entity controlling an access area or defined parking area in operation after the effective date of this act shall provide:

a. A minimum of 10 candlefoot power at the face of an unenclosed automated teller machine and extending in an unobstructed direction outward five feet.

b. A minimum of two candlefoot power within 50 feet in all unobstructed directions from the face of the automated teller

machine or the entrance of an automated teller machine facility. In the event any such automated teller machine or automated teller machine facility is located within 10 feet of the corner of the building in which it is located and the automated teller machine or automated teller machine facility is generally accessible from the adjacent side of such building, there shall be a minimum of two candlefoot power along the first 40 unobstructed feet of the adjacent side of the building, measured from the corner.

c. A minimum of two candlefoot power in that portion of the defined parking area within 60 feet of an automated teller machine or the entrance to an automated teller machine facility.

d. With respect to the interior of an automated teller machine facility, sufficient lighting to permit a person entering the facility to readily and easily see all persons occupying the facility, and to permit a person inside the facility to readily and easily see all persons entering the facility.

C.17:16K-11 Basic safety precaution information to customers.

5. a. Each customer receiving an access device shall be furnished by the respective issuer thereof with written notice of basic safety precautions to be employed while using an automated teller machine. This information shall be furnished by personally delivering or by mailing the information to each customer whose mailing address as to the account to which the access device relates is in the State of New Jersey. This information shall be furnished to each customer who has an access device on the day prior to the effective date of this act, within 60 days after the effective date of this act and to each customer provided with an access device on or after the effective date of this act, at the same time the customer is provided with the access device. Only one notice need be furnished per household; and if an access device is furnished to more than one customer for a single account or set of accounts or on the basis of a single application or other request for more than one access device, only a single notice need be furnished in satisfaction of the notification responsibilities as to all such customers. The information may be included with other disclosures related to the access device furnished to the customer, such as with any initial or periodic disclosure statement or notice furnished pursuant to the federal "Electronic Fund Transfer Act," 15 U.S.C. §1693 et seq., and shall be furnished annually thereafter.

b. An issuer of an access device shall be deemed to be in compliance with the requirement of subsection a. of this section to

provide a customer with basic safety precaution information if the notice advises customers of the following:

(1) To be alert to their surroundings and to defer transactions if circumstances cause them to be apprehensive for their safety;

(2) To close the entry door of any automated teller machine facility equipped with a door;

(3) To place withdrawn cash securely upon the person before exiting any automated teller machine facility;

(4) To direct complaints concerning automated teller machine security to an appropriate department of the operator or to the Department of Banking; and

(5) The telephone number of the operator and the Department of Banking.

c. Operators shall maintain, in the vicinity of an automated teller machine, and in any automated teller machine facility, a clearly visible sign, which shall be deemed to comply with the requirements of this section if it includes the information contained in paragraphs (1) through (5) of subsection b. of this section.

C.17:16K-12 Provisions; enforcement, penalty for violation.

6. a. The Department of Banking shall enforce the provisions of this act.

b. Any party responsible hereunder found to be in violation of any provision of this act shall correct the violation within five business days after such finding. Failure to correct the violation within five business days after such finding may subject the party to a civil penalty of not more than $250 which may be collected by summary proceedings instituted by the Commissioner of Banking in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

C.17:16K-13 Other laws applicable.

7. Nothing contained in this act shall be construed to exempt or relieve any operator, owner or other person responsible hereunder from complying with all relevant provisions of the State Uniform Construction Code, P.L.1975, c.217 (C.52:27D-119 et seq.), and all other applicable provisions of law.

C.17:16K-14 Nonapplicability to certain ATM's.

8. The provisions of this act shall not apply to any automated teller machine or automated teller machine facility located in any building, structure or space the primary purposes or function of which is: unrelated to the provision of financial services to the

general public, including but not limited to office buildings, supermarkets, airports and school buildings; to provide automated teller machine services to persons employed in such building; or installed for a temporary purpose for a period of not more than thirty days.

C.17:16K-15 Supersedure, preemption of local rules, regulations, etc.

9. This act supersedes and preempts all rules, regulations, codes, or ordinances of any county or municipality with regard to customer safety at automated teller machines or automated teller machine facilities.

10. This act shall become effective on the first day of the seventh month following enactment.

Approved June 5, 1995.

CHAPTER 118

AN ACT to validate certain proceedings for the issuance of bonds of school districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

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

1. All proceedings heretofore had or taken by any school district or at any school election for the authorization or issuance of bonds of the school district and any bonds or other obligations of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that notice of the election was properly posted on the required number of buildings and published in an official newspaper in accordance with the provisions of N.J.S.18A:14-19, although that notice, as published, did not state the correct amount of bonds to be authorized; provided that no action, suit, or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date upon which this act shall take effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, if instituted within 15 days after the effective date of this act.

2. This act shall take effect immediately.

Approved June 6, 1995.

CHAPTER 119

AN ACT concerning endangering the welfare of a child and amending P.L.1968, c.409.

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

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

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

8. The Attorney General, county prosecutor or a person designated to act for such an official and to perform his duties in and during his actual absence or disability, may authorize, in writing, an ex parte application to a judge designated to receive the same for an order authorizing the interception of a wire, or electronic or oral communication by the investigative or law enforcement officers or agency having responsibility for an investigation when such interception may provide evidence of the commission of the offense of murder, kidnapping, gambling, robbery, bribery, a violation of paragraph (1) or (2) of subsection b. of N.J.S.2C:12-1, a violation of N.J.S.2C:21-19 punishable by imprisonment for more than one year, terroristic threats, violations of N.J.S.2C:35-3, N.J.S.2C:35-4 and N.J.S.2C:35-5, violations of sections 112 through 116, inclusive, of the "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116), arson, burglary, theft and related offenses punishable by imprisonment for more than one year, endangering the welfare of a child pursuant to N.J.S. 2C:24-4, escape, forgery, alteration of motor vehicle identification numbers, unlawful manufacture, purchase, use, or transfer of firearms, unlawful possession or use of destructive devices or explosives, racketeering or a violation of subsection g. of N.J.S.2C:5-2, leader of organized crime, organized criminal activity directed toward the unlawful transportation, storage, disposal, discharge, release, abandonment or disposition of any harmful, hazardous, toxic, destructive, or polluting substance, or any conspiracy to commit any of the foregoing offenses or which may provide evidence aiding in the apprehension of the perpetrator or perpetrators of any of the foregoing offenses.

2. This act shall take effect immediately.

Approved June 8, 1995.

CHAPTER 120

AN ACT concerning the installation of child-protection window guards in certain multiple dwellings, supplementing the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.).

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

C.55:13A-7.12 "Child-protection window guard" defined.

1. As used in this act, "child-protection window guard" means a bar, screen or grille assembly designed to be installed in a window for the purpose of preventing accidental fall or ejection of a child through the window. It shall be so designed, constructed and installed that no person of the age of 10 years or younger may through accident, ignorance or inadvertence, remove, open or dislodge it so as to permit such fall or ejection. Such window guards shall conform to specifications developed by the commissioner regarding design, construction and installation so as to accomplish the purpose of this act.

C.55:13A-7.13 Installation of window guards.

2. a. Except as provided in subsection b. of this section, the owner, lessor, agent or other person who manages or controls a multiple dwelling shall, upon the written request of a tenant, provide, install and maintain a child-protection window guard on the windows of each dwelling unit in which a child or children 10 years of age or under reside and on any windows in the public halls of a multiple dwelling in which any child or children of such age reside.

b. The requirements of subsection a. of this section shall apply to all windows, except those windows which give access to a fire escape or which are on the first floor. In addition, the provisions of this act shall not apply to any window in (1) an owner occupied dwelling unit, (2) a dwelling unit which is a part of a condominium or which is held by a proprietary lessee under a cooperative form of ownership, or (3) a dwelling unit occupied by a shareholder in a mutual housing corporation.

c. Any child-protection window guard installed pursuant to this act shall conform to the requirements of the State Uniform Construction Code with respect to means of emergency egress, and a window guard installed on an emergency egress window shall be releasable or removable from the inside without use of a

key, tool or excessive force. Window guards installed on all other windows shall be designed, constructed, and installed so that they may not deliberately or through accident, ignorance or inadvertence, be removed, opened, or dislodged without the use of a key or tool.

C.55:13A-7.14 Leases, annual notices advising of availability.

3. a. All leases offered to tenants in multiple dwellings shall contain a notice, conspicuously set forth therein, advising tenants and prospective tenants of the availability of window guards under this act and the need for a tenant to request in writing the installation of window guards.

b. The owner, lessor, agent or other person who manages or controls a multiple dwelling shall cause to be delivered to each dwelling unit therein an annual notice, in form and manner prescribed by the commissioner, advising occupants of the obligation of the said owner, lessor, agent or other person to install child-protection window guards pursuant to section 2 of this act.

c. Notwithstanding any municipal ordinance to the contrary, expenditures made pursuant to this act shall be deemed to be capital improvement costs, which may be passed on to the tenants of the multiple dwelling.

C.55:13A-7.15 Noninterference with window guards.

4. No tenant or occupant of a multiple dwelling unit, or any other person, shall obstruct or interfere with the installation of child-protection window guards required under section 2 of this act, nor shall any person remove or otherwise render ineffective such window guards.

C.55:13A-7.16 Rules, regulations.

5. The commissioner is hereby authorized to make and promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), all regulations necessary to carry out this act, including, but not limited to, regulations regarding the design, construction, and installation of window guards.

6. This act shall take effect on the 90th day next following its enactment, except that section 5 shall take effect immediately.

Approved June 8, 1995.

CHAPTER 121

AN ACT appropriating $500,000 from the "Jobs, Education and Competitiveness Bond Act of 1988," P.L.1988, c.78, for the construction, reconstruction, development, extension, improvement and equipment of classrooms, academic buildings, libraries, computer facilities and other higher education buildings at New Jersey's public and private institutions of higher education.

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

1. There is appropriated to the Department of Higher Education from the "Jobs, Education and Competitiveness Fund" created pursuant to section 14 of the "Jobs, Education and Competitiveness Bond Act of 1988," P.L.1988, c.78, the sum of $500,000 for the purpose of constructing, reconstructing, developing, extending, improving and equipping classrooms, academic buildings, libraries, computer facilities and other higher education buildings. The sum shall be allocated to the following institutions of higher education which shall provide funds to projects which have been approved by the State Board of Higher Education as provided below:

PROJECT	INSTITUTION FUNDS	P.L. 1988, c.78 BOND FUNDS
CONSTRUCTION OF HIGHER EDUCATION BUILDINGS AT INDEPENDENT INSTITUTIONS		
Renovation of Erdman Hall at Westminster Choir College, the School of Music of Rider University	$778,131	$500,000

2. The expenditure of the sums appropriated by this act are subject to the provisions and conditions of P.L.1988, c.78.

3. This act shall take effect immediately.

Approved June 8, 1995.

CHAPTER 122

AN ACT concerning the Passaic Valley sewerage district and amending R.S.58:14-1.

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

1. R.S.58:14-1 is amended to read as follows:

Boundaries of Passaic Valley Sewerage District.

58:14-1. All portions of Essex, Union, Passaic, Bergen and Hudson counties, beginning in the center of Newark Bay where the boundary line between the cities of Newark and Elizabeth also being the boundary line between the counties of Essex and Union meets the boundary of Hudson County; thence running westerly along the boundary line between the city of Newark and the city of Elizabeth, including the area of Newark International Airport in the city of Elizabeth with flows tributary to the airport, to the point where it meets the boundary line of the township of Hillside; thence running northerly along the boundary line between the city of Newark and the township of Hillside until it intersects Bergen Street; thence running southwesterly along Bergen Street and Bergen Street extended to a point halfway between Bailey Avenue and Williamson Avenue in the township of Hillside; thence running northwesterly and halfway between Bailey Avenue and Williamson Avenue to Maple Avenue; thence running northwesterly and approximately 150 feet north of and parallel to the center line of Williamson Avenue to a point halfway between Bayview Avenue and Summit Avenue; thence running northeasterly and halfway between Bayview Avenue and Summit Avenue in the township of Hillside, and this line extended, to a point which is halfway between Weequahic Avenue and Lyons Avenue and approximately 500 feet west of the center line of Aldine Street in the city of Newark; thence running southeasterly and halfway between Weequahic Avenue and Lyons Avenue to a point which is approximately 125 feet east of Aldine Street; thence running northeasterly and halfway between Aldine Street and Clinton Place to a point on Bragaw Avenue which is again halfway between Aldine Street and Clinton Place; thence running northwesterly to a point on Aldine Street which is halfway between Bragaw Avenue and Demerest Street; thence running northerly to the intersection of Demerest Street and Nye Avenue;

thence running westerly along Nye Avenue to a point halfway between Hobson Street and Dewey Street; thence running southerly and halfway between Hobson Street and Dewey Street to a point approximately 300 feet south of Nye Avenue; thence running westerly to a point on Leslie Street which is approximately 400 feet south of Nye Avenue; thence running southwesterly to the intersection of Wainright Street and Bragaw Avenue; thence running northerly to the intersection of Nye Avenue and Schley Street; thence running westerly along Nye Avenue to the boundary line between the city of Newark and the township of Irvington; thence running northerly along the boundary line between the city of Newark and the township of Irvington to a point which is approximately 600 feet north of Hopkins Place at the extension of Madison Avenue from the township of Irvington; thence running northerly to the intersection of Montgomery Street and South 20th Street in the city of Newark; thence running northeasterly to a point on Avon Avenue which is halfway between South 19th Street and South 20th Street; thence running northerly, and halfway between South 19th Street and South 20th Street to a point which is approximately 400 feet north of Springfield Avenue; thence running easterly and perpendicular to South 19th Street to a point halfway between South 19th Street and South 18th Street; thence running northerly, and halfway between South 19th Street and South 18th Street to a point which is approximately 400 feet north of 19th Avenue; thence running easterly and perpendicular to South 18th Street to a point halfway between South 18th Street and South 17th Street; thence running northerly and halfway between South 18th Street and South 17th Street to a point which is approximately 350 feet north of 18th Avenue; thence running easterly and perpendicular to South 17th Street to a point approximately 150 feet east of South 17th Street; thence running northerly, parallel to and approximately 150 feet east of South 17th Street to a point approximately 100 feet south of 15th Avenue; thence running easterly, parallel to and approximately 100 feet south of 15th Avenue to a point which is halfway between South 16th Street and South 15th Street; thence running northerly and halfway between South 16th Street and South 15th Street to a point which is approximately 200 feet north of 14th Avenue; thence running northeasterly to a point which is halfway between South 14th Street and Ashland Street and approximately 350 feet north of 14th Avenue; thence running northeasterly, parallel to and approximately 150 feet west of Ashland Street to a

point which is approximately 150 feet north of South Orange Avenue; thence running northwesterly, parallel to and approximately 150 feet north of South Orange Avenue to a point which is approximately 150 feet east of South 18th Street; thence running northerly, parallel to and approximately 150 feet east of South 18th Street to a point approximately 350 feet south of 12th Avenue; thence running westerly to a point on South 20th Street which is approximately 250 feet south of 12th Avenue; thence running southerly on South 20th Street to a point which is approximately 150 feet north of Grain Street; thence running westerly, parallel to and approximately 150 feet north of Grain Street to a point which is halfway between South 20th Street and Grove Street; thence running northerly, and halfway between Grove Street and South 20th Street for approximately 300 feet to a point; thence running westerly and perpendicular to Grove Street to a point approximately 100 feet west of Grove Street; thence running northeasterly, parallel to and approximately 100 feet west of Grove Street to the boundary line between the city of Newark and the city of East Orange; thence running westerly along the boundary between the city of Newark and the city of East Orange for approximately 500 feet to a point; thence running northerly to a point which is halfway between Hawthorne Place and Birchwood Avenue and approximately 150 feet south of Garfield Place, all in the city of East Orange; thence running northerly and halfway between Hawthorne Place and Birchwood Avenue to a point on Central Avenue; thence running westerly along Central Avenue to its intersection with South Oraton Parkway; thence running northerly along South Oraton Parkway for approximately 150 feet to a point; thence running westerly, parallel to and approximately 150 feet north of Central Avenue to a point which is approximately 150 feet east of South Munn Avenue; thence running southerly parallel to South Munn Avenue and then halfway between South Munn Avenue and Watson Avenue to a point on this line approximately 150 feet south of Elmwood Avenue extended; thence running westerly, parallel to and 150 feet south of Elmwood Avenue to a point halfway between South Munn Avenue and Freeman Avenue; thence running southerly halfway between South Munn Avenue and Freeman Avenue to a point which is approximately 150 feet north of Rhode Island Avenue; thence running westerly, parallel to and approximately 150 feet north of Rhode Island Avenue to a point which is halfway between Freeman Avenue and Oak Street; thence running north-

erly and halfway between Oak Street and Freeman Avenue to the intersection of Elmwood Avenue and South Arlington Avenue; thence running northerly along South Arlington Avenue to a point which is approximately 100 feet south of Central Avenue; thence running westerly, parallel to and 100 feet south of Central Avenue to Nassau Place; thence running northerly along Nassau Place to its intersection with Central Avenue; thence running westerly along Central Avenue to a point approximately 150 feet east of Shepard Avenue; thence running northerly, parallel to and approximately 150 feet east of Shepard Avenue to a point approximately 150 feet south of Carnegie Avenue; thence running westerly, parallel to and approximately 150 feet south of Carnegie Avenue to a point approximately 150 feet west of Shepard Avenue; thence southerly, parallel to and approximately 150 feet west of Shepard Avenue to a point which is halfway between Carnegie Avenue and Central Avenue; thence running westerly and halfway between Carnegie Avenue and Central Avenue to a point which is approximately 150 feet east of South Burnet Street; thence running southerly, parallel to and approximately 150 feet east of South Burnet Street to a point which is approximately 150 feet north of Central Avenue to a point halfway between South Burnet Street and South Clinton Street; thence running southerly and halfway between South Burnet Street and South Clinton Street to a point which is approximately 400 feet south of Central Avenue; thence running westerly to a point which is halfway between Amherst Street and Halsted Street and approximately 700 feet south of Central Avenue; thence running northerly and halfway between Amherst Street and Halsted Street to a point which is approximately 100 feet south of Freeway Drive East; thence running westerly, parallel to and approximately 100 feet south of Freeway Drive East to a point which is halfway between Evergreen Place and South Harrison Street; thence running southerly and halfway between Evergreen Place and South Harrison Street for a distance of approximately 650 feet; thence running westerly to a point on the boundary line between the city of East Orange and the township of the City of Orange, said point being approximately 200 feet south of Berwin Street along said boundary; thence running southwesterly along the boundary line between the township of the City of Orange and city of East Orange to where it meets the boundary line of the village of the

Township of South Orange; thence running southerly to the intersection of South Center Street and Sterling Avenue, both being in the village of the Township of South Orange; thence running westerly to the corner boundary between the township of the City of Orange and the village of the Township of South Orange which is approximately 200 feet south of Stirling Avenue; thence running northwesterly along said boundary between the township of the City of Orange and the village of the Township of South Orange to an angle point which is halfway between Mosswood Avenue and Irving Terrace; thence running northerly to the intersection of Irving Terrace and Lawn Ridge Road; thence running westerly to where Berkeley Avenue intersects the boundary line between the township of the City of Orange and the village of the Township of South Orange; thence running northwesterly along the boundary line between the township of the City of Orange and the village of the Township of South Orange for a distance of approximately 100 feet; thence running northeasterly, parallel to and approximately 100 feet west of Berkeley Avenue to Lawn Ridge Road; thence running southeasterly along Lawn Ridge Road to a point approximately 100 feet east of Berkeley Avenue; thence running northeasterly, parallel to and approximately 100 feet east of Berkeley Avenue to Heywood Avenue; thence running northwesterly along Heywood Avenue to a point approximately 150 feet west of Berkeley Avenue; thence running northeasterly, parallel to and approximately 150 feet west of Berkeley Avenue to a point which is approximately 150 feet south of Tremont Avenue; thence running northwesterly, parallel to and approximately 150 feet south of Tremont Avenue to Scotland Road; thence running northeasterly along Scotland Road to its intersection with Glebe Street; thence running northwesterly along Glebe Street to its intersection with South Jefferson Street; thence running northerly to a point on the center line of Interstate Highway Route 280 in the township of West Orange being approximately 100 feet west of the boundary line between the township of West Orange and the township of the City of Orange; thence running northerly, parallel to and approximately 100 feet west of said boundary between township of West Orange and the township of the City of Orange to a point which is approximately 200 feet south of White Street; thence running northwesterly to the intersection of Main Street and White Street; thence running northerly and halfway between Main Street and Ashland Avenue to the intersection of Main Street and Park Avenue; thence running northerly along

Main Street to its intersection with Babcock Place; thence running northerly to the intersection of Main Street and William Street with the district boundary to include the properties on Babcock Place, Kling Street, Washington Street and William Street but exclude the property along Main Street; thence running easterly to the intersection of Whittesley Avenue and Ridge Avenue; thence running northerly and halfway between Whittesley Avenue and Watson Avenue to the intersection of Watson Avenue and Samuel Street; thence running northerly, crossing the boundary between the township of West Orange and the township of Montclair to the intersection of High Street and Amelia Street in the township of Montclair; thence running northwesterly to the intersection of Virginia Avenue and Fremont Street; thence running westerly to where Nishuane Road intersects the boundary line between the township of Montclair and the township of West Orange; thence running northwesterly along said boundary line between the township of West Orange and township of Montclair to an angle; thence running northerly further along said boundary line between the township of West Orange and township of Montclair to its intersection with the boundary line of the township of Verona; thence running northerly along the boundary line between the township of Montclair and the township of Verona to where it intersects the boundary line of Cedar Grove Township; thence running northerly along the boundary line between the township of Montclair and Cedar Grove Township to its intersection with the boundary line of the township of Little Falls; thence running northwesterly along the boundary line between Cedar Grove Township and the township of Little Falls to where it intersects Lindsley Road; thence running northwesterly along Lindsley Road within Cedar Grove Township to where it intersects with New Jersey State Highway Route Number 23; thence running southerly along New Jersey State Highway Route Number 23 for a distance of approximately 1,200 feet; thence running westerly for approximately 1,200 feet to the boundary between Cedar Grove Township and the township of North Caldwell, said point being approximately 1,000 feet south of an angle in said boundary near Lindsley Road; thence running northerly for approximately 1,000 feet along said boundary between Cedar Grove Township and the township of North Caldwell to an angle; thence running northwesterly in said boundary between Cedar Grove Township and the township of North Caldwell to another angle; thence running northwesterly in said boundary between Cedar Grove

Township and the township of North Caldwell to where it intersects the water transmission line of the Jersey City Water Company; thence running westerly along said water transmission line of the Jersey City Water Company within the township of North Caldwell to where it intersects Grandview Place; thence running northeasterly along the center line of Grandview Place and then Grandview Avenue to a point approximately 175 feet south of Fairfield Road; thence running northwesterly and then northeasterly along and encompassing Lot Number 3, Block Number 105 on the North Caldwell Tax Map to a point where Lot Number 3 intersects Fairfield Road; thence running northwesterly along Fairfield Road for approximately 85.61 feet to a point; thence running southwesterly and then northwesterly along and encompassing Lot Numbers 4, 7 and 8 in Block Number 105 on the North Caldwell Tax Map to a point where it intersects Fairfield Road and the boundary line between the township of North Caldwell and the township of Fairfield; thence running northeasterly along the boundary line between the township of Fairfield and the township of North Caldwell to a point in the center of the Passaic River and the intersection with the boundary lines of the township of Little Falls and the township of Wayne; thence running downstream along the Passaic River in a northeasterly and then southeasterly direction, the river being the boundary line between the township of Little Falls and the township of Wayne, to where it intersects with the boundary line of the borough of Totowa; thence running northwesterly along the boundary line between the township of Wayne and the borough of Totowa to the intersection with the northerly right-of-way limit with U.S. Interstate Highway Route 80; thence running westerly along the U.S. Interstate Highway Route 80 right-of-way for a distance of approximately 1,200 feet and thence in a northerly and westerly direction to a point in the center line of Singac Brook and thence northeasterly to the boundary line between the township of Wayne and the borough of Totowa to encompass Lot 1 in Block 402 on the Wayne tax map; thence running northerly and then northeasterly along the boundary line between the township of Wayne and the borough of Totowa to where it intersects the boundary line of the borough of Haledon; thence running northerly along the boundary line between the township of Wayne and the borough of Haledon to where it intersects the boundary line of the borough of North Haledon; thence running northerly along the boundary line between the township of Wayne and the borough of

North Haledon to where it intersects the boundary line of the borough of Franklin Lakes; thence running easterly along the boundary line between the borough of Franklin Lakes and the borough of North Haledon to where it intersects the boundary line of the township of Wyckoff; thence running easterly along the boundary line between the township of Wyckoff and the borough of North Haledon to the boundary line of the borough of Hawthorne; thence running northerly along the boundary line of the township of Wyckoff and the borough of Hawthorne to an angle on Goffle Hill Road; thence running southeasterly along said boundary line between the township of Wyckoff and the borough of Hawthorne to the boundary line of the village of the Township of Ridgewood; thence running southeasterly along the boundary line between the village of the Township of Ridgewood and the borough of Hawthorne to the boundary line of the borough of Glen Rock; thence running northeasterly along the boundary line between the village of the Township of Ridgewood and the borough of Glen Rock for 2,730 feet to an angle; thence running easterly along said boundary line between the village of the Township of Ridgewood and the borough of Glen Rock for 3,230 feet to an angle; thence running along said boundary line between the village of the Township of Ridgewood and the borough of Glen Rock for the 12 angles, courses and distances until it intersects Grove Street and the center line of Hohokus Brook; thence running southerly still along said boundary line between the village of the Township of Ridgewood and the borough of Glen Rock, it being the center line of Hohokus Brook, to its intersection with the center line of the Saddle River which is also where the boundary lines of the borough of Fair Lawn and the borough of Paramus meet; thence running southerly along the boundary line between the borough of Fair Lawn and the borough of Paramus which is generally the center line of the Saddle River to its intersection with the boundary lines of the township of Saddle Brook and the township of Rochelle Park; thence running southerly along the boundary line between the township of Saddle Brook and the township of Rochelle Park which is generally the center line of the Saddle River to its intersection with the boundary line of the borough of Lodi; thence running southeasterly along the boundary line between the borough of Lodi and the township of Rochelle Park to its intersection with the boundary line of the borough of Maywood; thence running southeasterly along the boundary line between the borough of Lodi and the bor-

ough of Maywood being the center line of Essex Street to the center line of New Jersey State Highway Route Number 17; thence running southerly along New Jersey State Highway Route Number 17 southbound within the borough of Lodi to the boundary line of the city of Hackensack; thence running southerly along the boundary line between the borough of Lodi and the city of Hackensack to a point which is approximately 620 feet north of the center line of West Pleasantview Avenue along said boundary line; thence running south 52 degrees, 51 minutes, 11 seconds east and within the city of Hackensack for 533.97 feet to a point; thence running south 36 degrees, 36 minutes, 34 seconds west for 384.60 feet to a point; thence running north 52 degrees, 50 minutes west for 15.00 feet to a point; thence running south 36 degrees, 36 minutes, 34 seconds west for approximately 198 feet to the center line of West Pleasantview Avenue; thence running northwesterly along West Pleasantview Avenue to where it intersects the boundary line between the city of Hackensack and the borough of Lodi; thence running southerly along the boundary line between the borough of Lodi and the city of Hackensack to the boundary line of the borough of Hasbrouck Heights; thence running southerly along the boundary line between the borough of Lodi and the borough of Hasbrouck Heights through angles at Church Street, Williams Avenue, Oak-Grove Avenue and between Paterson Avenue and Ottawa Street in a northwesterly direction to Woodside Avenue; thence running southwesterly along Woodside Avenue within the borough of Hasbrouck Heights to where it intersects the boundary line between the borough of Hasbrouck Heights and the borough of Lodi, between LaSalle Avenue and Hunter Street; thence running southwesterly along the boundary line between the borough of Lodi and the borough of Hasbrouck Heights to the boundary line of the borough of Wood-Ridge; thence running southeasterly along the boundary line between the borough of Hasbrouck Heights and the borough of Wood-Ridge to an angle on Passaic Avenue; thence running southwesterly along said boundary line between the borough of Hasbrouck Heights and the borough of Wood-Ridge to an angle between Lincoln Avenue and Sussex Road; thence running southwesterly within the borough of Wood-Ridge in prolongation of the line above and along the property line of Curtis-Wright Inc. to Highland Avenue; thence running northwesterly along the property line of Curtis-Wright Inc. which is a prolongation of Highland Avenue extended northwesterly to where it intersects the boundary line between the

borough of Wood-Ridge and the borough of Wallington; thence running southerly along the boundary line between the borough of Wood-Ridge and the borough of Wallington to where it meets the boundary line of the borough of Carlstadt; thence running southerly along the boundary line between the borough of Wallington and the borough of Carlstadt to where it meets the boundary line of the borough of East Rutherford; thence running northwesterly along the boundary line between the borough of Wallington and the borough of East Rutherford to a point halfway between Shepard Terrace and Atkins Terrace; thence running southwesterly within the borough of East Rutherford and halfway between Shepard Terrace and Atkins Terrace with an angle to the south and another to the southwest to a point on the boundary line between the borough of Rutherford and the borough of East Rutherford which is halfway between Atkins Terrace and Willow Street; thence running southerly to a point on Erie Avenue in the borough of Rutherford which is halfway between Walnut Street and Carmita Avenue; thence running southwesterly and halfway between Walnut Street and Carmita Avenue to the center of Washington Avenue; thence running southeasterly along Washington Avenue to the intersection of Washington Avenue and Carmita Avenue; thence running southwesterly along Carmita Avenue for a distance of approximately 130 feet to a point; thence running southeasterly parallel to and approximately 130 feet south of Washington Avenue to a point which is halfway between Carmita Avenue and Prospect Place; thence running southwesterly and halfway between Carmita Avenue and Prospect Place to a point which is approximately 127 feet north of the center line of Union Avenue; thence running southeasterly parallel to and approximately 127 feet north of Union Avenue to the center of Prospect Place; thence running southwesterly along Prospect Place to the intersection of Union Avenue; thence running northwesterly along Union Avenue to a point halfway between Carmita Avenue and Prospect Place; thence running southwesterly and halfway between Carmita Avenue and Prospect Place to a point approximately 150 feet north of the center line of Alwyn Terrace; thence running southeasterly to a point which is approximately 165 feet east of Prospect Place and in a prolongation of the center line of Circle Lane; thence running southwesterly parallel to and approximately 165 feet east of Prospect Place to a point which is approximately 170 feet north of Fairview Avenue; thence running southeasterly, parallel to and approximately 170 feet north of

Fairview Avenue to the center of Montross Avenue; thence running southwesterly along Montross Avenue to a point which is approximately 170 feet south of the center of Fairview Avenue; thence running southeasterly, parallel to and approximately 170 feet south of Fairview Avenue for approximately 230 feet to a point; thence running southwesterly, parallel to and approximately 230 feet east of Montross Avenue to the center of Passaic Avenue; thence running southeasterly along Passaic Avenue for approximately 250 feet to a point; thence running southwesterly and parallel to Montross Avenue to a point halfway between Passaic Avenue and Donaldson Avenue; thence running southeasterly and halfway between Passaic Avenue and Donaldson Avenue for approximately 306 feet; thence running southwesterly and parallel to Montross Avenue to a point halfway between Donaldson Avenue and Woodward Avenue; thence running southeasterly and halfway between Donaldson Avenue and Woodward Avenue to the center of Mortimer Avenue; thence running southwesterly along Mortimer Avenue to the center of Park Place; thence running southeasterly along Park Place a distance of approximately 131 feet to a point; thence running southwesterly, parallel to and approximately 131 feet east of Mortimer Avenue for a distance of approximately 150 feet; thence running southeasterly, parallel to and approximately 151 feet south of Park Place to the center of Park Avenue; thence running southwesterly along Park Avenue to a point halfway between Newell Avenue and Addison Avenue; thence running southeasterly and halfway between Newell Avenue and Addison Avenue to a point approximately 130 feet west of the center line of Lincoln Avenue; thence running southwesterly, parallel to and approximately 130 feet west of Lincoln Avenue to a point which is approximately 170 feet north of the center of Pierrepont Avenue; thence running southeasterly, parallel to and approximately 170 feet north of Pierrepont Avenue to a point which is approximately 190 feet west of the center of Ridge Road; thence running southwesterly, parallel to and approximately 190 feet west of Ridge Road to a point which is approximately 200 feet north of Woodland Avenue; thence running southeasterly, parallel to and approximately 200 feet north of Woodland Avenue to a point halfway between Ridge Road and Sylvan Street; thence running southwesterly and halfway between Ridge Road and Sylvan Street and this line extended to the boundary line between the borough of Rutherford and the township of Lyndhurst; thence running southeasterly along the

boundary line between the borough of Rutherford and the township of Lyndhurst which is Rutherford Avenue and Rutherford Avenue extended to the center line of Berry's Creek; thence running southerly along the center line of Berry's Creek, being said boundary line between the borough of Rutherford and the township of Lyndhurst to where it intersects the boundary line of the town of Secaucus at the center of the Hackensack River; thence running southerly along the center line of the Hackensack River being the boundary line between the township of Lyndhurst and the town of Secaucus to where it intersects the boundary line of the town of Kearny at Sawmill Creek; thence running southerly still along the center line of the Hackensack River being the boundary line between the town of Kearny and the town of Secaucus to where it intersects the boundary line of the city of Jersey City at Penhorn Creek; thence running northeasterly along the center of Penhorn Creek being the boundary line between the town of Secaucus and the city of Jersey City to where it intersects the boundary line of the township of North Bergen at Secaucus Road; thence running southwesterly along the center of Secaucus Road being the boundary line between the city of Jersey City and the township of North Bergen to where it intersects the boundary of the city of Union City at J.F. Kennedy Boulevard; thence running northerly along J.F. Kennedy Boulevard being the boundary line between the township of North Bergen and the city of Union City to 18th Street; thence running easterly along 18th Street within the city of Union City to Summit Avenue; thence running southerly along Summit Avenue to 17th Street; thence running easterly along 17th Street to Central Avenue; thence running southerly along Central Avenue to 16th Street; thence running easterly on 16th Street to Palisade Avenue; thence running southerly on Palisade Avenue to Paterson Plank Road which is the boundary line between the city of Jersey City and the city of Union City; thence running easterly along Paterson Plank Road being the boundary line between the city of Union City and the city of Jersey City until it intersects the boundary line of the city of Hoboken; thence running southwesterly between the city of Hoboken and the city of Jersey City to a point just crossing over Hoboken Avenue; thence running easterly and parallel to Hoboken Avenue along said boundary line between the city of Hoboken and the city of Jersey City to Henderson Street; thence running easterly along said boundary line between the city of Hoboken and the city of Jersey City to a point in the Hudson

River being the modified Pierhead Line of January 12, 1931; thence running southerly along the modified Pierhead Line of January 12, 1931 10,250 feet to a point; thence running southwesterly for 935 feet to a point; thence continuing in a southwesterly direction for 2,354 feet to a point which is on the west side of Ellis Island; thence running southwesterly for 1,945 feet to a point which is on the southwest side of Ellis Island; thence running southerly for 557 feet to a point; thence running easterly 984 feet to a point; thence running southerly for 1,363 feet to a point north of Liberty Island; thence running westerly for 300 feet to the Pierhead and Bulkhead Line adopted March 6, 1939; thence running southwesterly for 1,525 feet to the south side of Morris Pesin Drive if projected eastwardly 1,650 feet; thence running in a southerly direction along the Pierhead and Bulkhead Line for 9,500 feet to a point that intersects the boundary line between the city of Jersey City and the city of Bayonne; thence running southeasterly along the boundary line between the city of Jersey City and the city of Bayonne to where it intersects with the boundary line between the State of New Jersey and the State of New York; thence running southerly and westerly along the boundary line between the states of New York and New Jersey through New York Bay, the Kill Van Kull and Newark Bay to where it intersects the boundary line between Union County and Hudson County; thence running northerly along the boundary between Union County and Hudson County, being the boundary line between the city of Elizabeth and the city of Bayonne in Newark Bay to its intersection with the boundary line of the county of Essex to the point or place of the beginning, constituted a sewerage district under the name and title of Passaic Valley Sewerage District by the act entitled "An act to create a sewerage district to be called Passaic Valley Sewerage District," approved March 27, 1902 (L.1902, c.48, p.190), as supplemented by the act approved April 14, 1914 (L.1914, c.160, p.294), and by the act approved March 8, 1924 (L.1924, c.94, p.184), hereinafter in this chapter designated as the "district" and the commission appointed thereunder, are continued, and it shall be entitled to all the authority and be subject to all the laws of this State concerning sewerage districts so created.

2. This act shall take effect immediately.

Approved June 15, 1995.

CHAPTER 123

AN ACT concerning victim impact statements at the death penalty sentencing proceeding and amending N.J.S.2C:11-3.

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

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

Murder.

2C:11-3. Murder.

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

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

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

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

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

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

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

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

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

shall be between 30 years and life imprisonment of which the person shall serve 30 years before being eligible for parole.

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

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

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

(2) (a) At the proceeding, the State shall have the burden of establishing beyond a reasonable doubt the existence of any aggravating factors set forth in paragraph (4) of this subsection. The defendant shall have the burden of producing evidence of the existence of any mitigating factors set forth in paragraph (5) of this subsection but shall not have a burden with regard to the establishment of a mitigating factor.

(b) The admissibility of evidence offered by the State to establish any of the aggravating factors shall be governed by the rules governing the admission of evidence at criminal trials. The defendant may offer, without regard to the rules governing the admission of evidence at criminal trials, reliable evidence relevant to any of the mitigating factors. If the defendant produces

evidence in mitigation which would not be admissible under the rules governing the admission of evidence at criminal trials, the State may rebut that evidence without regard to the rules governing the admission of evidence at criminal trials.

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

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

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

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

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

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

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

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

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

(a) The defendant has been convicted, at any time, of another murder. For purposes of this section, a conviction shall be

deemed final when sentence is imposed and may be used as an aggravating factor regardless of whether it is on appeal;

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

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

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

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

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

(g) The offense was committed while the defendant was engaged in the commission of, or an attempt to commit, or flight after committing or attempting to commit murder, robbery, sexual assault, arson, burglary or kidnapping;

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

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

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

(k) The victim was less than 14 years old.

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

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

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

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

(d) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law was significantly impaired as the result of mental disease or

defect or intoxication, but not to a degree sufficient to constitute a defense to prosecution;

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

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

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

(h) Any other factor which is relevant to the defendant's character or record or to the circumstances of the offense.

(6) When a defendant at a sentencing proceeding presents evidence of the defendant's character or record pursuant to subparagraph (h) of paragraph (5) of this subsection, the State may present evidence of the murder victim's character and background and of the impact of the murder on the victim's survivors. If the jury finds that the State has proven at least one aggravating factor beyond a reasonable doubt and the jury finds the existence of a mitigating factor pursuant to subparagraph (h) of paragraph (5) of this subsection, the jury may consider the victim and survivor evidence presented by the State pursuant to this paragraph in determining the appropriate weight to give mitigating evidence presented pursuant to subparagraph (h) of paragraph (5) of this subsection.

d. The sentencing proceeding set forth in subsection c. of this section shall not be waived by the prosecuting attorney.

e. Every judgment of conviction which results in a sentence of death under this section shall be appealed, pursuant to the Rules of Court, to the Supreme Court. Upon the request of the defendant, the Supreme Court shall also determine whether the sentence is disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant. Proportionality review under this section shall be limited to a comparison of similar cases in which a sentence of death has been imposed under subsection c. of this section. In any instance in which the defendant fails, or refuses to appeal, the appeal shall be taken by the Office of the Public Defender or other counsel appointed by the Supreme Court for that purpose.

f. Prior to the jury's sentencing deliberations, the trial court shall inform the jury of the sentences which may be imposed pursuant to subsection b. of this section on the defendant if the defendant is not sentenced to death. The jury shall also be informed that a failure to reach a unanimous verdict shall result in sentencing by the court pursuant to subsection b.

g. A juvenile who has been tried as an adult and convicted of murder shall not be sentenced pursuant to the provisions of subsection c. but shall be sentenced pursuant to the provisions of subsection b. of this section.

h. In a sentencing proceeding conducted pursuant to this section, no evidence shall be admissible concerning the method or manner of execution which would be imposed on a defendant sentenced to death.

i. For purposes of this section the term "homicidal act" shall mean conduct that causes death or serious bodily injury resulting in death.

2. This act shall take effect immediately.

Approved June 19, 1995.

CHAPTER 124

AN ACT concerning the practice of dentistry and supplementing chapter 21 of Title 2C of the New Jersey Statutes and amending R.S.45:6-23.

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

C.2C:21-30 Unlawful practice of dentistry; third degree crime.

1. A person is guilty of a crime of the third degree if he knowingly does not possess a license to practice dentistry or knowingly has had the license suspended, revoked or otherwise limited by an order entered by the New Jersey State Board of Dentistry, and he:

a. engages in that practice;

b. exceeds the scope of practice permitted by a board order;

c. holds himself out to the public or any person as being eligible to engage in that practice;

d. engages in any activity for which such license is a necessary prerequisite, including, but not limited to, the ordering of controlled dangerous substances or prescription legend drugs from a distributor or manufacturer; or

e. practices dentistry under a false or assumed name or falsely impersonates another person licensed by the board.

2. R.S.45:6-23 is amended to read as follows:

Unlawful sale, alteration, use of dental degree, certificate, transcript; misdemeanor.

45:6-23. Any person, company or association shall be guilty of a misdemeanor, and upon every conviction thereof shall be punished by a fine of not less than five hundred dollars, or by imprisonment for not less than six months, or both, who:

a. Sells or barters, or offers to sell or barter, any diploma or document conferring or purporting to confer any dental degree or any certificate or transcript made or purporting to be made pursuant to the laws regulating the licensing and registration of dentists; or

b. Purchases or procures by barter any such diploma, certificate or transcript with intent that the same shall be used as evidence of the holder's qualification to practice dentistry, or in fraud of the laws regulating such practice; or

c. With fraudulent intent, alters in a material regard any such diploma, certificate or transcript; or

d. Uses or attempts to use any such diploma, certificate or transcript which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license or color of license to practice dentistry, or in order to procure registration as a dentist.

3. This act shall take effect immediately.

Approved June 19, 1995.

CHAPTER 125

AN ACT concerning the employment of school board officers and employees, supplementing chapter 27 of Title 18A of the New Jersey Statutes and amending P.L.1971, c.436.

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

C.18A:27-4.1 Board of Education, procedure for certain personnel actions; recommendation of chief school administrator.

1. Notwithstanding the provisions of any law, rule or regulation to the contrary,

a. A board of education shall appoint, transfer or remove a certificated or non-certificated officer or employee only upon the

recommendation of the chief school administrator and by a recorded roll call majority vote of the full membership of the board. The board shall not withhold its approval for arbitrary and capricious reasons.

b. A board of education shall renew the employment contract of a certificated or non-certificated officer or employee only upon the recommendation of the chief school administrator and by a recorded roll call majority vote of the full membership of the board. The board shall not withhold its approval for arbitrary and capricious reasons. A nontenured officer or employee who is not recommended for renewal by the chief school administrator shall be deemed nonrenewed. Prior to notifying the officer or employee of the nonrenewal, the chief school administrator shall notify the board of the recommendation not to renew the officer's or employee's contract and the reasons for the recommendation. An officer or employee whose employment contract is not renewed shall have the right to a written statement of reasons for nonrenewal pursuant to section 2 of P.L.1975, c.132 (C.18A:27-3.2) and to an informal appearance before the board. The purpose of the appearance shall be to permit the staff member to convince the members of the board to offer reemployment. The chief school administrator shall notify the officer or employee of the nonrenewal pursuant, where applicable, to the provisions of section 1 of P.L.1971, c.436 (C.18A:27-10).

c. The provisions of this section shall not apply to the appointment, transfer, removal, renewal or nonrenewal of a person who is a treasurer of school moneys, election officer, board auditor, board attorney or board secretary, except a board secretary who performs business administration functions.

2. Section 1 of P.L.1971, c.436 (C.18A:27-10) is amended to read as follows:

C.18A:27-10 Written offer or notice to nontenure teachers.

1. On or before May 15 in each year, each nontenured teaching staff member continuously employed by a board of education since the preceding September 30 shall receive either

a. A written offer of a contract for employment from the board of education for the next succeeding year providing for at least the same terms and conditions of employment but with such increases in salary as may be required by law or policies of the board of education, or

b. A written notice from the chief school administrator that such employment will not be offered.

3. This act shall take effect immediately.

Approved June 19, 1995.

CHAPTER 126

AN ACT concerning sentencing of certain repeat offenders, supplementing Title 2C of the New Jersey Statutes and amending N.J.S. 2C:43-7.

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

1. This act shall be known and may be cited as the "Persistent Offenders Accountability Act."

C.2C:43-7.1 Life imprisonment without parole; extended term for repeat violent offenders.

2. a. Life Imprisonment Without Parole. A person convicted of a crime under any of the following: N.J.S.2C:11-3; subsection a. of N.J.S.2C:11-4; a crime of the first degree under N.J.S.2C:13-1, paragraphs (3) through (6) of subsection a. of N.J.S.2C:14-2; N.J.S.2C:15-1; or section 1 of P.L.1993, c.221 (C.2C:15-2), who has on two or more prior and separate occasions been convicted of a crime under any of the foregoing sections or under any similar statute of the United States, this State, or any other state for a crime that is substantially equivalent to a crime under any of the foregoing sections, shall be sentenced to a term of life imprisonment by the court, with no eligibility for parole.

b. Extended Term for Repeat Violent Offenders. A person shall be sentenced to an extended term of imprisonment pursuant to N.J.S.2C:43-7 if:

(1) The person is convicted of any of the following crimes: a crime of the second degree under N.J.S.2C:11-4; a crime of the second or third degree under subsection b. of N.J.S.2C:12-1; a crime of the second degree under N.J.S.2C:13-1; a crime under N.J.S.2C:14-3 for aggravated criminal sexual contact under any

of the circumstances set forth in paragraphs (3) through (6) of subsection a. of N.J.S.2C:14-2; a crime of the second degree under N.J.S.2C:15-1; a crime of the second degree under N.J.S.2C:18-2; or a crime of the second degree under N.J.S.2C:39-4 for possession of a weapon with the purpose of using it unlawfully against the person of another, and the person has on two or more prior and separate occasions been convicted of any of the foregoing crimes or any of the crimes enumerated in subsection a. of this section or under any similar statute of the United States, this State, or any other state for a crime that is substantially equivalent to a crime enumerated in this subsection or in subsection a. of this section; or

(2) The person is convicted of a crime enumerated in subsection a. of this section, does not have two or more prior convictions that require sentencing under subsection a. and has two or more prior convictions that would require sentencing under paragraph (1) of this subsection if the person had been convicted of a crime enumerated in paragraph (1).

c. The provisions of this section shall not apply unless the prior convictions are for crimes committed on separate occasions and unless the crime for which the defendant is being sentenced was committed either within 10 years of the date of the defendant's last release from confinement for commission of any crime or within 10 years of the date of the commission of the most recent of the crimes for which the defendant has a prior conviction.

d. The court shall not impose a sentence of imprisonment pursuant to this section, unless the ground therefor has been established at a hearing after the conviction of the defendant and on written notice to the defendant of the ground proposed. The defendant shall have the right to hear and controvert the evidence against him and to offer evidence upon the issue. Prior convictions shall be defined and proven in accordance with N.J.S.2C:44-4.

e. For purposes of this section, a term of life shall mean the natural life of a person sentenced pursuant to this section. Except that a defendant who is at least 70 years of age and who has served at least 35 years in prison pursuant to a sentence imposed under this section shall be released on parole if the full Parole Board determines that the defendant is not a danger to the safety of any other person or the community.

3. N.J.S.2C:43-7 is amended to read as follows:

Sentence of imprisonment for crime; extended terms.

2C:43-7. Sentence of Imprisonment for Crime; Extended Terms. a. In the cases designated in section 2C:44-3, a person who has been convicted of a crime may be sentenced, and in the cases designated in subsection e. of section 2 of P.L.1994, c.130 (C.2C:43-6.4) and in subsection b. of section 2 of P.L.1995, c.126 (C.2C:43-7.1) a person who has been convicted of a crime shall be sentenced, to an extended term of imprisonment, as follows:

(1) In case of aggravated manslaughter sentenced under subsection c. of N.J.S.2C:11-4; or kidnapping when sentenced as a crime of the first degree under paragraph (1) of subsection c. of 2C:13-1; or aggravated sexual assault if the person is eligible for an extended term pursuant to the provisions of subsection g. of N.J.S.2C:44-3 for a specific term of years which shall be between 30 years and life imprisonment;

(2) Except for the crime of murder and except as provided in paragraph (1) of this subsection, in the case of a crime of the first degree, for a specific term of years which shall be fixed by the court and shall be between 20 years and life imprisonment;

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

(4) In the case of a crime of the third degree, for a term which shall be fixed by the court between five and 10 years;

(5) In the case of a crime of the fourth degree pursuant to 2C:43-6c., 2C:44-3d., 2C:44-3e. for a term of five years, and in the case of a crime of the fourth degree pursuant to 2C:43-6f. and 2C:43-6g. for a term which shall be fixed by the court between three and five years;

(6) In the case of the crime of murder, for a specific term of years which shall be fixed by the court between 35 years and life imprisonment, of which the defendant shall serve 35 years before being eligible for parole;

(7) In the case of kidnapping under paragraph (2) of subsection c. of 2C:13-1, for a specific term of years which shall be fixed by the court between 30 years and life imprisonment, of which the defendant shall serve 30 years before being eligible for parole.

b. As part of a sentence for an extended term and notwithstanding the provisions of 2C:43-9, the court may fix a minimum term not to exceed one-half of the term set pursuant to subsection a. during which the defendant shall not be eligible for parole or a term of 25 years during which time the defendant shall not be eligible for parole where the sentence imposed was life imprisonment; pro-

vided that no defendant shall be eligible for parole at a date earlier than otherwise provided by the law governing parole.

c. In the case of a person sentenced to an extended term pursuant to 2C:43-6c., 2C:43-6f. and 2C:44-3d., the court shall impose a sentence within the ranges permitted by 2C:43-7a.(2), (3), (4) or (5) according to the degree or nature of the crime for which the defendant is being sentenced, which sentence shall include a minimum term which shall, except as may be specifically provided by N.J.S.2C:43-6f., be fixed at or between one-third and one-half of the sentence imposed by the court or five years, whichever is greater, during which the defendant shall not be eligible for parole. Where the sentence imposed is life imprisonment, the court shall impose a minimum term of 25 years during which the defendant shall not be eligible for parole, except that where the term of life imprisonment is imposed on a person convicted for a violation of N.J.S.2C:35-3, the term of parole ineligibility shall be 30 years.

d. In the case of a person sentenced to an extended term pursuant to N.J.S.2C:43-6g., the court shall impose a sentence within the ranges permitted by N.J.S.2C:43-7a(2), (3), (4) or (5) according to the degree or nature of the crime for which the defendant is being sentenced, which sentence shall include a minimum term which shall be fixed at 15 years for a crime of the first or second degree, eight years for a crime of the third degree, or five years for a crime of the fourth degree during which the defendant shall not be eligible for parole. Where the sentence imposed is life imprisonment, the court shall impose a minimum term of 25 years during which the defendant shall not be eligible for parole, except that where the term of life imprisonment is imposed on a person convicted of a violation of N.J.S.2C:35-3, the term of parole eligibility shall be 30 years.

4. This act shall take effect immediately.

Approved June 22, 1995.

CHAPTER 127

AN ACT concerning education and supplementing chapter 37 of Title 18A of the New Jersey Statutes.

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

C.18A:37-7 Short title.

1. This act shall be known as the "Zero Tolerance for Guns Act."

C.18A:37-8 Offense by pupil involving firearm, removal from school's regular education program.

2. Any pupil who is convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or found knowingly in possession of a firearm on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education to remove the pupil from the regular education program for a period of not less than one calendar year subject to modification on a case-by-case basis by the chief school administrator.

For the purposes of this section "firearm" means those items enumerated in N.J.S.2C:39-1f and 18 U.S.C.§921.

Any pupil that is removed from the regular education program pursuant to this section shall be placed in an alternative education program. If placement in an alternative education program is not available, the pupil shall be provided home instruction or other suitable facilities and programs until placement is available. The provisions herein shall be construed in a manner consistent with 20 U.S.C.§1400 et seq. Nothing herein shall be construed as prohibiting the expulsion of a pupil.

C.18A:37-9 Responsibility for removal, report.

3. The principal or his or her designee shall be responsible for the removal of any pupil pursuant to section 2 of P.L.1995, c.127 (C.18A:37-8). The principal or his or her designee shall immediately report the removal of any pupil to the district's chief school administrator. The district's chief school administrator may modify such removal of a pupil on a case-by-case basis. The principal shall also notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice.

C.18A:37-10 Hearing.

4. a. Any pupil removed pursuant to section 2 of P.L.1995, c.127 (C.18A:37-8) shall be entitled to a hearing before the local board of education to determine if the pupil was convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or is guilty of knowingly possessing a

firearm on any school property, on a school bus or at a school-sponsored function. If it is found that the pupil is not guilty of these offenses the pupil shall be immediately returned to the regular education program.

b. The hearing shall take place no later than 30 days following the day the pupil is removed from the regular education program. The hearing is not subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

c. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision.

C.18A:37-11 Determination of pupil's preparedness to return.

5. The chief school administrator shall determine whether the pupil is prepared to return to the regular education program or whether the pupil shall remain in an alternative education program, home instruction or other suitable facilities and programs, in accordance with procedures to be established by the Commissioner of Education.

C.18A:37-12 Nonapplicability of act.

6. This act shall not apply to any pupil who has obtained the written authorization of the chief school administrator to lawfully possess a firearm while participating in a school-sponsored function. The chief school administrator shall not provide such authorization to any pupil who has been convicted or adjudicated delinquent for possession of a firearm or for a crime involving the use of a firearm.

7. This act shall take effect immediately and shall first apply to the 1995-96 school year.

Approved June 22, 1995.

CHAPTER 128

AN ACT concerning education and supplementing chapter 37 of Title 18A of the New Jersey Statutes.

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

C.18A:37-2.2 Offense by pupil involving assault, removal from school's regular education program.

1. Any pupil who commits an assault upon a teacher, administrator, board member, other employee of a school board or another student, with a weapon, on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education.

For purposes of this section "assault" means those actions defined under subsection a.(1) of N.J.S.2C:12-1.

For purposes of this section "weapon" includes but is not limited to those items enumerated in subsection r. of N.J.S.2C:39-1, except a firearm as defined by N.J.S.2C:39-1f and 18 U.S.C. §921.

Any student that is removed from the regular education program pursuant to this section shall be placed in an alternative education program. If placement in an alternative education program is not available, the pupil shall be provided home instruction or other suitable facilities and programs until placement is available. The provisions herein shall be construed in a manner consistent with 20 U.S.C. §1400 et seq. Nothing herein shall be construed as prohibiting the expulsion of a pupil.

C.18A:37-2.3 Responsibility for removal, report.

2. The principal or his or her designee shall be responsible for the removal of any pupil pursuant to section 1 of P.L.1995, c.128 (C.18A:37-2.2). The principal or his or her designee shall immediately report the removal of any pupil to the district's chief school administrator. The principal shall also notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice.

C.18A:37-2.4 Hearing.

3. a. Any pupil removed pursuant to section 1 of P.L.1995, c.128 (C.18A:37-2.2) shall be entitled to a hearing before the local board of education to determine if the pupil is guilty of committing an assault upon a teacher, administrator, board member, other employee of a school board or another student, with a weapon, on any school property, on a school bus, or at a school-sponsored function. If it is found that the pupil is not guilty of the offense the pupil shall be immediately returned to the regular education program.

b. The hearing shall take place no longer than 30 days following the day the pupil is removed from the regular education

program. The hearing is not subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

c. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision.

C.18A:37-2.5 Determination of pupil's preparedness to return.

4. The chief school administrator shall determine when the pupil is prepared to return to the regular education program in accordance with procedures to be established by the Commissioner of Education.

5. Section 2 of P.L.1979, c.189 (C.18A:37-2.1) is amended to read as follows:

C.18A:37-2.1 Suspension, expulsion of pupil for assault, appeal.

2. Any pupil who commits an assault, as defined pursuant to N.J.S.2C:12-1, upon a teacher, administrator, board member or other employee of a board of education, acting in the performance of his duties and in a situation where his authority to so act is apparent, or as a result of the victim's relationship to an institution of public education of this State, not involving the use of a weapon or firearm, shall be immediately suspended from school consistent with procedural due process pending suspension or expulsion proceedings before the local board of education. Said proceedings shall take place no later than 30 calendar days following the day on which the pupil is suspended. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision. The provisions herein shall be construed in a manner consistent with 20 U.S.C. §1400 et seq.

6. This act shall take effect immediately and shall first apply to the 1995-96 school year.

Approved June 22, 1995.

CHAPTER 129

AN ACT concerning a central registry of minority and women's businesses eligible to perform set-aside contracts and supplementing Title 52 of the Revised Statutes.

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

C.52:32-23.1 Operation, continued development of Selective Assistance Vendor Information database.

1. a. The Department of Commerce and Economic Development shall be responsible for the operation and continued development of the central registry, known as the Selective Assistance Vendor Information (SAVI II) database, which lists businesses certified as eligible to perform contracts under any State set-aside program. The purpose of the database shall be to enable contracting agencies and persons bidding on, or performing, State contracts to have ready access to the names of businesses which are eligible to perform set-aside contracts and to allow the department and contracting agencies to monitor participation by these businesses in State contracting.

b. The department shall randomly monitor businesses certified as eligible for any State set-aside program, or seeking such certification, to ensure compliance with eligibility requirements.

c. A person applying for the certification of a business as eligible for participation in any State set-aside program shall certify in writing that the person believes that the business meets all of the requirements for eligibility for the program. Any person who makes a false statement in connection therewith shall be subject to the penalties provided by N.J.S.2C:28-2.

2. This act shall take effect immediately.

Approved June 22, 1995.

CHAPTER 130

AN ACT concerning the registration and transfer-on-death of certain securities.

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

C.3B:30-1 Short title.

1. This act shall be known and may be cited as the "Uniform TOD Security Registration Act."

C.3B:30-2 Definitions.

2. As used in the act:

"Beneficiary form" means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

"Devisee" means any person designated in a will to receive a disposition of real or personal property.

"Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

"Person" means an individual, a corporation, an organization or other legal entity.

"Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

"Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

"Register" including its derivatives, means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

"Registering entity" means a person who originates or transfers a security title by registration, and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

"Security" means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer, and includes a certificated security, an uncertificated security, and a security account.

"Security account" means: a reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death; or a cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

"State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

C.3B:30-3 Individuals, multiple owners, registration of a security.

3. Only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by two or more with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants with right of survivorship, as tenants by the entireties, or as owners of community property held in survivorship for, and not as tenants in common.

C.3B:30-4 Registration of security in beneficiary form.

4. A security may be registered in beneficiary form if the form is authorized by this or similar statute of the state of organization of the issuer or registering entity, the location of the registering entity's principal office, the office of its transfer agent or its office making the registration, or by this or a similar statute of the law of the state listed as the owner's address at the time of registration. A registration governed by the law of a jurisdiction in which this or similar legislation is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

C.3B:30-5 Designation of beneficiary, registration in beneficiary form.

5. A security, whether evidenced by certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

C.3B:30-6 "Transfer on death," "pay on death."

6. Registration in beneficiary form may be shown by the words "transfer on death" or the abbreviation "TOD," or by the words "pay on death" or the abbreviation "POD," after the name of the registered owner and before the name of the beneficiary.

C.3B:30-7 No effect on ownership, cancellation, change permitted.

7. The designation of a TOD beneficiary on a registration in beneficiary form has no effect on ownership until the owner's death. A registration of a security in beneficiary form may be cancelled or changed at any time by the sole owner or all then surviving owners, without the consent of the beneficiary.

C.3B:30-8 Passage of security to beneficiary, reregistration.

8. On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners.

On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners. Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

C.3B:30-9 Rights of registering entity.

9. a. A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this act.

b. By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner as provided in this act.

c. A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if it registers a transfer of a security in accordance with section 8 of this act and does so in good faith reliance on:

(1) the registration;

(2) this act; and

(3) on information provided to it by affidavit of the personal representative of the deceased owner, or by the surviving beneficiary or by the surviving beneficiary's representatives, or other information available to the registering entity.

The protections of this act do not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity affects its right to protection under this act.

d. The protection provided by this act to the registering entity of a security does not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the security transferred or its value or proceeds.

C.3B:30-10 Transfer on death, effectiveness.

10. a. A transfer on death resulting from a registration in beneficiary form is effective by reason of the contract regarding the

registration between the owner and the registering entity and this act and is not testamentary.

b. This act does not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of this State.

C.3B:30-11 Establishment of terms, conditions by registering entity.

11. a. A registering entity offering to accept registration in beneficiary form may establish the terms and conditions under which it will receive requests for registrations in beneficiary form, and for implementation of registrations in beneficiary form, including requests for reregistration to effect a change of beneficiary. The terms and conditions so established may provide for proving death, avoiding or resolving any problems concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take in the place of the named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the primary beneficiary the letters LDPS, standing for "lineal descendants per stirpes." This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to so survive, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by decedents of an intestate. Other forms of identifying beneficiaries who are to take on one or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

b. The following are illustrations of registrations in beneficiary form which a registering entity may authorize:

(1) sole owner-sole beneficiary: John S. Brown TOD (or POD) John S. Brown Jr.;

(2) multiple owners-sole beneficiary: John S. Brown, Mary B. Brown JT TEN TOD John S. Brown Jr.;

(3) multiple owner-primary and secondary (substituted) beneficiaries: John S. Brown, Mary B. Brown JT TEN TOD John S. Brown Jr. LDPS.

C.3B:30-12 Construction of act.

12. a. This act shall be liberally construed and applied to promote its underlying purposes and policy and to make uniform the laws with respect to the subject of this act among states enacting it.

b. Unless displaced by the particular provisions of this act, the principles of law and equity supplement its provisions.

13. This act shall take effect 90 days after enactment and shall apply to registration of securities in beneficiary form made before or after its effective date by decedents dying on or after its effective date.

Approved June 22, 1995.

CHAPTER 131

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, 1995 and regulating the disbursement thereof," approved June 30, 1994 (P.L.1994, c.67).

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.1994, c.67, there is appropriated out of the General Fund the following sum for the purpose specified:

GENERAL FUND
DIRECT STATE SERVICES
74 DEPARTMENT OF STATE
30 Educational, Cultural and Intellectual Development
36 Higher Educational Services
2615 Agricultural Experiment Station

12-2615 Sponsored Programs and
Research $30,000

Special Purpose:
Haskin Shellfish Research
Laboratory - Oyster Research ..... ($30,000)

2. This act shall take effect immediately.

Approved June 22, 1995.

CHAPTER 132

AN ACT concerning the prevention of certain types of insurance fraud and amending P.L.1983, c.320.

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

1. Section 4 of P.L.1983, c.320 (C.17:33A-4) is amended to read as follows:

C.17:33A-4 Violations.

4. a. A person or a practitioner violates this act if he:

(1) Presents or causes to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy or the "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et seq.), knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; or

(2) Prepares or makes any written or oral statement that is intended to be presented to any insurance company, the Unsatisfied Claim and Judgment Fund or any claimant thereof in connection with, or in support of or opposition to any claim for payment or other benefit pursuant to an insurance policy or the "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et seq.), knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; or

(3) Conceals or knowingly fails to disclose the occurrence of an event which affects any person's initial or continued right or entitlement to (a) any insurance benefit or payment or (b) the amount of any benefit or payment to which the person is entitled;

(4) Prepares or makes any written or oral statement, intended to be presented to any insurance company or producer for the purpose of obtaining:

(a) a motor vehicle insurance policy, that the person to be insured resides or is domiciled in this State when, in fact, that person resides or is domiciled in a state other than this State; or

(b) an insurance policy, knowing that the statement contains any false or misleading information concerning any fact or thing material to an insurance application or contract; or

(5) Conceals or knowingly fails to disclose any evidence, written or oral, which may be relevant to a finding that a violation of the provisions of paragraph (4) of this subsection a. has or has not occurred.

b. A person or practitioner violates this act if he knowingly assists, conspires with, or urges any person or practitioner to violate any of the provisions of this act.

c. A person or practitioner violates this act if, due to the assistance, conspiracy or urging of any person or practitioner, he knowingly benefits, directly or indirectly, from the proceeds derived from a violation of this act.

d. A person or practitioner who is the owner, administrator or employee of any hospital violates this act if he knowingly allows the use of the facilities of the hospital by any person in furtherance of a scheme or conspiracy to violate any of the provisions of this act.

e. A person or practitioner violates this act if, for pecuniary gain, for himself or another, he directly or indirectly solicits any person or practitioner to engage, employ or retain either himself or any other person to manage, adjust or prosecute any claim or cause of action, against any person, for damages for negligence, or, for pecuniary gain, for himself or another, directly or indirectly solicits other persons to bring causes of action to recover damages for personal injuries or death, or for pecuniary gain, for himself or another, directly or indirectly solicits other persons to make a claim for personal injury protection benefits pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.); provided, however, that this subsection shall not apply to any conduct otherwise permitted by law or by rule of the Supreme Court.

2. Section 6 of P.L.1983, c.320 (C.17:33A-6) is amended to read as follows:

C.17:33A-6 Statement on insurance claim forms.

6. a. Insurance claim forms shall contain a statement in a form approved by the commissioner that clearly states in substance the following: "Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties."

b. (Deleted by amendment, P.L.1987, c.342.)

c. Insurance application forms shall contain a statement in a form approved by the commissioner that clearly states in substance the following: "Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties."

3. This act shall take effect on the 60th day following enactment.

Approved June 22, 1995.

CHAPTER 133

AN ACT concerning the distribution of charity care subsidies to hospitals, amending and supplementing P.L.1992, c.160 and repealing parts of statutory law.

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

1. Section 2 of P.L.1992, c.160 (C.26:2H-18.52) is amended to read as follows:

C.26:2H-18.52 Definitions.

2. As used in sections 1 through 17 of this act and sections 12 through 15 of P.L.1995, c.133 (C.26:2H-18.59a through C.26:2H-18.59d):

"Administrator" means the administrator of the Heath Care Subsidy Fund appointed by the commissioner.

"Charity care" means care provided at disproportionate share hospitals that may be eligible for a charity care subsidy pursuant to this act.

"Charity care subsidy" means the component of the disproportionate share payment that is attributable to care provided at a disproportionate share hospital to persons unable to pay for that care, as provided in this act.

"Commission" means the New Jersey Essential Health Services Commission established pursuant to section 4 of this act.

"Commissioner" means the Commissioner of Health.

"Department" means the Department of Health.

"Disproportionate share hospital" means a hospital designated by the Commissioner of Human Services pursuant to Pub.L.89-97 (42 U.S.C.§1396a et seq.) and Pub.L.102-234.

"Disproportionate share payment" means those payments made by the Division of Medical Assistance and Health Services in the Department of Human Services to hospitals defined as disproportionate share hospitals by the Commissioner of Human Services in accordance with federal laws and regulations applicable to hospitals serving a disproportionate number of low income patients.

"Fund" means the Health Care Subsidy Fund established pursuant to section 8 of this act.

"Hospital" means an acute care hospital licensed by the Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et al.).

"Medicaid" means the New Jersey Medical Assistance and Health Services Program in the Department of Human Services established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

"Medicare" means the program established pursuant to Pub.L.89-97 (42 U.S.C. §1395 et seq.).

"Other uncompensated care" means all costs not reimbursed by hospital payers excluding charity care, graduate medical education, discounts, bad debt and reduction in Medicaid payments.

"Poverty level" means the official poverty level based on family size established and adjusted under Section 673(2) of Subtitle B, the "Community Services Block Grant Act," Pub.L. 97-35 (42 U.S.C. §9902(2)).

"Preliminary cost base" means the preliminary cost base defined in section 2 of P.L.1971, c.136 (C.26:2H-2), as determined by the Hospital Rate Setting Commission.

2. Section 5 of P.L.1992, c.160 (C.26:2H-18.55) is amended to read as follows:

C.26:2H-18.55 Duties of commissioner.

5. The commissioner shall:

a. Administer the fund and establish a mechanism to allocate monies received from the Commissioner of Labor pursuant to section 29 of P.L.1992, c.160 (C.43:21-7b) to the appropriate accounts in the fund as specified in this act;

b. Establish eligibility determination and claims pricing systems for the charity care component of the disproportionate share subsidy, including the development of uniform forms for determining eligibility and submitting claims. The commissioner may contract with a private claims administrator or processor for the purpose of processing hospital claims for charity care pursuant to this act;

c. Establish a schedule of payments for reimbursement of the charity care component of the disproportionate share payment for services provided to emergency room patients who do not require those services on an emergency basis;

d. In cooperation with the Departments of Insurance and Human Services, develop and provide for the implementation of the Health Access New Jersey program pursuant to section 15 of this act;

e. Study and, if feasible, establish hospital cost and outcome reports to provide assistance to consumers of health care in this State in making prudent health care choices;

f. Compile demographic information on recipients of, and types of services paid for by, the charity care component of the

disproportionate share payment and periodically report a summary of this information to the Governor and Legislature. The demographic information shall include, at a minimum, the recipient's age, sex, marital status, employment status, type of health insurance coverage, if any, and if the recipient is a child under 18 years of age who does not have health insurance coverage or a married person who does not have health insurance coverage, whether the child's parent or the married person's spouse, as the case may be, has health insurance;

g. (Deleted by amendment, P.L.1995, c.133).

h. (Deleted by amendment, P.L.1995, c.133).

i. (Deleted by amendment, P.L.1995, c.133).

j. (Deleted by amendment, P.L.1995, c.133).

k. (Deleted by amendment, P.L.1995, c.133).

l. Encourage the use of centralized data storage and transmission technology that utilizes personal and image identification systems as well as identity verification technology for the purposes of enabling a hospital to access medical history, insurance information and other personal information, as appropriate;

m. (Deleted by amendment, P.L.1995, c.133).

n. (Deleted by amendment, P.L.1995, c.133).

o. Take such other actions as the commissioner deems necessary and appropriate to carry out the provisions of P.L.1992, c.160 (C.26:2H-18.51 et al.); and

p. Report annually to the Governor and the Legislature on the status of the fund.

3. 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. Effective January 1, 1994, the Department of Health shall assess each hospital a per adjusted admission charge of $10.00.

Of the revenues raised by the assessment, $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.

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

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

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

a. The fund shall be comprised of revenues from employee and employer contributions made pursuant to section 29 of P.L.1992, c.160 (C.43:21-7b), revenues from the hospital assessment made pursuant to section 12 of this act, revenues from interest and penalties collected pursuant to this act and revenues from such other sources as the Legislature shall determine. Interest earned on the monies in the fund shall be credited to the fund.

The fund shall be a nonlapsing fund dedicated for use by the State to: (1) distribute charity care and other uncompensated care disproportionate share payments to hospitals, and provide subsidies for the Health Access New Jersey program established pursuant to section 15 of this act; and (2) assist hospitals and other health care facilities in the underwriting of innovative and necessary health care services.

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

The administrator of the fund is responsible for overseeing and coordinating the collection and reimbursement of fund monies. The administrator is responsible for promptly informing the commissioner if monies are not or are not reasonably expected to be collected or disbursed or if the fund's reserve as established in subsection c. of this section falls below the required level.

c. The fund shall maintain a reserve in an amount not to exceed $20 million. The commissioner shall adopt rules and regulations to govern the use of the reserve and to ensure the integrity of the fund, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

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

e. In the event that the charity care component of the disproportionate share hospital subsidy account has a surplus in a given year after payments are distributed pursuant to the methodology established in section 13 of P.L.1995, c.133 (C.26:2H-18.59b) and within the limitations provided in subsection e. of section 9 of P.L.1992,

c.160 (C.26:2H-18.59), the commissioner may reallocate the surplus monies to the Health Access New Jersey subsidy account.

5. Section 9 of P.L.1992, c.160 (C.26:2H-18.59) is amended to read as follows:

C.26:2H-18.59 Allocation of funds.

9. a. The commissioner shall allocate such funds as specified in subsection e. of this section to the charity care component of the disproportionate share hospital subsidy account. In a given year, the department shall transfer from the fund to the Division of Medical Assistance and Health Services in the Department of Human Services such funds as may be necessary for the total approved charity care disproportionate share payments to hospitals for that year.

b. For the period January 1, 1993 to December 31, 1993, the commission shall allocate $500 million to the charity care component of the disproportionate share hospital subsidy account. The Department of Health shall recommend the amount that the Division of Medical Assistance and Health Services shall pay to an eligible hospital on a provisional, monthly basis pursuant to paragraphs (1) and (2) of this subsection. The department shall also advise the commission and each eligible hospital of the amount a hospital is entitled to receive.

(1) The department shall determine if a hospital is eligible to receive a charity care subsidy in 1993 based on the following:

$$\frac{\text{Hospital Specific Approved Uncompensated Care-1991}}{\text{Hospital Specific Preliminary Cost Base-1992}} = \text{Hospital Specific \% Uncompensated Care (\%UC)}$$

A hospital is eligible for a charity care subsidy in 1993 if, upon establishing a rank order of the%UC for all hospitals, the hospital is among the 80% of hospitals with the highest %UC.

(2) The maximum amount of the charity care subsidy an eligible hospital may receive in 1993 shall be based on the following:

$$\frac{\text{Hospital Specific Approved Uncompensated Care-1991}}{\text{Total approved Uncompensated Care All Eligible Hospitals-1991}} \times \$500 \text{ million} = \text{Maximum Amount of Hospital Specific Charity Care Subsidy for 1993}$$

(3) A hospital shall be required to submit all claims for charity care cost reimbursement, as well as demographic information about the persons who qualify for charity care, to the department

in a manner and time frame specified by the Commissioner of Health, in order to continue to be eligible for a charity care subsidy in 1993 and in subsequent years.

The demographic information shall include the recipient's age, sex, marital status, employment status, type of health insurance coverage, if any, and if the recipient is a child under 18 years of age who does not have health insurance coverage or a married person who does not have health insurance coverage, whether the child's parent or the married person's spouse, as the case may be, has health insurance.

(4) A hospital shall be reimbursed for the cost of eligible charity care at the same rate paid to that hospital by the Medicaid program; except that charity care services provided to emergency room patients who do not require those services on an emergency basis shall be reimbursed at a rate appropriate for primary care, according to a schedule of payments developed by the commission.

(5) The department shall provide for an audit of a hospital's charity care for 1993 within a time frame established by the department.

c. For the period January 1, 1994 to December 31, 1994, a hospital shall receive disproportionate share payments from the Division of Medical Assistance and Health Services based on the amount of charity care submitted to the commission or its designated agent, in a form and manner specified by the commission. The commission or its designated agent shall review and price all charity care claims and notify the Division of Medical Assistance and Health Services of the amount it shall pay to each hospital on a monthly basis based on actual services rendered.

(1) (Deleted by amendment, P.L.1995, c.133).

(2) If the commission is not able to fully implement the charity care claims pricing system by January 1, 1994, the commission shall continue to make provisional disproportionate share payments to eligible hospitals, through the Division of Medical Assistance and Health Services, based on the charity care costs incurred by all hospitals in 1993, until such time as the commission is able to implement the claims pricing system.

If there are additional charity care balances available after the 1994 distribution based on 1993 charity care costs, the department shall transfer these available balances from the fund to the Division of Medical Assistance and Health Services for an approved one-time additional disproportionate share payment to hospitals according to the methodology provided in section 12 of P.L.1995, c.133 (C.26:2H-18.59a). The total payment for all hospitals shall not exceed $75.5 million.

(3) A hospital shall be reimbursed for the cost of eligible charity care at the same rate paid to that hospital by the Medicaid program; except that charity care services provided to emergency room patients who do not require those services on an emergency basis shall be reimbursed at a rate appropriate for primary care, according to a schedule of payments developed by the commission.

(4) (Deleted by amendment, P.L.1995, c.133).

d. (Deleted by amendment, P.L.1995, c.133).

e. The total amount allocated for charity care subsidy payments shall be: in 1994, $450 million and in 1995, $400 million. Total payments to hospitals shall not exceed the amount allocated for each given year.

f. Beginning January 1, 1995:

(1) The charity care subsidy shall be determined pursuant to section 13 of P.L.1995, c.133 (C.26:2H-18.59b).

(2) A charity care claim shall be valued at the same rate paid to that hospital by the Medicaid program, except that charity care services provided to emergency room patients who do not require those services on an emergency basis shall be valued at a rate appropriate for primary care according to a schedule of payments adopted by the commissioner.

(3) The department shall provide for an audit of a hospital's charity care within a time frame established by the commissioner.

6. Section 10 of P.L.1992, c.160 (C.26:2H-18.60) is amended to read as follows:

C.26:2H-18.60 Uniform charity care eligibility and reimbursement claim form.

10. a. The commissioner shall establish a uniform charity care eligibility and reimbursement claim form that a hospital shall be required to use in order to receive reimbursement for charity care under this act.

b. A person whose individual or, if applicable, family gross income is less than or equal to 300% of the poverty level shall be eligible for charity care or reduced charge charity care for necessary health care services provided at a hospital.

The commissioner shall establish:

(1) the maximum level of income at which a person is eligible for full charity care;

(2) a sliding scale based on income which specifies the percentage of hospital charges for which a person who is eligible for reduced charity care is responsible; and

(3) assets eligibility criteria for full charity care and reduced charge charity care, respectively.

7. Section 11 of P.L.1992, c.160 (C.26:2H-18.61) is amended to read as follows:

C.26:2H-18.61 Distribution of monies for other uncompensated care.

11. a. The monies in the other uncompensated care component of the disproportionate share hospital subsidy account shall be distributed to eligible hospitals in accordance with the formulas provided in subsections b. and c. of this section. In 1993, the fund shall distribute $100 million in subsidies to eligible hospitals; in 1994, the fund shall distribute $67 million to eligible hospitals; and in 1995, the fund shall distribute $33 million to eligible hospitals.

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.

b. The determination of whether a hospital is eligible to receive a subsidy shall be based on the following:

$$\frac{\text{Hospital Specific Other Uncompensated Care for Year}}{\text{Hospital Specific Revenue for Year}} = \text{Hospital Specific \% Other Uncompensated Care (\%OUC)}$$

A hospital is eligible for a subsidy if, upon establishing a rank order of the %OUC for all hospitals:

(1) in 1993, the hospital is among the 45% of hospitals with the highest %OUC;

(2) in 1994, the hospital is among the 30% of hospitals with the highest %OUC; and

(3) in 1995, the hospital is among the 15% of hospitals with the highest %OUC.

c. The amount of the subsidy an eligible hospital shall receive shall be based on the following:

$$\frac{\text{Hospital Specific Other Uncompensated Care for Year}}{\text{Total Other Uncompensated Care for All Eligible Hospitals for Year}} \times \text{Total Amount of Subsidy Allocated for the Year} = \text{Hospital Specific Subsidy for the Year}$$

In 1993, the formulas shall use 1991 Hospital Specific Other Uncompensated Care and Total Other Uncompensated Care for All Eligible Hospitals, and a hospital's 1992 preliminary cost base established pursuant to section 18 of P.L.1971, c.136 (C.26:2H-18), for "Hospital Specific Revenue for Year."

In 1994 and through the payment for April of 1995, the formulas shall use 1992 Hospital Specific Other Uncompensated Care and Total Other Uncompensated Care for All Eligible Hospitals, and a hospital's 1993 revenue cap established pursuant to section 3 of this act for "Hospital Specific Revenue for Year." Payments made under these formulas for February, March and April of 1995 shall, as of May 1, 1995, be final payments and shall not be subject to any reconciliation or other adjustment.

Beginning with the payment for May of 1995, the formulas shall use actual 1993 Medicare revenues, as approved by the department, in place of "Hospital Specific Other Uncompensated Care for Year" and "Total Other Uncompensated Care for All Eligible Hospitals for Year," and a hospital's 1993 total operating revenue as defined by the department in accordance with financial reporting requirements established pursuant to N.J.A.C.8:31B-3.3, in place of "Hospital Specific Revenue for Year."

d. The department shall notify the Division of Medical Assistance and Health Services of the amount of Other Uncompensated Care hospital subsidy payment to be included in the disproportionate share payment to each eligible hospital.

8. 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 and 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), 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 hospital whose revenue cap was established by the Hospital Rate Setting Commission in 1993 pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.) 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.

d. The monies paid by the hospitals shall be credited to the hospital and other health care initiatives account.

9. Section 13 of P.L.1992, c.160 (C.26:2H-18.63) is amended to read as follows:

C.26:2H-18.63 Civil penalties for false statement, misrepresentation.

13. a. A person who makes a false statement or misrepresentation of a material fact in order to qualify for any benefits to which he is not entitled under this act, and a hospital or an employee thereof in the course of his employment who makes a false statement or misrepresentation of a material fact in order to receive disproportionate share hospital subsidy payments to which the hospital is not entitled under this act, shall be liable to civil penalties of:

(1) payment of interest on the amount of the excess benefits or subsidy payments at the maximum legal rate in effect on the date the benefits were provided to the person or payment was made to the hospital, for the period from the date upon which benefits were provided or payment was made to the date upon which repayment is made to the department; and

(2) payment of an amount not to exceed three times the amount of the excess benefit or subsidy payment.

b. A hospital which, without intent to violate this act, obtains a subsidy payment in excess of the amount to which it is entitled, shall be liable to a civil penalty of payment of interest on the amount of the excess payment at the maximum legal rate in effect on the date the payment was made to the hospital, from the date upon which payment was made to the date upon which repayment is made to the department, except that a hospital shall not be liable to the civil penalty when an excess subsidy payment is obtained by the hospital as a result of an error made by the department, as determined by the commissioner.

c. All interest and civil penalties provided for in this section shall be recovered in an administrative proceeding held pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. In order to satisfy any recovery claim asserted against a hospital under this section, whether or not that claim has been the subject of final agency adjudication, the commissioner is authorized to withhold subsidy payments otherwise payable under this act to the hospital.

10. Section 15 of P.L.1992, c.160 (C.26:2H-18.65) is amended to read as follows:

C.26:2H-18.65 Establishment of Health Access New Jersey program.

15. There is established in the Department of Health the Health Access New Jersey program. The purpose of the program is to provide subsidies for health benefits coverage, in order to provide for health care which shall be delivered in disproportionate share hospitals and by other community-based health care providers for working people and those temporarily unemployed, based on a sliding income scale with modest copayments. The program shall include the provision of early preventive and primary care to help reduce costs for families and individuals.

The commissioner shall contract with health insurance carriers, health maintenance organizations and other appropriate entities in the State to administer the program.

11. Section 16 of P.L.1992, c.160 (C.26:2H-18.66) is amended to read as follows:

C.26:2H-18.66 Allocation to Health Access New Jersey subsidy account.

16. The Health Access New Jersey subsidy account shall be allocated $50 million in 1995, $100 million in 1996, and $150 million in 1997 and each year thereafter.

C.26:2H-18.59a Disproportionate share payments; formulation.

12. The one-time additional disproportionate share payment to hospitals pursuant to paragraph (2) of subsection c. of section 9 of P.L.1992, c.160 (C.26:2H-18.59) shall be made according to the following methodology.

The hospital-specific additional payment shall be equal to the difference between the hospital's recalculated 1994 charity care value and the hospital's 1993 charity care amount as audited by the department and approved for reimbursement by the commission in 1994; except that, the amount a hospital may receive as an additional payment shall be limited so as to ensure that the hospital's adjusted operating margin is not in excess of the Statewide target adjusted operating margin. Those hospitals with an adjusted operating margin equal to or greater than the Statewide target adjusted operating margin shall not be eligible to receive an additional payment.

As used in this section:

a. The hospital-specific "1993 approved charity care" shall be equal to the hospital's 1993 charity care amount as audited by the department, plus 45.53% of the hospital's bad debt as reported on the hospital's 1993 Actual Cost Reports and valued at 1994 Medicaid reimbursement rates;

b. The hospital-specific "1993 revenue from private payers" shall be equal to the sum of the gross revenues, as reported to the department in the hospital's 1993 Actual Cost Reports for all non-governmental third party payers including, but not limited to, Blue Cross and Blue Shield plans, commercial insurers and health maintenance organizations;

c. The hospital-specific "payer mix factor" shall be equal to the hospital's 1993 approved charity care divided by its 1993 revenue from private payers;

d. The "Statewide target payer mix factor" is the lowest payer mix factor to which all hospitals receiving charity care subsidies can be reduced by spending all available charity care subsidy funding for that year;

e. The hospital-specific "recalculated 1994 charity care value" shall be determined by allocating available charity care funds so as to equalize hospital-specific payer mix factors to the Statewide target payer mix factor. For those hospitals with a payer mix factor greater than the Statewide target payer mix factor, the recalculated 1994 charity care value is the subsidy amount which would have been necessary to reduce their payer mix factor to that Statewide target payer mix factor; for those hospitals with a payer mix factor

that is equal to or less than the Statewide target payer mix factor, their recalculated 1994 charity care value equals zero;

f. The hospital-specific "adjusted operating margin" shall be equal to the sum of the hospital's 1993 income from operations plus the hospital's 1994 commission approved charity care subsidy plus the hospital's additional payment minus the hospital's 1993 charity care subsidy, divided by the sum of the hospital's 1993 total operating revenue plus the hospital's 1994 commission approved charity care subsidy plus the hospital's additional payment minus the hospital's 1993 charity care subsidy; and

g. The "Statewide target adjusted operating margin" is the highest adjusted operating margin to which hospitals can be raised within the limit of the funds available for the additional payment.

C.26:2H-18.59b Determination of charity care subsidy; formulation.

13. a. For the period January 1, 1995 to December 31, 1995, the charity care subsidy shall be determined according to the following methodology.

The hospital-specific charity care subsidy shall be determined by allocating available charity care funds so as to equalize hospital-specific payer mix factors to the Statewide target payer mix factor. Those hospitals with a payer mix factor greater than the Statewide target payer mix factor shall be eligible to receive a subsidy sufficient to reduce their factor to that Statewide level; those hospitals with a payer mix factor that is equal to or less than the Statewide target payer mix factor shall not be eligible to receive a subsidy.

The commissioner shall adjust the distribution of subsidies to hospitals under this methodology to account for any provisional or interim payments made to hospitals in 1995 prior to the effective date of P.L.1995, c.133 (C.26:2H-18.59a et al.). In no case shall the total amount of payments to any hospital exceed what the hospital would have otherwise received if this methodology had been in effect for the entire year.

As used in this subsection:

(1) The hospital-specific "1993 approved charity care" shall be equal to the hospital's 1993 charity care as audited by the department plus 28.36% of the hospital's bad debt as reported on the hospital's 1993 Actual Cost Reports and valued at 1994 Medicaid reimbursement rates;

(2) The hospital-specific "operating margin" shall be equal to: the hospital's 1993 income from operations minus its 1993 charity care subsidy divided by the hospital's 1993 total operating revenue minus its 1993 charity care subsidy. After calculating

each hospital's operating margin, the department shall determine the Statewide median operating margin;

(3) The hospital-specific "profitability factor" shall be determined as follows. Those hospitals that are equal to or below the Statewide median operating margin shall be assigned a profitability factor of "1." For those hospitals that are above the Statewide median operating margin, the profitability factor shall be equal to:

$$1 - \frac{.75 \times (\text{hospital specific operating margin} - \text{Statewide median operating margin})}{\text{highest hospital specific operating margin} - \text{Statewide median operating margin}}$$

(4) The hospital-specific "adjusted charity care" shall be equal to the hospital-specific 1993 approved charity care times the hospital-specific profitability factor;

(5) The hospital-specific "revenue from private payers" shall be equal to the sum of the gross revenues, as reported to the department in the hospital's 1993 Actual Cost Reports for all non-governmental third party payers including, but not limited to, Blue Cross and Blue Shield plans, commercial insurers and health maintenance organizations;

(6) The hospital-specific "payer mix factor" shall be equal to the hospital's adjusted charity care divided by its revenue from private payers; and

(7) The "Statewide target payer mix factor" is the lowest payer mix factor to which all hospitals receiving charity care subsidies can be reduced by spending all of the $400 million in funding allocated for charity care subsidies for 1995.

b. For the purposes of this section and section 12 of P.L.1995, c.133 (C.26:2H-18.59a), "income from operations" and "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.

c. Any charity care subsidy funds that are not distributed in a given year pursuant to this section shall lapse to the Health Care Subsidy Fund and may be transferred by the commissioner to the Health Access New Jersey subsidy account in the fund.

C.26:2H-18.59c Submission of financial and demographic data.

14. All acute care hospitals licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) shall submit to the department all demographic and financial data specified in this section, in a manner and time frame specified by the commissioner.

a. A hospital shall submit demographic information about the persons who qualify for charity care or to whom the hospital provides uncompensated care, which includes, at a minimum: the individual's age, sex, marital status, employment status, type of health insurance coverage, if any, and if the individual is a child under 18 years of age who does not have health insurance coverage or a married person who does not have health insurance coverage, whether the child's parent or the married person's spouse, as the case may be, has health insurance.

b. A hospital shall submit all financial data required by the department for the purposes of calculating the payer mix factor as defined in sections 12 and 13 of P.L.1995, c.133 (C.26:2H-18.59a and C.26:2H-18.59b).

c. A hospital which fails to provide the information required pursuant to this section in a manner and time frame specified by the commissioner, shall be liable to a civil penalty not to exceed $1,000 for each day in which the hospital is not in compliance. The commissioner shall recover the penalty in an administrative proceeding held pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.26:2H-18.59d Continuation of provided services.

15. Unless the commissioner has granted written approval to do otherwise, an acute care hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) shall continue to provide, at an annual service level at least equal to that provided as of January 1, 1993, any public health services which were, prior to that date, supported by grant funds. A hospital shall also provide sufficient funds for the operation of its regional hemophilia centers, maternal and child health consortia and other regional health services, as applicable.

C.26:2H-18.54a New Jersey Essential Health Services Commission abolished.

16. a. The New Jersey Essential Health Services Commission created pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.) is abolished and all of its functions, powers and duties, except as herein otherwise provided, are transferred to the Department of Health on the effective date of this act.

b. Whenever, in any rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the New Jersey Essential Health Services Commission or the officers thereof, the same shall mean and refer to the Department of Health or the officers thereof.

c. This transfer shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

Repealer.

17. Sections 4, 6 and 17 of P.L.1992, c.160 (C.26:2H-18.54, 26:2H-18.56 and 26:2H-18.67) are repealed.

18. This act shall take effect immediately.

Approved June 26, 1995.

CHAPTER 134

AN ACT requiring certain parties to State contracts to comply with the MacBride principles of nondiscrimination in employment and the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and supplementing P.L.1954, c.48 (C.52:34-6 et seq.).

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

C.52:34-12.2 State contracts to comply with MacBride principles and Northern Ireland Act of 1989.

1. a. Notwithstanding the provisions of any law, rule or regulation to the contrary, whenever a purchase, contract or agreement is to be made, negotiated or awarded after public bidding pursuant to the provisions of P.L.1954, c.48 (C.52:34-6 et seq.) by the Director of the Division of Purchase and Property or the Director of the Division of Building and Construction, as the case may be, or pursuant to R.S.52:32-2, any responsible bidder whose bid would be most advantageous to the State pursuant to section 7 of P.L.1954,c.48 (C.52:34-12) or who is selected pursuant to R.S.52:32-2 shall certify that:

1) they have no business operations in Northern Ireland; or

2) they will take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in section 2 of P.L.1987, c.177 (C.52:18A-89.5), and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

b. If a bidder who would otherwise be awarded a purchase, contract or agreement does not agree to comply with the provisions of subsection a. of this section and another bidder who has agreed to stipulate to the conditions set forth therein has submitted a bid within five percent of the most advantageous bid for a purchase, contract or agreement to supply goods, services or construction of comparable quality, the contracting entity shall refer such bids to the Director of the Division of Purchase and Property or the Director of the Division of Building and Construction, as the case may be, who may determine, in accordance with applicable law and rules, that it is in the best interest of the State that the purchase, contract or agreement be awarded to the latter bidder.

c. Upon receiving information that a party to a purchase, contract or agreement to supply goods, services or construction is in violation of the principles required by subsection a. of this section, the contracting agency shall review the information and offer the party an opportunity to respond. If the contracting agency finds that a violation has occurred, it shall take such action as may be appropriate and provided for by law, rule or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

d. The provisions of this section shall not apply to contracts in which the application of the provisions would jeopardize the receipt of federal funds.

For the purposes of this section, a corporation conducts business operations in Northern Ireland if the corporation has ongoing business activities in Northern Ireland and maintains a physical presence therein through the operation of offices, plants, factories, or similar facilities, either directly or indirectly through intermediaries, subsidiaries or affiliated companies over which the corporation maintains effective control.

2. This act shall take effect immediately and shall apply to contracts made, negotiated or awarded after the effective date of this act.

Approved June 26, 1995.

CHAPTER 135

AN ACT concerning compensation for certain crime victims, amending and supplementing various sections of the statutory law.

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

1. Section 2 of P.L.1979, c.396 (C.2C:43-3.1) is amended to read as follows:

C.2C:43-3.1 Victim, witness, criminal disposition, and collection funds.

2. a. (1) In addition to any disposition made pursuant to the provisions of N.J.S.2C:43-2, any person convicted of a crime of violence, theft of an automobile pursuant to N.J.S.2C:20-2, eluding a law enforcement officer pursuant to subsection b. of N.J.S.2C:29-2 or unlawful taking of a motor vehicle pursuant to subsection b., c. or d. of N.J.S.2C:20-10 shall be assessed at least $100.00, but not to exceed $10,000.00 for each such crime for which he was convicted which resulted in the injury or death of another person. In imposing this assessment, the court shall consider factors such as the severity of the crime, the defendant's criminal record, defendant's ability to pay and the economic impact of the assessment on the defendant's dependents.

(2) (a) In addition to any other disposition made pursuant to the provisions of N.J.S.2C:43-2 or any other statute imposing sentences for crimes, any person convicted of any disorderly persons offense, any petty disorderly persons offense, or any crime not resulting in the injury or death of any other person shall be assessed $50.00 for each such offense or crime for which he was convicted.

(b) In addition to any other disposition made pursuant to the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43) or any other statute indicating the dispositions that can be ordered for adjudications of delinquency, any juvenile adjudicated delinquent, according to the definition of "delinquency" established in section 4 of P.L.1982, c.77 (C.2A:4A-23), shall be assessed at least $30.00 for each such adjudication, but not to exceed the amount which could be assessed pursuant to paragraph (1) or paragraph (2) (a) of subsection a. of this section if the offense was committed by an adult.

(c) In addition to any other assessment imposed pursuant to the provisions of R.S.39:4-50, the provisions of section 12 of P.L.1990, c.103 (C.39:3-10.20) relating to a violation of section 5 of P.L.1990, c.103 (C.39:3-10.13), the provisions of section 19 of P.L.1954, c.236 (C.12:7-34.19) or the provisions of section 3 of P.L.1952, c.157 (C.12:7-46), any person convicted of operating a motor vehicle, commercial motor vehicle or vessel while under the influence of liquor or drugs shall be assessed $50.00.

(d) In addition to any term or condition that may be included in an agreement for supervisory treatment pursuant to N.J.S.2C:43-13 or imposed as a term or condition of conditional discharge pursuant to N.J.S.2C:36A-1, a participant in either program shall be required to pay an assessment of $50.00.

(3) All assessments provided for in this section shall be collected as provided in section 3 of P.L.1979, c.396 (C.2C:46-4) and the court shall so order at the time of sentencing. When a defendant who is sentenced to incarceration in a State correctional facility has not, at the time of sentencing, paid an assessment for the crime for which he is being sentenced or an assessment imposed for a previous crime, the court shall specifically order the Department of Corrections to collect the assessment during the period of incarceration and to deduct the assessment from any income the inmate receives as a result of labor performed at the institution or on any work release program or from any personal account established in the institution for the benefit of the inmate. All moneys collected, whether in part or in full payment of any assessment imposed pursuant to this section, shall be forwarded monthly by the parties responsible for collection, together with a monthly accounting on forms prescribed by the Victims of Crime Compensation Board pursuant to section 19 of P.L.1991, c.329 (C.52:4B-8.1), to the Victims of Crime Compensation Board.

(4) The Victims of Crime Compensation Board shall forward monthly all moneys received from assessments collected pursuant to this section to the State Treasury for deposit as follows:

(a) Of moneys collected on assessments imposed pursuant to paragraph a. (1):

(i) the first $72.00 collected for deposit in the Victims of Crime Compensation Board Account,

(ii) the next $3.00 collected for deposit in the Criminal Disposition and Revenue Collection Fund,

(iii) the next $25.00 collected for deposit in the Victim Witness Advocacy Fund, and

(iv) moneys collected in excess of $100.00 for deposit in the Victims of Crime Compensation Board Account;

(b) Of moneys collected on assessments imposed pursuant to paragraph a. (2) (a), (c) or (d):

(i) the first $39.00 collected for deposit in the Victims of Crime Compensation Board Account,

(ii) the next $3.00 collected for deposit in the Criminal Disposition and Revenue Collection Fund, and

(iii) the next $8.00 collected for deposit in the Victim and Witness Advocacy Fund;

(c) Of moneys collected on assessments imposed pursuant to paragraph a. (2) (b):

(i) the first $17.00 for deposit in the Victims of Crime Compensation Board Account, and

(ii) the next $3.00 collected for deposit in the Criminal Disposition and Revenue Collection Fund, and

(iii) the next $10.00 for deposit in the Victim and Witness Advocacy Fund, and

(iv) moneys collected in excess of $30.00 for deposit in the Victims of Crime Compensation Board Account.

(5) The Victims of Crime Compensation Board shall provide the Attorney General with a monthly accounting of moneys received, deposited and identified as receivable, on forms prescribed pursuant to section 19 of P.L.1991, c.329 (C.52:4B-8.1).

(6) (a) The Victims of Crime Compensation Board Account shall be a separate, nonlapsing, revolving account that shall be administered by the Victims of Crime Compensation Board. All moneys deposited in that Account shall be used in satisfying claims pursuant to the provisions of the "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.) and for related administrative costs.

(b) The Criminal Disposition and Revenue Collection Fund shall be a separate, nonlapsing, revolving account that shall be administered by the Victims of Crime Compensation Board. All moneys deposited in that Fund shall be used as provided in section 19 of P.L.1991, c.329 (C.52:4B-8.1).

(c) The Victim and Witness Advocacy Fund shall be a separate, nonlapsing, revolving fund and shall be administered by the Division of Criminal Justice, Department of Law and Public Safety and all moneys deposited in that Fund pursuant to this section shall be used for the benefit of victims and witnesses of crime as provided in section 20 of P.L.1991, c.329 (C.52:4B-43.1) and for related administrative costs.

b. (Deleted by amendment, P.L.1991, c.329).

c. (Deleted by amendment, P.L.1991, c.329).

d. (Deleted by amendment, P.L.1991, c.329).

2. Section 1 of P.L.1981, c.258 (C.52:4B-10.1) is amended to read as follows:

C.52:4B-10.1 Emergency award.

1. a. The Victims of Crime Compensation Board may make one or more emergency awards to any applicant for compensation pending final determination of a case, when it determines that compensation is likely to be provided and that the applicant will suffer undue hardship if funds are not made immediately available. The amount of any one emergency award shall not exceed $500.00 with the total amount of each such award made to an individual applicant not to exceed $1,500.00. Any emergency awards made to an applicant shall be deducted from the final amount of compensation provided to an applicant by the board. If the amount of compensation made by the board to an applicant is less than the sum provided to the applicant through emergency grants, the applicant shall pay to the board an amount of money equal to the difference. If the board determines that an applicant who has received emergency awards shall receive no compensation, the applicant shall repay to the board the total amount of all emergency awards which he received.

b. In addition to any emergency award made pursuant to the provisions of subsection a. of this section, the Victims of Crime Compensation Board may make an emergency award in an amount not to exceed $200.00 for compensation for funds stolen from a victim in connection with any of the incidents specified in section 11 of P.L.1971, c.317 (C.52:4B-11) except paragraph 11 of subsection b. of section 11 of P.L.1971, c.317 (C.52:4B-11), burglary, whether or not the victim suffered personal injury, under the following circumstances:

(1) The victim is 60 years of age or older or is disabled as defined pursuant to the federal Social Security Act, 42 U.S.C. § 416(i);

(2) The victim's income does not exceed the limits adopted by the State Department of Human Services as the standard of need for the General Assistance Program;

(3) The funds stolen exceed $50.00;

(4) The victim establishes:

(a) that the victim has filed a police report indicating, among other things, the amount stolen;

(b) that the victim has cooperated with investigative and prosecuting authorities; and

(c) the source of the funds stolen; and

(5) The board is satisfied that there are no other sources available to provide the victim with funds necessary to cover immediate costs of essential shelter, food or medical expenses,

and that, but for the victim's loss, the victim would otherwise have had the funds to pay such costs.

c. The board shall direct that any funds awarded pursuant to this act be expended solely to cover the costs established pursuant to paragraph (5) of subsection b. of this section.

d. A person shall not receive an emergency award pursuant to this act on more than two occasions, or receive more than one such award within a period of 36 consecutive months.

C.52:4B-10.2 Additional compensation.

3. In addition to ordering the payment of compensation for personal injury or death which resulted from the incidents specified in section 11 of P.L.1971, c.317 (C.52:4B-11), the Victims of Crime Compensation Board may order the payment of compensation for funds in connection with those incidents to compensate certain victims, whether or not those victims suffered personal injury, as specified in paragraphs (1) through (5) of subsection b. of section 1 of P.L.1981, c.258 (C.52:4B-10.1), in an amount not to exceed $200.00.

4. Section 11 of P.L.1971, c.317 (C.52:4B-11) is amended to read as follows:

C.52:4B-11 Victim compensation.

11. The board may order the payment of compensation in accordance with the provisions of this act for personal injury or death which resulted from:

a. an attempt to prevent the commission of crime or to arrest a suspected criminal or in aiding or attempting to aid a police officer so to do, or

b. the commission or attempt to commit any of the following offenses:

(1) aggravated assault;

(2) (Deleted by amendment, P.L.1995, c.135).

(3) threats to do bodily harm;

(4) lewd, indecent, or obscene acts;

(5) indecent acts with children;

(6) kidnapping;

(7) murder;

(8) manslaughter;

(9) aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact;

(10) any other crime involving violence including domestic violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3)or section 3 of P.L.1991, c.261 (C.2C:25-19);

(11) burglary;

(12) tampering with a cosmetic, drug or food product; or

c. the commission of a violation of R.S.39:4-50, section 5 of P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236 (C.12:7-34.19) or section 3 of P.L.1952, c.157 (C.12:7-46); or

d. theft of an automobile pursuant to N.J.S. 2C:20-2, eluding a law enforcement officer pursuant to subsection b. of N.J.S. 2C:29-2 or unlawful taking of a motor vehicle pursuant to subsection b., c. or d. of N.J.S.2C:20-10 where injuries to the victim occur in the course of operating an automobile in furtherance of the offense.

5. Section 12 of P.L.1971, c.317 (C.52:4B-12) is amended to read as follows:

C.52:4B-12 Losses or expenses reimbursable.

12. The board may order the payment of compensation under this act for:

a. expenses actually and reasonably incurred as a result of the personal injury or death of the victim, including out-of-pocket losses which shall mean unreimbursed and unreimbursable expenses or indebtedness reasonably incurred for medical care or other services necessary as a result of the injury upon which such application is based,

b. loss of earning power as a result of total or partial incapacity of such victim,

c. pecuniary loss to the dependents of the deceased victim, and

d. any other pecuniary loss resulting from the personal injury or death of the victim which the board determines to be reasonable.

6. Section 18 of P.L.1971, c.317 (C.52:4B-18) is amended to read as follows:

C.52:4B-18 Compensation for criminal injuries.

18. No order for the payment of compensation shall be made under section 10 of P.L.1971, c.317 (C.52:4B-10) unless the application has been made within two years after the date of the personal injury or death or after that date upon determination by the board that good cause exists for the delayed filing, and the personal injury or death was the result of an offense listed in section 11 of P.L.1971, c.317 (C.52:4B-11) which had been reported to the police or other appropriate law enforcement agency within

three months after its occurrence or reasonable discovery. The board will make its determination regarding the application within six months of acknowledgment by the board of receipt of the completed application and any and all necessary supplemental information.

In determining the amount of an award, the board shall determine whether, because of his conduct, the victim of such crime contributed to the infliction of his injury, and the board shall reduce the amount of the award or reject the application altogether, in accordance with such determination; provided, however, that the board shall not consider any conduct of the victim contributory toward his injury, if the record indicates such conduct occurred during efforts by the victim to prevent a crime or apprehend a person who had committed a crime in his presence or had in fact committed a crime.

The board may deny or reduce an award where the victim has not paid in full any payments owed on assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution ordered following conviction for a crime.

No compensation shall be awarded if:

a. Compensation to the victim proves to be substantial unjust enrichment to the offender or if the victim did not cooperate with the reasonable requests of law enforcement authorities unless the victim demonstrates a compelling health or safety reason for not cooperating; or

b. (Deleted by amendment, P.L.1990, c.64).

c. The victim was guilty of a violation of subtitle 10 or 12 of Title 2A or subtitle 2 of Title 2C of the New Jersey Statutes, which caused or contributed to his injuries; or

d. The victim was injured as a result of the operation of a motor vehicle, except as provided in subsection c. or d. of section 11 of P.L.1971, c.317 (C.52:4B-11), boat or airplane unless the same was used as a weapon in a deliberate attempt to run the victim down; or

e. The victim suffered personal injury or death while an occupant of a motor vehicle or vessel where the victim knew or reasonably should have known that the driver was operating the vehicle or vessel in violation of R.S.39:4-50, section 5 of P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236 (C.12:7-34.19), section 3 of P.L.1952, c.157 (C.12:7-46), subparagraph (b) of paragraph (2) of subsection b. of N.J.S.2C:20-2, subsection b. of N.J.S.2C:29-2 or subsection b., c. or d. of N.J.S.2C:20-10; or

f. The victim has been convicted of a crime and is still incarcerated; or

g. The victim sustained the injury during the period of incarceration immediately following conviction for a crime.

No compensation shall be awarded under this act in an amount in excess of $25,000.00, and all payments shall be made in a lump sum, except that in the case of death or protracted disability the award may provide for periodic payments to compensate for loss of earnings or support. Five years after the entry of an initial determination order, a claim for compensation expires and no further order is to be entered with regard to the claim except for requests for payment of specific out-of-pocket expenses received by the Victims of Crime Compensation Board prior to the expiration of the five-year period. No award made pursuant to this act shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis of the claim.

7. Section 23 of P.L.1982, c.77 (C.2A:4A-42) is amended to read as follows:

C.2A:4A-42 Predispositional evaluation.

23. Predispositional evaluation. a. Before making a disposition, the court may refer the juvenile to an appropriate individual, agency or institution for examination and evaluation.

b. In arriving at a disposition, the court may also consult with such individuals and agencies as may be appropriate to the juvenile's situation, including the county probation department, the Division of Youth and Family Services, school personnel, clergy, law enforcement authorities, family members and other interested and knowledgeable parties. In so doing, the court may convene a predispositional conference to discuss and recommend disposition.

c. The predisposition report ordered pursuant to the Rules of Court may include a statement by the victim of the offense for which the juvenile has been adjudicated delinquent or by the nearest relative of a homicide victim. The statement may include the nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim, the extent of any loss to include loss of earnings or ability to work suffered by the victim and the effect of the crime upon the victim's family. The probation department shall notify the victim or nearest relative of a homicide victim of his right to make a statement for inclusion in the predisposition report if the victim or relative so desires. Any statement shall be made within 20 days of notification by the probation department. The report shall further include

information on the financial resources of the juvenile. This information shall be made available on request to the Victims of Crime Compensation Board established pursuant to section 3 of P.L.1971, c.317 (C.52:4B-3) or to any officer authorized under section 3 of P.L.1979, c.396 (C.2C:46-4) to collect payment of an assessment, restitution or fine.

8. Section 1 of P.L.1982, c.77 (C.2A:4A-60) is amended to read as follows:

C.2A:4A-60 Disclosure of juvenile information; penalties for disclosure.

1. Disclosure of juvenile information; penalties for disclosure.

a. Social, medical, psychological, legal and other records of the court and probation department, and records of law enforcement agencies, pertaining to juveniles charged as a delinquent or found to be part of a juvenile-family crisis, shall be strictly safeguarded from public inspection. Such records shall be made available only to:

(1) Any court or probation department;

(2) The Attorney General or county prosecutor;

(3) The parents or guardian and to the attorney of the juvenile;

(4) The Division of Youth and Family Services, if providing care or custody of the juvenile;

(5) Any institution to which the juvenile is currently committed; and

(6) Any person or agency interested in a case or in the work of the agency keeping the records, by order of the court for good cause shown, except that information concerning adjudications of delinquency, records of custodial confinement, payments owed on assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution ordered following conviction of a crime or adjudication of delinquency, and the juvenile's financial resources, shall be made available upon request to the Victims of Crime Compensation Board established pursuant to section 3 of P.L.1971, c.317 (C.52:4B-3), which shall keep such information and records confidential.

b. Records of law enforcement agencies may be disclosed for law enforcement purposes to any law enforcement agency of this State, another state or the United States, and the identity of a juvenile under warrant for arrest for commission of an act that would constitute a crime if committed by an adult may be disclosed to the public when necessary to execution of the warrant.

c. At the time of charge, adjudication or disposition, information as to the identity of a juvenile charged with an offense, the

offense charged, the adjudication and disposition shall, upon request, be disclosed to:

(1) The victim or a member of the victim's immediate family;

(2) Any law enforcement agency which investigated the offense, the person or agency which filed the complaint, and any law enforcement agency in the municipality where the juvenile resides; and

(3) On a confidential basis, the principal of the school where the juvenile is enrolled for use by the principal and such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or to planning programs relevant to the juvenile's educational and social development, provided that no record of such information shall be maintained except as authorized by regulation of the Department of Education; or;

(4) A party in a subsequent legal proceeding involving the juvenile, upon approval by the court.

d. A law enforcement or prosecuting agency shall, at the time of a charge, adjudication or disposition, advise the principal of the school where the juvenile is enrolled of the identity of the juvenile charged, the offense charged, the adjudication and the disposition if:

(1) The offense occurred on school property or a school bus, occurred at a school-sponsored function or was committed against an employee or official of the school; or

(2) The juvenile was taken into custody as a result of information or evidence provided by school officials; or

(3) The offense, if committed by an adult, would constitute a crime, and the offense:

(a) resulted in death or serious bodily injury or involved an attempt or conspiracy to cause death or serious bodily injury; or

(b) involved the unlawful use or possession of a firearm or other weapon; or

(c) involved the unlawful manufacture, distribution or possession with intent to distribute a controlled dangerous substance or controlled substance analog; or

(d) was committed by a juvenile who acted with a purpose to intimidate an individual or group of individuals because of race, color, religion, sexual orientation or ethnicity; or

(e) would be a crime of the first or second degree.

Information provided to the principal pursuant to this subsection shall be treated as confidential but may be made available to such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline

in the school or for planning programs relevant to a juvenile's educational and social development, and no record of such information shall be maintained except as authorized by regulation of the Department of Education.

e. Nothing in this section prohibits a law enforcement or prosecuting agency from providing the principal of a school with information identifying one or more juveniles who are under investigation or have been taken into custody for commission of any act that would constitute an offense if committed by an adult when the law enforcement or prosecuting agency determines that the information may be useful to the principal in maintaining order, safety or discipline in the school or in planning programs relevant to the juvenile's educational and social development. Information provided to the principal pursuant to this subsection shall be treated as confidential but may be made available to such members of the staff and faculty of the school as the principal deems appropriate for maintaining order, safety or discipline in the school or for planning programs relevant to the juvenile's educational and social development. No information provided pursuant to this section shall be maintained.

f. Information as to the identity of a juvenile adjudicated delinquent, the offense, the adjudication and the disposition shall be disclosed to the public where the offense for which the juvenile has been adjudicated delinquent if committed by an adult, would constitute a crime of the first, second or third degree, or aggravated assault, destruction or damage to property to an extent of more than $500.00, unless upon application at the time of disposition the juvenile demonstrates a substantial likelihood that specific and extraordinary harm would result from such disclosure in the specific case. Where the court finds that disclosure would be harmful to the juvenile, the reasons therefor shall be stated on the record.

g. Nothing in this section shall prohibit the establishment and maintaining of a central registry of the records of law enforcement agencies relating to juveniles for the purpose of exchange between State or local law enforcement agencies of this State, another state, or the United States.

h. Whoever, except as provided by law, knowingly discloses, publishes, receives, or makes use of or knowingly permits the unauthorized use of information concerning a particular juvenile derived from records listed in subsection a. or acquired in the course of court proceedings, probation, or police duties, shall, upon conviction thereof, be guilty of a disorderly persons offense.

i. The court may, upon application by the juvenile or his parent or guardian, the prosecutor or any other interested party, including the victim or complainant or members of the news media, permit public attendance during any court proceeding at a delinquency case, where it determines that a substantial likelihood that specific harm to the juvenile would not result and the court shall permit a victim, or a family member of a victim to make a statement prior to ordering a disposition in any delinquency proceeding involving an offense that would constitute a crime if committed by an adult. The court shall have the authority to limit and control the attendance in any manner and to the extent it deems appropriate.

j. The Department of Education, in consultation with the Attorney General, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations concerning the creation, maintenance and disclosure of pupil records including information acquired pursuant to this section.

9. Section 1 of P.L.1977, c.102 (C.9:6-8.10a) is amended to read as follows:

C.9:6-8.10a Records of child abuse reports; confidentiality; disclosure.

1. a. All records of child abuse reports made pursuant to section 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained by the Division of Youth and Family Services in investigating such reports including reports received pursuant to section 20 of P.L.1974, c.119 (C.9:6-8.40), and all reports of findings forwarded to the central registry pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11) shall be kept confidential and may be disclosed only under the circumstances expressly authorized under subsection b. herein.

b. The division may release the records and reports referred to in subsection a., or parts thereof, to:

(1) A public or private child protective agency authorized to investigate a report of child abuse or neglect;

(2) A police or other law enforcement agency investigating a report of child abuse or neglect;

(3) A physician who has before him a child whom he reasonably suspects may be abused or neglected;

(4) A physician, a hospital director or his designate, a police officer or other person authorized to place a child in protective custody when such person has before him a child whom he reasonably suspects may be abused or neglected and requires the information in order to determine whether to place the child in protective custody;

(5) An agency authorized to care for, treat, or supervise a child who is the subject of a child abuse report, or a parent, guardian or other person who is responsible for the child's welfare, or both, when the information is needed in connection with the provision of care, treatment, or supervision to such child or such parent, guardian or other person;

(6) A court, upon its finding that access to such records may be necessary for determination of an issue before the court, and such records may be disclosed by the court in whole or in part to the law guardian, attorney or other appropriate person upon a finding that such further disclosure is necessary for determination of an issue before the court;

(7) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(8) Any appropriate State legislative committee acting in the course of its official functions, provided, however, that no names or other information identifying persons named in the report shall be made available to the legislative committee unless it is absolutely essential to the legislative purpose;

(9) Any person engaged in a bona fide research purpose, provided, however, that no names or other information identifying persons named in the report shall be made available to the researcher unless it is absolutely essential to the research purpose and provided further that the approval of the director of the Division of Youth and Family Services shall first have been obtained;

(10) A family day care sponsoring organization for the purpose of providing information on child abuse or neglect allegations involving prospective or current providers or household members pursuant to P.L.1993, c.350 (C.30:5B-25.1 et al.) and as necessary, for use in administrative appeals related to information obtained through a central registry search;

(11) The Victims of Crime Compensation Board, for the purpose of providing services available pursuant to the "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.) to a child victim who is the subject of such report.

Any individual, agency, board, court, grand jury or legislative committee which receives from the division the records and reports referred to in subsection a., shall keep such records and reports, or parts thereof, confidential.

10. N.J.S.22A:2-7 is amended to read as follows:

Law division of Superior Court; other fees; use.

22A:2-7. a. Upon the filing, entering, docketing or recording of the following papers, documents or proceedings by either party to any action or proceeding in the Law Division of the Superior Court, the party or parties filing, entering, docketing or recording the same shall pay to the clerk of said court the following fees:

Filing of the first paper in any motion, petition or application, if not in a pending action or proceeding under section 22A:2-6 of this Title, or if made after dismissal or judgment entered other than withdrawal of money deposited in court, the moving party shall pay $15.00 which shall cover all fees payable on such motion, petition or application down to and including filing and entering of order therein and taxation of costs.

For withdrawal of money deposited in court where the sum to be withdrawn is less than $100.00, no fee; where the sum is $100.00 or more but less than $1,000.00, a fee of $5.00; where such sum is $1,000.00 or more, a fee of $10.00.

Entering judgment on bond and warrant by attorney and issuance of one final process, $15.00 in lieu of the fee required by section 22A:2-6 of this Title.

Recording of judgment in the civil judgment and order docket, $25.00 shall be paid to the clerk for use by the State, except as provided in subsection b. of this section.

Docketing judgments or orders from other courts or divisions except from the Special Civil Part, including Chancery Division judgments, $25.00 shall be paid to the clerk for use by the State, except as provided in subsection b. of this section and except that no fee shall be paid by any municipal court to docket a judgment of conviction and amount of assessment, restitution, fine, penalty or fee pursuant to subsection a. of N.J.S.2C:46-1.

Docketing judgments or orders from the Special Civil Part, $5.00 shall be paid to the clerk for use by the State, except as provided in subsection b. of this section.

Satisfaction of judgment or other lien, $25.00.

Recording assignment of judgment or release, $5.00.

Issuing of executions and recording same, except as otherwise provided in this article, $5.00.

Recording of instruments not otherwise provided for in this article, $5.00.

Filing and entering recognizance of civil bail, $5.00.

Signing and issuing subpoena, $5.00.

b. Moneys collected under the provisions of subsection a. of this section for the recording and docketing of judgments and satisfactions of judgments or other liens shall be deposited in the temporary reserve fund created by section 25 of P.L.1993, c.275. After December 31, 1994, the moneys collected under the provisions of subsection a. shall be for use by the State.

C.52:4B-5.1 Access to criminal records.

11. The Victims of Crime Compensation Board is authorized to obtain direct access to criminal history records maintained by the State Bureau of Identification in the Division of the State Police and is hereby designated a criminal justice agency for that purpose.

C.52:4B-3.1 Board designation changed.

12. The Violent Crimes Compensation Board shall hereinafter be known and referred to as the Victims of Crime Compensation Board. All the functions, powers and duties of the Violent Crimes Compensation Board are continued in the Victims of Crime Compensation Board. Whenever in any law, rule, regulation, judicial or administrative proceeding or otherwise, reference is made to the Violent Crimes Compensation Board, the same shall mean and refer to the Victims of Crime Compensation Board.

13. This act shall take effect immediately but shall apply only to offenses which were committed on or after the effective date and to claims arising from offenses which were committed on or after the effective date.

Approved June 26, 1995.

CHAPTER 136

AN ACT concerning the payment by local government employers of health care premiums after the retirement of certain local employees and amending N.J.S.40A:10-23.

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

1. N.J.S.40A:10-23 is amended to read as follows:

Payments of premiums after retirement.

40A:10-23. Retired employees shall be required to pay for the entire cost of coverage for themselves and their dependents at

rates which are deemed to be adequate to cover the benefits, as affected by Medicare, of the retired employees and their dependents on the basis of the utilization of services which may be reasonably expected of the older age classification; provided, however, that the total rate payable by a retired employee for himself and his dependents, for coverage under the contract and for Part B of Medicare, shall not exceed by more than 25% the total amount that would have been required to have been paid by the employee and his employer for the coverage maintained had he continued in office or active employment and he and his dependents were not eligible for Medicare benefits.

The employer may, in its discretion, assume the entire cost of such coverage and pay all of the premiums for employees a. who have retired on a disability pension, or b. who have retired after 25 years or more of service credit in a State or locally administered retirement system and a period of service of up to 25 years with the employer at the time of retirement, such period of service to be determined by the employer and set forth in an ordinance or resolution as appropriate, or c. who have retired and reached the age of 65 years or older with 25 years or more of service credit in a State or locally administered retirement system and a period of service of up to 25 years with the employer at the time of retirement, such period of service to be determined by the employer and set forth in an ordinance or resolution as appropriate, or d. who have retired and reached the age of 62 years or older with at least 15 years of service with the employer, including the premiums on their dependents, if any, under uniform conditions as the governing body of the local unit shall prescribe. The period of time a county law enforcement officer has been employed by any county or municipal police department, sheriff's department or county prosecutor's office, may be counted cumulatively as "service with the employer" for the purpose of qualifying for payment of health insurance premiums by the county pursuant to this section.

2. This act shall take effect immediately.

Approved June 26, 1995.

CHAPTER 137

AN ACT to provide financial assistance for the development and commercialization of emerging technology companies and the biotechnology industry in the State and supplementing chapter 1B of Title 34 of the Revised Statutes.

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

C.34:1B-7.37 Short title.

1. This act shall be known and may be cited as the "New Jersey Emerging Technology and Biotechnology Financial Assistance Act."

C.34:1B-7.38 Findings, declarations.

2. The Legislature finds and declares that:

a. Biotechnology is an emerging technology that holds great promise for designing living organisms that can be used for the treatment of diseases, and improvements to plants and animals, and to otherwise provide for exceptional advances for the betterment of living things;

b. The development and support of biotechnology is especially important in light of the long-established pharmaceutical industry in the State, the many related university research programs on biotechnology, and the sizable investment, to date, of State funds in academic "centers of excellence," and is also vital to the fulfillment of certain responsibilities of the New Jersey Commission on Science and Technology;

c. In order for society to appreciate the anticipated potential rewards from emerging technology and biotechnology research, private industry must have access to sufficient financial resources to conduct research and transfer research discoveries into viable, commercial products;

d. As an emerging technology, biotechnology, the biotechnology industry, and the industry's required concomitant facilities face significant obstacles in obtaining financial assistance because of the perceived risk of investing in such new ventures;

e. Because of the substantial employment opportunities that could be created by successful emerging technology and biotechnology industries and the resulting importance of such industries to the State's economic base, the State can best stimulate and encourage private investment in emerging technology and biotechnology by directing the New Jersey Economic Development Authority to provide financial assistance to emerging technology and biotechnology companies located in the State;

f. In considering how to best allocate its resources pursuant to this act, the authority should give due consideration to further supporting emerging technology or biotechnology joint ventures by providing economic development funds and assistance to help stimulate growth in disadvantaged urban areas of the State, where public-private partnerships have already been formed, or will be formed, to promote emerging technology and biotechnology research and product development initiatives.

C.34:1B-7.39 Definitions relative to emerging technology, biotechnology.

3. As used in this act:

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4);

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and sub-atomic levels, as well as novel products, services, technologies and sub-technologies developed as a result of insights gained from research advances which add to that body of fundamental knowledge;

"Biotechnology company" means a person, whose headquarters or base of operations is located in New Jersey, 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, whose headquarters or base of operations is located in New Jersey, engaged in providing services or products necessary for such research, development, production, or provision;

"Cost" means the expenses incurred in connection with the operation of an emerging technology or biotechnology company in the State and shall include, but need not be limited to, the expenses of fixed assets, such as the construction, acquisition and development of real estate, materials, start-up, tenant fit-out, working capital, and any other expenses determined by the authority to be necessary to carry out the purposes of this act;

"Emerging technology company" means a person, whose headquarters or base of operations is located in New Jersey, and who employs some combination of the following: highly educated or trained managers and workers, or both, employed in New Jersey who use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service;

"Financial institution" means an individual or organization deemed eligible by the authority for participation in the program and shall include, but need not be limited to, State-chartered or federally-chartered banks, savings banks or savings and loan associations, banks organized under the laws of a foreign government, private individuals, insurance companies, landlords, finance companies and venture capitalists;

"Fixed assets" means any real property, interests in real property, plant, equipment, and any other assets commonly accepted as fixed assets;

"Program" means the "New Jersey Emerging Technology and Biotechnology Financial Assistance Program" established by the authority pursuant to section 4 of this act; and

"Working capital" means those liquid capital assets other than fixed assets.

C.34:1B-7.40 "New Jersey Emerging Technology and Biotechnology Financial Assistance Program" established.

4. The authority shall establish a "New Jersey Emerging Technology and Biotechnology Financial Assistance Program" to stimulate increased financing to help fund the costs incurred by new or expanding emerging technology and biotechnology companies in the State.

C.34:1B-7.41 "New Jersey Emerging Technology and Biotechnology Financial Assistance Fund."

5. a. To implement the program, the authority shall establish and maintain a special account to be known as the "New Jersey Emerging Technology and Biotechnology Financial Assistance Fund," hereinafter the "assistance fund," which shall be credited with: (1) an amount from the Economic Recovery Fund established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12) which the authority determines is necessary to effectively implement the program, within the limits of funding available from the Economic Recovery Fund; (2) any moneys that shall be received by the authority from the repayment of the moneys in the assistance fund used to provide financial assistance pursuant to this act and interest thereon; (3) other moneys of the authority, including but not limited to, any moneys available from other business assistance programs administered by the authority which it determines to deposit therein; and (4) any appropriation made by the Legislature to effectuate the purposes of this act.

b. The authority shall use the moneys in the assistance fund to: (1) provide or participate in the provision of financial assistance to emerging technology or biotechnology companies deemed approved pursuant to section 6 of this act, which assistance may include, but need not be limited to, loan guarantees and assistance in establishing lines of credit, real estate development assistance, and technical advice on locating private and public sources of funding; and (2) defray the administrative expenses of the authority in carrying out the purposes and provisions of this act.

c. The maximum amount and term of a loan, line of credit or other form of financial assistance made pursuant to this act shall be determined by the authority.

d. Moneys in the assistance fund may be invested in such obligations as the authority may approve and net earnings received from the investment or deposit of moneys in the assistance fund by the authority shall be redeposited in the assistance fund for use for the purposes of this act.

e. The authority shall establish sufficient reserves and liquid reserves to provide a sufficient and actuarially sound basis for its pledges contained in any financial assistance agreement entered into pursuant to this act.

f. The authority is authorized to disburse moneys in the assistance fund for purposes unrelated to this act if, for a period of at least three years, no moneys are disbursed from the assistance fund for the purposes set forth pursuant to this act.

C.34:1B-7.42 Applications for money from fund; criteria; agreements.

6. a. Applications for money from the assistance fund established under this act shall be submitted by emerging technology or biotechnology companies in a form and manner determined by the authority. The authority shall approve or disapprove applications pursuant to the criteria developed pursuant to subsection c. of this section, and may employ any institution of higher education in this State in the approval process.

b. The authority shall enter into written agreements with emerging technology or biotechnology companies approved for financial assistance pursuant to this act, and, as appropriate, with financial institutions concerning the type, amount and terms of the financial assistance provided.

c. The authority shall, in consultation with the Department of Commerce and Economic Development, 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 submitted pursuant to subsection a. of this section. Such criteria shall include, but need not be limited to, an evaluation of the emerging technology or biotechnology company's actual or potential scientific and technological viability, a determination that the 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 that the emerging technology or biotechnology company has been unable to secure financial assistance on affordable terms from conventional sources, a determination that the financial assistance provided pursuant to this act demonstrates the prospect of a high rate of return on investment, and the extent to which the applicant's proposed or expanded activities will enhance or diversify the State's capacity and competitiveness in the field of emerging technology or biotechnology.

d. The Department of Commerce and Economic Development and the authority may promote economic development in disadvantaged urban areas of the State, where emerging technology or biotechnology joint ventures have been or will be established.

C.34:1B-7.43 Report.

7. Not later than one year following the effective date of this act, and for each succeeding year in which a financial assistance agreement entered into under this act is in effect, the authority shall prepare a report on the program. The report shall include, but need not be limited to, a description of the demand for the program from emerging technology and biotechnology companies and financial institutions, the efforts made by the authority to promote the program, the total amount of financial assistance approved by the authority pursuant to the program and an assessment of the effectiveness of the program in meeting the goals of this act. The authority shall submit its report to the Governor and the Legislature, including therein any recommendations for legislation to improve the effectiveness of the program.

C.34:1B-7.44 Rules, regulations.

8. The authority shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to effectuate the purposes of this act. In developing procedures and forms to be used in connection with the application for and approval of financial assistance pursuant to this act, the authority shall consider the special needs and problems of emerging technology and biotechnology companies in the State.

9. This act shall take effect immediately.

Approved June 28, 1995.

CHAPTER 138

AN ACT concerning certain health insurance benefits following the birth of a child and supplementing P.L.1938, c.366 (C.17:48-1 et seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985, c.236 (C.17:48E-1 et seq.), Chapters 26, 27 and 27A of Title 17B of the New Jersey Statutes and P.L.1973, c.337 (C.26:2J-1 et seq.).

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

C.17:48-6l Coverage for birth and natal care; hospital service corporation.

1. a. Every individual or group contract that provides maternity benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1938, c.366 (C.17:48-1 et seq.) or approved for issuance or renewal in this State by the Commissioner of Insurance on or after the effective date of this act shall provide coverage for a minimum of 48 hours of in-patient care following a vaginal delivery and a minimum of 96 hours of in-patient care following a cesarean section for a mother and her newly born child in a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). The provisions of this section shall apply to all contracts in which the hospital service corporation has reserved the right to change the premium.

b. Notwithstanding the provisions of subsection a. of this section, a hospital service corporation contract that provides coverage for post-delivery care to a mother and her newly born child in the home shall not be required to provide for a minimum of 48 hours and 96 hours, respectively, of in-patient care unless such in-patient care is determined to be medically necessary by the attending physician or is requested by the mother. For the purposes of this section, attending physician shall include the attending obstetrician, pediatrician or other physician attending the mother or newly born child.

c. Every hospital service corporation shall provide notice to policyholders regarding the coverage required by this section in accordance with this subsection and regulations promulgated by the Commissioner of Health pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The notice shall be in writing and prominently positioned in any literature or correspondence and shall be transmitted at the earliest of: (1) the next mailing to the policyholder; (2) the yearly informational packet sent to the policyholder; or (3) January 1, 1996.

C.17:48A-7k Coverage for birth and natal care; medical service corporation.

2. a. Every individual or group contract that provides maternity benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1940, c.74 (C.17:48A-1 et seq.) or approved for issuance or renewal in this State by the Commissioner of Insurance on or after the effective date of this act shall provide coverage for a minimum of 48 hours of in-patient care following a vaginal delivery and a minimum of 96 hours of in-patient care following a cesarean section for a mother and her newly born child in a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). The provisions of this section shall apply to all contracts in which the medical service corporation has reserved the right to change the premium.

b. Notwithstanding the provisions of subsection a. of this section, a medical service corporation contract that provides coverage for post-delivery care to a mother and her newly born child in the home shall not be required to provide for a minimum of 48 hours and 96 hours, respectively, of in-patient care unless such in-patient care is determined to be medically necessary by the attending physician or is requested by the mother. For the purposes of this section, attending physician shall include the attending obstetrician, pediatrician or other physician attending the mother or newly born child.

c. Every medical service corporation shall provide notice to policyholders regarding the coverage required by this section in accordance with this subsection and regulations promulgated by the Commissioner of Health pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The notice shall be in writing and prominently positioned in any literature or correspondence and shall be transmitted at the earliest of: (1) the next mailing to the policyholder; (2) the yearly informational packet sent to the policyholder; or (3) January 1, 1996.

C.17:48E-35.9 Coverage for birth and natal care; health service corporation.

3. a. Every individual or group contract that provides maternity benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.) or approved for issuance or renewal in this State by the Commissioner of Insurance on or after the effective date of this act shall provide coverage for a minimum of 48 hours of in-patient care following a vaginal delivery and a minimum of 96 hours of in-patient care following a cesarean section for a mother and her

newly born child in a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). The provisions of this section shall apply to all contracts in which the health service corporation has reserved the right to change the premium.

b. Notwithstanding the provisions of subsection a. of this section, a health service corporation contract that provides coverage for post-delivery care to a mother and her newly born child in the home shall not be required to provide for a minimum of 48 hours and 96 hours, respectively, of in-patient care unless such in-patient care is determined to be medically necessary by the attending physician or is requested by the mother. For the purposes of this section, attending physician shall include the attending obstetrician, pediatrician or other physician attending the mother or newly born child.

c. Every health service corporation shall provide notice to policyholders regarding the coverage required by this section in accordance with this subsection and regulations promulgated by the Commissioner of Health pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The notice shall be in writing and prominently positioned in any literature or correspondence and shall be transmitted at the earliest of: (1) the next mailing to the policyholder; (2) the yearly informational packet sent to the policyholder; or (3) January 1, 1996.

C.17B:26-2.1k Coverage for birth and natal care; health insurance policy.

4. a. Every policy that provides maternity benefits and is delivered, issued, executed or renewed in this State pursuant to N.J.S.17B:26-1 et seq., or approved for issuance or renewal in this State by the Commissioner of Insurance on or after the effective date of this act shall provide coverage for a minimum of 48 hours of in-patient care following a vaginal delivery and a minimum of 96 hours of in-patient care following a cesarean section for a mother and her newly born child in a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). The provisions of this section shall apply to all policies in which the insurer has reserved the right to change the premium.

b. Notwithstanding the provisions of subsection a. of this section, a policy that provides coverage for post-delivery care to a mother and her newly born child in the home shall not be required to provide for a minimum of 48 hours and 96 hours, respectively, of in-patient care unless such in-patient care is determined to be medically necessary by the attending physician or is requested by

the mother. For the purposes of this section, attending physician shall include the attending obstetrician, pediatrician or other physician attending the mother or newly born child.

c. Every insurer shall provide notice to policyholders regarding the coverage required by this section in accordance with this subsection and regulations promulgated by the Commissioner of Health pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The notice shall be in writing and prominently positioned in any literature or correspondence and shall be transmitted at the earliest of: (1) the next mailing to the policyholder; (2) the yearly informational packet sent to the policyholder; or (3) January 1, 1996.

C.17B:27A-7.1 Coverage for birth and natal care; individual health policy.

5. a. Every policy that provides maternity benefits and 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 by the Commissioner of Insurance on or after the effective date of this act shall provide benefits for a minimum of 48 hours of in-patient care following a vaginal delivery and a minimum of 96 hours of in-patient care following a cesarean section for a mother and her newly born child in a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). The provisions of this section shall apply to all policies in which the insurer has reserved the right to change the premium.

b. Notwithstanding the provisions of subsection a. of this section, a policy that provides coverage for post-delivery care to a mother and her newly born child in the home shall not be required to provide for a minimum of 48 hours and 96 hours, respectively, of in-patient care unless such in-patient care is determined to be medically necessary by the attending physician or is requested by the mother. For the purposes of this section, attending physician shall include the attending obstetrician, pediatrician or other physician attending the mother or newly born child.

c. Every insurer shall provide notice to policyholders regarding the coverage required by this section in accordance with this subsection and regulations promulgated by the Commissioner of Health pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The notice shall be in writing and prominently positioned in any literature or correspondence and shall be transmitted at the earliest of: (1) the next mailing to the policyholder; (2) the yearly informational packet sent to the policyholder; or (3) January 1, 1996.

C.17B:27A-19.2 Coverage for birth and natal care; small employer health policy.

6. a. Every policy that provides maternity benefits and 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 by the Commissioner of Insurance on or after the effective date of this act shall provide benefits for a minimum of 48 hours of in-patient care following a vaginal delivery and a minimum of 96 hours of in-patient care following a cesarean section for a mother and her newly born child in a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). The provisions of this section shall apply to all policies in which the insurer has reserved the right to change the premium.

b. Notwithstanding the provisions of subsection a. of this section, a policy that provides coverage for post-delivery care to a mother and her newly born child in the home shall not be required to provide for a minimum of 48 hours and 96 hours, respectively, of in-patient care unless such in-patient care is determined to be medically necessary by the attending physician or is requested by the mother. For the purposes of this section, attending physician shall include the attending obstetrician, pediatrician or other physician attending the mother or newly born child.

c. Every insurer shall provide notice to policyholders regarding the coverage required by this section in accordance with this subsection and regulations promulgated by the Commissioner of Health pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The notice shall be in writing and prominently positioned in any literature or correspondence and shall be transmitted at the earliest of: (1) the next mailing to the policyholder; (2) the yearly informational packet sent to the policyholder; or (3) January 1, 1996.

C.17B:27-46.1k Coverage for birth and natal care; group insurance policy.

7. a. Every policy that provides maternity benefits and is delivered, issued, executed or renewed in this State pursuant to N.J.S.17B:27-26 et seq., or approved for issuance or renewal in this State by the Commissioner of Insurance on or after the effective date of this act shall provide benefits for a minimum of 48 hours of in-patient care following a vaginal delivery and a minimum of 96 hours of in-patient care following a cesarean section for a mother and her newly born child in a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). The provisions of this section shall apply to all policies in which the insurer has reserved the right to change the premium.

b. Notwithstanding the provisions of subsection a. of this section, a policy that provides coverage for post-delivery care to a mother and her newly born child in the home shall not be required to provide for a minimum of 48 hours and 96 hours, respectively, of in-patient care unless such in-patient care is determined to be medically necessary by the attending physician or is requested by the mother. For the purposes of this section, attending physician shall include the attending obstetrician, pediatrician or other physician attending the mother or newly born child.

c. Every insurer shall provide notice to policyholders regarding the coverage required by this section in accordance with this subsection and regulations promulgated by the Commissioner of Health pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The notice shall be in writing and prominently positioned in any literature or correspondence and shall be transmitted at the earliest of: (1) the next mailing to the policyholder; (2) the yearly informational packet sent to the policyholder; or (3) January 1, 1996.

C.26:2J-4.9 Coverage for birth and natal care; HMO.

8. a. Every enrollee agreement that provides maternity benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.) or approved for issuance or renewal in this State by the Commissioner of Insurance on or after the effective date of this act shall provide health care services for a minimum of 48 hours of in-patient care following a vaginal delivery and a minimum of 96 hours of in-patient care following a cesarean section for a mother and her newly born child in a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). The provisions of this section shall apply to enrollee agreements in which the health maintenance organization has reserved the right to change the schedule of charges.

b. Notwithstanding the provisions of subsection a. of this section, an enrollee agreement that provides health care services for post-delivery care to a mother and her newly born child in the home shall not be required to provide for a minimum of 48 hours and 96 hours, respectively, of in-patient care unless such in-patient care is determined to be medically necessary by the attending physician or is requested by the mother. For the purposes of this section, attending physician shall include the attending obstetrician, pediatrician or other physician attending the mother or newly born child.

c. Every health maintenance organization shall provide notice to enrollees regarding the coverage required by this section in accordance with this subsection and regulations promulgated by the Commissioner of Health pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The notice shall be in writing and prominently positioned in any literature or correspondence and shall be transmitted at the earliest of: (1) the next mailing to the enrollee; (2) the yearly informational packet sent to the enrollee; or (3) January 1, 1996.

9. Within 18 months of the effective date of this act, the Commissioners of Health and Insurance shall report back to the Governor and the Legislature on the implementation of the requirements of this act.

10. This act shall take effect immediately.

Approved June 28, 1995.

CHAPTER 139

AN ACT concerning tort reform and the negligence or malpractice of certain licensed persons and supplementing Title 2A of the New Jersey Statutes.

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

C.2A:53A-26 "Licensed person" defined.

1. As used in this act, "licensed person" means any person who is licensed as:

a. an accountant pursuant to P.L.1977, c.144 (C.45:2B-1 et seq.);

b. an architect pursuant to R.S.45:3-1 et seq.;

c. an attorney admitted to practice law in New Jersey;

d. a dentist pursuant to R.S.45:6-1 et seq.;

e. an engineer pursuant to P.L.1938, c.342 (C.45:8-27 et seq.);

f. a physician in the practice of medicine or surgery pursuant to R.S.45:9-1 et seq;

g. a podiatrist pursuant to R.S.45:5-1 et seq.;

h. a chiropractor pursuant to P.L.1989, c.153 (C.45:9-41.17 et seq.);

i. a registered professional nurse pursuant to P.L.1947, c.262 (C.45:11-23 et seq.); and

j. a health care facility as defined in section 2 of P.L.1971, c.136 (C.26:2H-2).

C.2A:53A-27 Affidavit of lack of care in action for professional 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 licensed 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. 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-28 Affidavit not required; conditions.

3. An affidavit shall not be required pursuant to section 2 of this act if the plaintiff provides a sworn statement in lieu of the affidavit setting forth that: the defendant has failed to provide plaintiff with medical records or other records or information having a substantial bearing on preparation of the affidavit; a written request therefor along with, if necessary, a signed authorization by the plaintiff for release of the medical records or other records or information requested, has been made by certified mail or personal service; and at least 45 days have elapsed since the defendant received the request.

C.2A:53A-29 Noncompliance deemed failure to state cause of action.

4. If the plaintiff fails to provide an affidavit or a statement in lieu thereof, pursuant to section 2 or 3 of this act, it shall be deemed a failure to state a cause of action.

5. This act shall take effect immediately and shall apply to causes of action which occur on or after the effective date of this act.

Approved June 29, 1995.

CHAPTER 140

AN ACT concerning tort reform and joint and several liability and amending P.L.1973, c.146.

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

1. Section 2 of P.L.1973, c.146 (C.2A:15-5.2) is amended to read as follows:

C.2A:15-5.2 Findings of fact; percentage of fault; terms defined.

2. a. In all negligence actions and strict liability actions in which the question of liability is in dispute, including actions in which any person seeks to recover damages from a social host as defined in section 1 of P.L.1987, c.404 (C.2A:15-5.5) for negligence resulting in injury to the person or to real or personal property, the trier of fact shall make the following as findings of fact:

(1) The amount of damages which would be recoverable by the injured party regardless of any consideration of negligence or fault, that is, the full value of the injured party's damages.

(2) The extent, in the form of a percentage, of each party's negligence or fault. The percentage of negligence or fault of each party shall be based on 100% and the total of all percentages of negligence or fault of all the parties to a suit shall be 100%.

b. In an action in which a person seeks to recover damages from a social host for negligence resulting in injury to the person or to real or personal property, the negligence of any person in becoming intoxicated shall be considered by the trier of fact, and the trier of fact shall allocate a percentage of negligence to that person.

c. As used in this section:

(1) "Negligence actions" includes, but is not limited to, civil actions for damages based upon theories of negligence, products liability, professional malpractice whether couched in terms of contract or tort and like theories. In determining whether a case falls within

the term "negligence actions," the court shall look to the substance of the action and not the conclusory terms used by the parties.

(2) "Strict liability actions" includes, but is not limited to, civil actions for damages based upon theories of strict liability, products liability, breach of warranty and like theories. In determining whether a case falls within the term "strict liability actions," the court shall look to the substance of the action and not the conclusory terms used by the parties.

d. The judge shall mold the judgment from the findings of fact made by the trier of fact.

2. Section 3 of P.L.1973, c.146 (C.2A:15-5.3) is amended to read as follows:

C.2A:15-5.3 Recovery of damages; apportionment among responsible parties.

3. Except as provided in subsection d. of this section, the party so recovering may recover as follows:

a. The full amount of the damages from any party determined by the trier of fact to be 60% or more responsible for the total damages.

b. (Deleted by amendment, P.L.1995, c.140.)

c. Only that percentage of the damages directly attributable to that party's negligence or fault from any party determined by the trier of fact to be less than 60% responsible for the total damages.

d. With regard to environmental tort actions, the following provisions shall apply:

(1) the party so recovering may recover the full amount of the compensatory damage award from any party determined to be liable, except in cases where the extent of negligence or fault can be apportioned. Such apportionment shall be done in accordance with section 2 of P.L.1973, c.146 (C.2A:15-5.2);

(2) in those cases where it is possible to apportion negligence or fault, if the party so recovering is unable to recover the percentage of compensatory damages attributable to a non-settling insolvent party's negligence or fault, that amount of compensatory damages may be recovered from any non-settling party in proportion to the percentage of liability attributed to that party; and

(3) notwithstanding the provisions of any other provision of law to the contrary, if the percentage of liability or fault of any party is found to be five percent or less, upon acceptance of that determination by that party and payment thereof in full, that party shall not be liable for any further claims for contribution regarding that action.

e. Any party who is compelled to pay more than his percentage share may seek contribution from the other joint tortfeasors.

f. As used in this section, "environmental tort action" means a civil action seeking damages for personal injuries or death where the cause of the damages is the negligent manufacture, use, disposal, handling, storage or treatment of hazardous or toxic substances.

3. This act shall take effect immediately and shall apply to causes of action filed on or after the effective date of this act.

Approved June 29, 1995.

CHAPTER 141

AN ACT concerning tort reform and liability relative to the manufacture or sale of unreasonably unsafe products and supplementing Title 2A of the New Jersey Statutes.

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

C.2A:58C-8 Definitions relative to actions against product sellers.

1. As used in this act:

"Manufacturer" means (1) any person who designs, formulates, produces, creates, makes, packages, labels or constructs any product or component of a product; (2) a product seller with respect to a given product to the extent the product seller designs, formulates, produces, creates, makes, packages, labels or constructs the product before its sale; (3) any product seller not described in paragraph (2) which holds itself out as a manufacturer to the user of the product; or (4) a United States domestic sales subsidiary of a foreign manufacturer if the foreign manufacturer has a controlling interest in the domestic sales subsidiary.

"Product liability action" means any claim or action brought by a claimant for harm caused by a product, irrespective of the theory underlying the claim, except actions for harm caused by breach of an express warranty.

"Product seller" means any person who, in the course of a business conducted for that purpose: sells; distributes; leases; installs; prepares or assembles a manufacturer's product according to the

manufacturer's plan, intention, design, specifications or formulations; blends; packages; labels; markets; repairs; maintains or otherwise is involved in placing a product in the line of commerce. The term "product seller" does not include:

(1) A seller of real property; or

(2) A provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill or services; or

(3) Any person who acts in only a financial capacity with respect to the sale of a product.

C.2A:58C-9 Affidavit by seller identifying manufacturer; product seller liability.

2. a. In any product liability action against a product seller, the product seller may file an affidavit certifying the correct identity of the manufacturer of the product which allegedly caused the injury, death or damage.

b. Upon filing the affidavit pursuant to subsection a. of this section, the product seller shall be relieved of all strict liability claims, subject to the provisions set forth in subsection d. of this section. Due diligence shall be exercised in providing the plaintiff with the correct identity of the manufacturer or manufacturers.

c. The product seller shall be subject to strict liability if:

(1) The identity of the manufacturer given to the plaintiff by the product seller was incorrect. Once the correct identity of the manufacturer has been provided, the product seller shall again be relieved of all strict liability claims, subject to subsection d. of this section; or

(2) The manufacturer has no known agents, facility, or other presence within the United States; or

(3) The manufacturer has no attachable assets or has been adjudicated bankrupt and a judgment is not otherwise recoverable from the assets of the bankruptcy estate.

d. A product seller shall be liable if:

(1) The product seller has exercised some significant control over the design, manufacture, packaging or labeling of the product relative to the alleged defect in the product which caused the injury, death or damage; or

(2) The product seller knew or should have known of the defect in the product which caused the injury, death or damage or the plaintiff can affirmatively demonstrate that the product seller was in possession of facts from which a reasonable person would conclude that the product seller had or should have had knowledge of the alleged defect in the product which caused the injury, death or damage; or

(3) The product seller created the defect in the product which caused the injury, death or damage.

e. The commencement of a product liability action based in whole or in part on the doctrine of strict liability against a product seller shall toll the applicable statute of limitations with respect to manufacturers who have been identified pursuant to the provisions of subsection a. of this section.

3. This act shall take effect immediately and shall apply to causes of action which occur on or after the effective date of this act.

Approved June 29, 1995.

CHAPTER 142

AN ACT concerning tort reform and the awarding of punitive damages in civil actions, amending P.L.1987, c.197 and supplementing Title 2A of the New Jersey Statutes.

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

C.2A:15-5.9 Short title.

1. This act shall be known and may be cited as the "Punitive Damages Act."

C.2A:15-5.10 Definitions relative to punitive damages awards.

2. As used in this act:

"Actual malice" means an intentional wrongdoing in the sense of an evil-minded act.

"Clear and convincing evidence" means that standard of evidence which leaves no serious or substantial doubt about the correctness of the conclusions drawn from the evidence. It is a standard which requires more than a preponderance of evidence, but less than beyond a reasonable doubt, to draw a conclusion.

"Compensatory damages" means damages intended to make good the loss of an injured party, and no more. The term includes general and special damages and does not include nominal, exemplary or punitive damages.

"Defendant" means any party against whom punitive damages are sought.

"Nominal damages" are damages that are not designed to compensate a plaintiff and are less than $500.

"Plaintiff" means any party claiming punitive damages.

"Punitive damages" includes exemplary damages and means damages awarded against a party in a civil action because of aggravating circumstances in order to penalize and to provide additional deterrence against a defendant to discourage similar conduct in the future. Punitive damages do not include compensatory damages or nominal damages.

"Wanton and willful disregard" means a deliberate act or omission with knowledge of a high degree of probability of harm to another and reckless indifference to the consequences of such act or omission.

C.2A:15-5.11 Punitive damages requested in complaint.

3. An award of punitive damages must be specifically prayed for in the complaint.

C.2A:15-5.12 Award of punitive damages; determination.

4. a. Punitive damages may be awarded to the plaintiff only if the plaintiff proves, by clear and convincing evidence, that the harm suffered was the result of the defendant's acts or omissions, and such acts or omissions were actuated by actual malice or accompanied by a wanton and willful disregard of persons who foreseeably might be harmed by those acts or omissions. This burden of proof may not be satisfied by proof of any degree of negligence including gross negligence.

b. In determining whether punitive damages are to be awarded, the trier of fact shall consider all relevant evidence, including but not limited to, the following:

(1) The likelihood, at the relevant time, that serious harm would arise from the defendant's conduct;

(2) The defendant's awareness of reckless disregard of the likelihood that the serious harm at issue would arise from the defendant's conduct;

(3) The conduct of the defendant upon learning that its initial conduct would likely cause harm; and

(4) The duration of the conduct or any concealment of it by the defendant.

c. If the trier of fact determines that punitive damages should be awarded, the trier of fact shall then determine the amount of those damages. In making that determination, the trier of fact shall consider all relevant evidence, including, but not limited to, the following:

(1) All relevant evidence relating to the factors set forth in subsection b. of this section;

(2) The profitability of the misconduct to the defendant;

(3) When the misconduct was terminated; and

(4) The financial condition of the defendant.

C.2A:15-5.13 Bifurcated trial at defendant's request.

5. a. Any actions involving punitive damages shall, if requested by any defendant, be conducted in a bifurcated trial.

b. In the first stage of a bifurcated trial, the trier of fact shall determine liability for compensatory damages and the amount of compensatory damages or nominal damages. Evidence relevant only to the issues of punitive damages shall not be admissible in this stage.

c. Punitive damages may be awarded only if compensatory damages have been awarded in the first stage of the trial. An award of nominal damages cannot support an award of punitive damages.

d. In the second stage of a bifurcated trial, the trier of fact shall determine if a defendant is liable for punitive damages.

e. In any action in which there are two or more defendants, an award of punitive damages must be specific as to a defendant, and each defendant is liable only for the amount of the award made against that defendant.

C.2A:15-5.14 Determination of award; limitations; exceptions.

6. a. Before entering judgment for an award of punitive damages, the trial judge shall ascertain that the award is reasonable in its amount and justified in the circumstances of the case, in light of the purpose to punish the defendant and to deter that defendant from repeating such conduct. If necessary to satisfy the requirements of this section, the judge may reduce the amount of or eliminate the award of punitive damages.

b. No defendant shall be liable for punitive damages in any action in an amount in excess of five times the liability of that defendant for compensatory damages or $350,000, whichever is greater.

c. The provisions of subsection b. of this section shall not apply to causes of action brought pursuant to P.L.1993, c.137 (C.2A:53A-21 et seq.), P.L.1945, c.169 (C.10:5-1 et seq.), P.L.1989, c.303 (C.26:5C-5 et seq.) or P.L.1992, c.109 (C.2A:61B-1), or in cases in which a defendant has been convicted pursuant to R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a).

C.2A:15-5.15 Claims under existing law.

7. Nothing contained in this act is to be construed as creating any claim for punitive damages which is not now available under the law of this State.

8. Section 5 of P.L.1987, c.197 (C.2A:58C-5) is amended to read as follows:

C.2A:58C-5 Punitive damages under food and drug product liability, limitation.

5. a. (Deleted by amendment, P.L.1995, c.142.)

b. (Deleted by amendment, P.L.1995, c.142.)

c. Punitive damages shall not be awarded if a drug or device or food or food additive which caused the claimant's harm was subject to premarket approval or licensure by the federal Food and Drug Administration under the "Federal Food, Drug, and Cosmetic Act," 52 Stat.1040, 21 U.S.C.§301 et seq. or the "Public Health Service Act," 58 Stat.682, 42 U.S.C.§201 et seq. and was approved or licensed; or is generally recognized as safe and effective pursuant to conditions established by the federal Food and Drug Administration and applicable regulations, including packaging and labeling regulations. However, where the product manufacturer knowingly withheld or misrepresented information required to be submitted under the agency's regulations, which information was material and relevant to the harm in question, punitive damages may be awarded. For purposes of this subsection, the terms "drug," "device," "food," and "food additive" have the meanings defined in the "Federal Food, Drug, and Cosmetic Act."

d. (Deleted by amendment, P.L.1995, c.142.)

C.2A:15-5.16 Jury not informed of cap.

9. The jury shall not be informed of the cap on punitive damages established by section 6 of this act.

C.2A:15-5.17 Record referred for criminal investigation.

10. Upon the conclusion of any action in which punitive damages have been awarded, the court shall refer the record of that action to the prosecutor of the county in which the case was tried and to the Attorney General for investigation as to whether a criminal act has been committed by the defendant.

11. This act shall take effect 120 days after enactment and shall apply to causes of action filed on or after the effective date of this act.

Approved June 29, 1995.

CHAPTER 143

AN ACT concerning tort reform and the liability of certain health care providers under certain circumstances and supplementing P.L.1987, c.197 (C.2A:58C-1 et seq.).

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

C.2A:58C-10 Definitions relative to health care providers.

1. As used in this act:

"Health care provider" or "provider" means a provider of health care services and includes, but is not limited to, health care professionals, hospitals, nursing homes and other health care facilities.

"Health care service" means a service or product sold by a health care provider and includes, but is not limited to, hospital, medical, surgical, dental, hearing and vision services or products.

"Medical device" or "device" means a "device" as defined in subsection (h) of section 201 of the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1040, (21 U.S.C. §321).

C.2A:58C-11 Liability of health care providers for medical devices.

2. In any product liability action against a health care provider for harm allegedly caused by a medical device that was manufactured or designed in a defective manner, or for harm caused by a failure to warn of a danger related to the use of a medical device, the provider shall not be liable unless: (1) the provider has exercised some significant control over the design, manufacture, packaging or labeling of the medical device relative to the alleged defect in the device which caused the injury, death or damage; or (2) the provider knew or should have known of the defect in the medical device which caused the injury, death or damage, or the plaintiff can affirmatively demonstrate that the provider was in possession of facts from which a reasonable person would conclude that the provider had or should have had knowledge of the alleged defect in the medical device which caused the injury, death or damage; or (3) the provider created the defect in the medical device which caused the injury, death or damage.

3. This act shall take effect immediately and shall apply to causes of action which occur on or after the effective date of this act.

Approved June 29, 1995.

New Jersey State Library

CHAPTER 144

AN ACT concerning the distribution of disclosure statements to residents of certain senior citizen housing projects and supplementing P.L.1965, c.92 (C.55:14I-1 et seq.) and chapter 42 of Title 2A of the New Jersey Statutes.

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

C.55:14I-6.1 Disclosure statements to senior citizen housing residents.

1. Every nonprofit corporation owning or operating a senior citizen rental housing project pursuant to the provisions of P.L.1965, c.92 (C.55:14I-1 et seq.) shall give to each lessee at the time of the signing of the lease or any renewal thereof, copies of the statements required to be provided in accordance with P.L.1974, c.50 (C.46:8-27 et seq.) and P.L.1975, c.310 (C.46:8-43 et seq.), together with a statement including the telephone numbers of the State and local office for the municipality designated to receive reports of housing emergencies or complaints where the tenant may report an owner's failure to respond to a housing emergency or complaint.

Upon receipt of these statements, the lessee shall sign a form indicating that the owner delivered the statements as required under the provisions of this section, P.L.1974, c.50 (C.46:8-27 et seq.) and P.L.1975, c.310 (C.46:8-43 et seq.). The owner shall keep the form on file for one year.

The owner shall post copies of the statements in one or more locations so that the statements are prominently displayed and accessible to all the tenants of the senior citizen rental housing project.

Nothing contained in this section shall be construed as affecting a right guaranteed, or a responsibility imposed, on any person by any other law.

C.2A:42-113 Definitions; disclosure statements to senior citizen housing residents.

2. a. As used in this section:

"Landlord" means, in the case of a senior citizen housing project in which dwelling units are rented or offered for rent, the person or persons who own or purport to own the building, structure or complex of buildings or structures in which those rental dwelling units are situated. In the case of a senior citizen housing project that is organized or operated as a planned real estate development, landlord means the governing board or body of that development.

"Planned real estate development" means any real property situated within the State, whether contiguous or not, which consists of, or will consist of, separately owned areas, irrespective of form, be it lots, parcels, units, or interests, and which are offered or disposed of pursuant to a common promotional plan, and providing for common or shared elements or interests in real property. It shall include, but not be limited to, property subject to the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.), any form of homeowners' association, any housing cooperative or any community trust or other trust device.

"Senior citizen" means a person 62 years of age or older and shall include a surviving spouse if that surviving spouse is 55 years of age or over.

"Senior citizen housing project" means any building or structure, and any land appurtenant thereto, having three or more dwelling units, be they rental or owner occupied, intended for, and solely occupied by, senior citizens; except that, it shall not include owner-occupied premises having not more than three dwelling units that are rented or offered for rent, or any health care facility as defined in the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.).

b. Every landlord of a senior citizen housing project, and every landlord of a unit within a senior citizen housing project that is a planned unit development, shall give copies of the statements required by P.L.1974, c.50 (C.46:8-27 et seq.), P.L.1975, c.310 (C.46:8-43 et seq.) and section 1 of this act to each resident at the time of the signing of the lease and any renewal thereof, if the units in the project are rented or offered for rent. If the project is organized or operated as a planned real estate development, the governing board or body shall provide copies of the public offering statement approved by the Department of Community Affairs in accordance with P.L.1969, c.215 (C.45:22A-1 et seq.) or P.L.1977, c.419 (C.45:22A-21 et seq.) and of the current bylaws of the planned real estate development to all residents to whom copies of those documents were not previously issued either by the developer or by the governing board or body.

Upon receipt of the statements or documents, as the case may be, the resident shall sign a form indicating that the landlord delivered the statements or documents as required under the provisions of this section. The owner shall keep the form on file for one year.

The landlord shall post copies of the statements and documents in one or more locations so the statements and documents are prominently displayed and accessible to all the residents of the senior citizen housing project.

c. Nothing contained in this section shall be construed as affecting a right guaranteed, or a responsibility imposed, on any person by any other law.

3. This act shall take effect immediately.

Approved June 29, 1995.

CHAPTER 145

AN ACT establishing the "Domestic Companion Animal Council", amending P.L.1983, c.172, and supplementing Title 4 of the Revised Statutes.

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

C.4:19A-16 Domestic Companion Animal Council.

1. a. There shall be established in, but not of, the Department of Health, a Domestic Companion Animal Council, which shall consist of 12 members, each of whom shall be chosen with due regard to the individual's knowledge of and interest in animal welfare, animal population control and the public health and well-being as they relate to the breeding, raising and nurturing of animals as domestic companion animals.

Each member shall be appointed by the Governor, with the advice and consent of the Senate, as follows: two members shall be appointed from persons recommended by the New Jersey Veterinary Medical Association; one member shall be appointed from persons recommended by the New Jersey Health Officers Association; one member shall be appointed from persons recommended by the New Jersey Certified Animal Control Officers Association; one member shall be appointed from persons recommended by the New Jersey Federation of Dog Clubs, Inc.; one member shall be appointed from persons recommended by the Cat Fanciers' Association; one member shall be appointed from persons

recommended by the New Jersey Society for the Prevention of Cruelty to Animals; one member shall be appointed from persons recommended by the Associated Humane Societies; one member who shall be a volunteer at any county animal shelter within the State; one member shall be a representative of a volunteer animal rescue and welfare organization; and two members shall be appointed from persons recommended by the Humane Society of the United States. Each member shall be appointed for a term of four years and until the member's successor is appointed and qualified.

Any member of the Domestic Companion Animal Council shall be eligible for reappointment, but may be removed from office by the Governor for cause.

Any vacancy occurring in the membership of the council for any cause shall be filled in the same manner as the original appointment but for the unexpired term only.

b. A majority of the membership of the council shall constitute a quorum for the transaction of council business. Action may be taken and motions and resolutions adopted by the council at any meeting thereof by the affirmative vote of a majority of the full membership of the council.

c. The Governor shall appoint a chairman and the council may appoint other officers as may be necessary. The council may appoint staff or hire experts as it may require within the limits of appropriations made for these purposes.

d. Members of the council shall serve without compensation, but may be reimbursed for expenses necessarily incurred in the discharge of their official duties.

e. The council may call to its assistance any employees as are necessary and made available to it from any agency or department of the State or its political subdivisions.

f. For the purposes of this act, "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.

C.4:19A-17 Duties of council.

2. The Domestic Companion Animal Council shall organize as soon as practicable after appointment of its members.

The council shall:

a. Consult with and advise the Commissioner of the Department of Health with respect to the work of the council;

b. Monitor, study and review the activities of the Animal Population Control Program, established pursuant to P.L.1983, c.172 (C.4:19A-1 et seq.), pilot clinics and funds therefor established pursuant to P.L.1983, c.180 (C.4:19A-10 et seq.), programs for the control of rabies and other programs related to animals that the council deems relevant to its work, and hold hearings with respect thereto as it may deem necessary or desirable;

c. Report to the Governor and the Legislature annually, and at such other times as it may deem in the public interest, with respect to its findings and conclusions.

3. Section 6 of P.L.1983, c.172 (C.4:19A-5) is amended to read as follows:

C.4:19A-5 Animal Population Control Fund.

6. a. The commissioner may solicit and accept funds from any public or private source to help carry out the provisions of P.L.1983, c.172 (C.4:19A-1 et al.).

b. All fees collected pursuant to section 1 of P.L.1983, c.172 (C.4:19-15.3b) and sections 3 and 4 of P.L.1983, c.172 (C.43:19A-2 and C.4:19A-3), all moneys from the application and renewal fees collected for animal welfare license plates issued pursuant to P.L.1993, c.184 (C.39:3-27.55 et seq.), and all moneys received pursuant to subsection a. of this section, shall be placed in a special fund to be known as the "Animal Population Control Fund," which shall be separate from the General State Fund. All moneys in the "Animal Population Control Fund" shall be used by the commissioner exclusively for the implementation and promotion of the program and for the costs associated with the administration of P.L.1983, c.172 (C.4:19A-1 et al.), except as provided in subsection c. of this section.

c. Moneys deposited into the fund generated by the collection of application fees for animal welfare license plates issued pursuant to P.L.1993, c.184 (C.39:3-27.55 et seq.) shall be utilized by the commissioner to reimburse the Division of Motor Vehicles for all costs incurred by the division, as certified by the director, of producing, issuing, renewing, and publicizing the availability of animal welfare license plates.

No moneys deposited in the "Animal Population Control Fund," established in subsection b. of this section, except for the

moneys generated by the collection of application fees for animal welfare license plates issued pursuant to P.L.1993, c.184 (C.39:3-27.55 et seq.), shall be utilized by the Department of Health or the Division of Motor Vehicles for any expenses, administrative or otherwise, related to the animal welfare license plates, or the advertising and publicizing thereof, including, but not limited to notices, posters and signs to be circulated or posted by the department or the division.

d. The director shall annually certify to the commissioner the average cost per license plate incurred in the immediately preceding year by the division in producing, issuing, renewing, and publicizing the availability of animal welfare license plates. The annual certification of the average cost per license plate shall be approved by the Joint Budget Oversight Committee, or its successor.

e. In the event that the average cost per license plate as certified by the director and approved by the Joint Budget Oversight Committee, or its successor, is greater than the $50 application fee established in subsection b. of section 1 of P.L.1993, c.184 (C.39:3-27.55) in two consecutive fiscal years, the director may discontinue the issuance of animal welfare license plates.

4. This act shall take effect 30 days following enactment.

Approved June 29, 1995.

CHAPTER 146

AN ACT concerning the Higher Education Facilities Trust Fund and amending P.L.1993, c.375.

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

1. Section 9 of P.L.1993, c.375 (C.18A:72A-57) is amended to read as follows:

C.18A:72A-57 Issuance of bonds, notes.

9. a. The authority shall from time to time issue bonds or notes in an amount sufficient to finance the grants provided under this act and to finance the administrative costs associated with the approval process and the issuance of the bonds or notes, except

that the total outstanding principal amount of the bonds or notes shall not exceed $220,000,000 and the term of any bond issued shall not exceed 15 years. In computing the foregoing limitation as to amount, there shall be excluded all bonds which shall be issued for refunding purposes, provided that the refunding shall be determined by the authority to result in a debt service savings. The authority shall issue the bonds or notes in such manner as it shall determine in accordance with the provisions of P.L.1993, c.375 (C.18A:72A-49 et al.) and the "New Jersey educational facilities authority law," N.J.S.18A:72A-1 et seq., provided that no bonds or notes shall be issued pursuant to this section without the prior written consent of the State Treasurer. Notwithstanding any other provision of law to the contrary, the State Treasurer shall not consent to the issuance of any bonds or notes unless the amount scheduled for the annual debt service payments for each series of bonds or notes, consisting of the payment of interest and principal on the bonds or notes, are, as far as may be practicable, level for each fiscal year that any bonds or notes of the series are outstanding, except for a fiscal year in which the first or last payment on a series is the only payment made for that series during that fiscal year.

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

c. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds or notes issued pursuant to the authorization of P.L.1993, c.375 (C.18A:72A-49 et al.) that the State shall not limit or alter the rights or powers hereby vested in the authority to perform and fulfill the terms of

any agreement made with the holders of the bonds or notes, or to fix, establish, charge and collect such rents, fees, rates, payments, or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and to fulfill the terms of any agreement made with the holders of the bonds and notes, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, until the bonds and notes, together with interest thereon, are fully met and discharged or provided for.

2. This act shall take effect immediately.

Approved June 29, 1995.

CHAPTER 147

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, 1995 and regulating the disbursement thereof," approved June 30, 1994 (P.L.1994, c.67).

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

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

FEDERAL FUNDS
67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS
80 Special Government Services
83 Services To Veterans
3610 Veterans' Program Support

Capital Projects:		
Covered Storage Building, Brig. Gen. Doyle Veterans' Cemetery	($92,000)	
Irrigation System, Brig. Gen. Doyle Veterans' Cemetery	(401,000)	
Road Network, Brig. Gen. Doyle Veterans' Cemetery	(500,000)	
Total Appropriation Veterans' Program Support		$993,000

3630 Menlo Park Veterans' Memorial Home

Capital Project:		
Nursing Home Facility Construction.....	($25,000,000)	
Total Appropriation, Menlo Park Veterans' Memorial Home		$25,000,000

3650 Vineland Veterans' Memorial Home

Capital Project:		
Fire Suppression System	($1,763,000)	
Total Appropriation Vineland Veterans' Memorial Home		$1,763,000
Total Appropriation, Department of Military and Veterans' Affairs		$27,756,000

2. This act shall take effect immediately.

Approved June 30, 1995.

CHAPTER 148

AN ACT appropriating certain gross receipts and franchise taxes for distribution to municipalities during fiscal year 1995, amending P.L.1994, c.67.

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

1. The following provision in section 1 of P.L.1994, c.67, the Fiscal Year 1995 annual appropriations act, is amended to read as follows:

GENERAL FUND
STATE AID
82 DEPARTMENT OF THE TREASURY
70 Government Direction, Management and Control
75 State Subsidies and Financial Aid--State Aid
27-2085 Other Distributed Taxes

Notwithstanding the provisions of section 2 of P.L.1980, c.10 (C.54:30A-24.1) and section 4 of P.L.1980, c.11 (C.54:30A-61.1), and section 27 of P.L.1991, c.184 (C.54:30A-24.4), and section 28 of P.L.1991, c.184 (C.54:30A-61.4), the payments to municipalities from the proceeds of the public utilities franchise and

gross receipts taxes during Fiscal Year 1995 shall be $685,000,000 and the payments due in July, 1994 are limited to $105,000,000; provided however, that amounts collected in excess of amounts distributed shall be anticipated as revenue for general State purposes. Amounts collected in excess of $960,000,000 for Public Utility Gross Receipts and Franchise Taxes (combined) for Fiscal Year 1995 are appropriated as supplementary payments to municipalities and shall be distributed on or before June 30, 1995 in proportion to the amount of the payment each municipality received during Fiscal Year 1995 from the $685,000,000 distribution. A supplementary payment shall be used solely and exclusively by each municipality for the purpose of reducing the amount the municipality is required to raise by local property tax levy for municipal purposes. If the amount of the supplementary payment exceeds the amount required to be raised by local property tax levy for municipal purposes, the balance of the supplementary payment shall be used to reduce the amount the municipality is required to raise for county purposes, notwithstanding the provisions of law to the contrary. Notwithstanding any provisions of the "Local Budget Law," N.J.S.40A:4-1 et seq., each municipality may anticipate the receipt of the amount of supplementary payment as shall be certified to it by the Director of the Division of Taxation in the Department of the Treasury and shall file any amendment or correction in its local budget as may be required to properly reflect that payment. The Director of the Division of Taxation shall provide the Director of the Division of Local Government Services in the Department of Community Affairs with a list of the certified supplementary payments for all affected municipalities. The Director of the Division of Local Government Services in the Department of Community Affairs shall certify that each municipality has complied with the requirements set forth herein concerning the use of the supplementary payments.

2. This act shall take effect immediately.

Approved June 30, 1995.

CHAPTER 149

AN ACT to supplement "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1995 and regulating the disbursement thereof," approved June 30, 1994 (P.L.1994, c.67.).

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.1994, c.67, there is appropriated from the General Fund the following sum for the purpose specified:

GRANTS-IN-AID
46 DEPARTMENT OF HEALTH
20 Physical and Mental Health
21 Health Services -- Grants-In-Aid

04-4240 Alcoholism, Drug Abuse and Addiction Services		$1,700,000
Grants:		
Alcohol Education, Rehabilitation and Enforcement Fund	($1,700,000)	

2. This act shall take effect immediately.

Approved June 30, 1995.

CHAPTER 150

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, 1995 and regulating the disbursement thereof," approved June 30, 1994 (P.L.1994, c.67).

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.1994, c.67, there is appropriated out of the General Fund the following sum for the purposes specified:

DIRECT STATE SERVICES
94. INTER-DEPARTMENTAL ACCOUNTS
70. Government Direction, Management and Control
74. General Government Services
9410. Employee Benefits

03-9410 Employee Benefits	$67,675,000
Total Appropriation, Employee Benefits	$67,675,000

Special Purpose:	
Social Security Tax - State	($8,500,000)
State Employees' Health Benefits	(45,300,000)
Prescription Drug Program	(3,100,000)
Alternate Benefits Program - Employer Contributions	(7,000,000)
Public Employees' Retirement System	(1,275,000)
Chapter 126 Health Benefits - Local School Districts	(2,500,000)

2. This act shall take effect immediately.

Approved June 30, 1995.

CHAPTER 151

AN ACT concerning automobile insurance and amending P.L.1970, c.215 and P.L.1988, c.156.

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

1. Section 1 of P.L.1970, c.215 (C.17:29D-1) is amended to read as follows:

C.17:29D-1 Rules, regulations for auto insurance plan.

1. The Commissioner of Insurance may adopt, issue and promulgate rules and regulations establishing a plan for the providing and apportionment of insurance coverage for applicants therefor who are in good faith entitled to, but are unable to procure the same, through ordinary methods. Every insurer admitted to transact and transacting any line, or lines, of insurance in the State of New Jersey shall participate in such plan and provide insurance coverage to the extent required in such rules and regulations.

Any plan established pursuant to this section to provide insurance for automobiles, as defined in section 2 of P.L.1972, c.70 (C.39:6A-2), shall provide:

a. For a rating system which shall produce rates for each coverage which are adequate for the safeness and soundness of the plan, and are not excessive nor unfairly discriminatory with regard to risks in the plan involving essentially the same hazards and expense elements;

b. For rates charged to plan insureds which shall be sufficient to meet the plan's expenses and the plan's losses on an incurred basis, including the establishment and maintenance of actuarially sound loss reserves to cover all future costs associated with the exposure;

c. For a limited assignment distribution system permitting insurers to enter into agreements with other mutually agreeable insurers or other qualified entities to transfer their applicants and insureds under such plan to such insurers or other entities;

d. That it shall not provide insurance coverage for more than 10 percent of the aggregate number of private passenger automobile non-fleet exposures being written in the total private passenger automobile insurance market in this State. The plan shall provide for the cessation of the acceptance of applications or the issuance of new policies at any time it reaches 10 percent of marketshare, as certified by the commissioner, until such time that the commissioner certifies that the plan is insuring less than 10 percent of the aggregate number of private passenger automobile non-fleet exposures being written in the total private passenger automobile insurance market in this State;

e. That it shall not provide coverage to an eligible person as defined pursuant to section 25 of P.L.1990, c.8 (C.17:33B-13);

f. That insurers who write automobile risks in those urban territories designated by the commissioner shall receive one assigned risk credit for every two voluntary risks written in those designated territories; and

g. That the plan shall not be subsidized by any source external to the plan.

Prior to the adoption or amendment of such rules and regulations, the commissioner shall consult with such members of the insurance industry as he deems appropriate. Such consultation shall be in addition to any otherwise required public hearing or notice with regard to the adoption or amendment of rules and regulations.

The governing body administering the plan shall report annually to the Legislature and the Governor on the activities of the plan. The report shall contain an actuarial analysis regarding the adequacy of the rates for each coverage for the safeness and soundness of the plan.

2. Section 5 of P.L.1988, c.156 (C.17:29A-44) is amended to read as follows:

C.17:29A-44 Maximum rate increases.

5. a. A filer may charge rates for private passenger automobile insurance in the voluntary or residual market which are not in excess of the following:

(1) For private passenger automobile personal injury protection coverage, residual bodily injury and property damage insurance, the maximum permissible annual rate increase applicable to each rate level utilized by an insurer in the voluntary market pursuant to section 6 of P.L.1988, c.156 (C.17:29A-45) or by any plan established pursuant to section 1 of P.L.1970, c.215 (C.17:29D-1) to provide insurance for automobiles, as defined in section 2 of P.L.1972, c.70 (C.39:6A-2), shall be a Statewide average rate change of not more than the last published increase in the medical care services components of the national Consumer Price Index, all urban consumers, U.S. city average, plus three percentage points.

(2) For private passenger automobile physical damage coverage, the maximum permissible annual rate increase applicable to each rate level utilized by an insurer in the voluntary market pursuant to section 6 of P.L.1988, c.156 (C.17:29A-45) or by any plan established pursuant to section 1 of P.L.1970, c.215 (C.17:29D-1) to provide insurance for automobiles, as defined in section 2 of P.L.1972, c.70 (C.39:6A-2), shall be a Statewide average rate change of not more than the last published increase in the automobile maintenance and repair components of the national Consumer Price Index, U.S. city average, plus three percentage points.

b. For the purposes of this section, "Statewide average rate change" means the total Statewide premium for all coverages combined at the rates in effect at the time of the filing for each rate level.

c. Any change in excess of the rate changes permitted by paragraphs (1) and (2) of subsection a. shall be subject to the provisions of P.L.1944, c.27 (C.17:29A-1 et seq.).

d. If, at any time, the commissioner believes that an increase in either or both of the published indices will produce rate levels which are excessive, he may modify the Statewide average rate change which may be used pursuant to this section.

e. A filer may implement a change in rate level, pursuant to subsection a. of this section, in whole or in part, in a single or in multiple filings by making an informational filing with the commissioner in a manner and form approved by the commissioner. The filing shall include a statement of the reason or reasons for the change in rate level, including, but not limited to, the claim and expense experience of the individual filer.

f. Other than filings made pursuant to subsection c. of this section, the provisions of subsection c. of section 14 of P.L.1944, c.27 (C.17:29A-14) shall not apply to any filing made pursuant to this section. However, the commissioner shall provide a copy of

any filing made or other information provided by a filer pursuant to the provisions of this section to the appropriate division or office in the Department of Insurance. The appropriate division or office in the Department of Insurance may challenge a rate change implemented pursuant to subsection a. of this section after the effective date of the rate change by filing such challenge in writing with the commissioner within 30 days of the effective date of the rate change. The commissioner shall hear the matter on an expedited basis and shall render a final determination within six months of the date of filing. The commissioner may, for good cause, extend this six-month period up to an additional three months. If that division or office in the Department of Insurance prevails, the commissioner shall reduce or rescind the rate change as appropriate. If the commissioner reduces or rescinds a rate change as a result of a challenge by the appropriate division or office in the Department of Insurance filed pursuant to the provisions of this subsection, the filer shall bear the cost of the reasonable expenses incurred by that division or office in the Department of Insurance in maintaining the challenge.

g. (Deleted by amendment, P.L.1995, c.151.)

3. This act shall take effect immediately.

Approved June 30, 1995.

CHAPTER 152

AN ACT concerning the disposition of the property of intestate decedents and amending various parts of the statutory laws.

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

1. N.J.S.3B:5-5 is amended to read as follows:

Escheat to State.

3B:5-5. Escheat to State. If there are no known heirs who may inherit an intestate estate that estate shall be treated as provided in this section.

Within a reasonable time after qualifying as a fiduciary of an intestate estate (or, in the case of fiduciaries so qualifying prior to the adoption of this act, within a reasonable time after said adop-

tion), the fiduciary shall publish a notice inviting all heirs of the decedent as determined pursuant to N.J.S.3B:5-3 and N.J.S.3B:5-4 to claim their shares of the intestate estate, in a newspaper of general circulation in Mercer County and in the county where the intestate resided at death, if other than Mercer County, once a week for two successive weeks. The notice shall set forth, to the extent known by the fiduciary after inspection of the decedent's personal effects, the name and last address of the decedent; the decedent's date of death; the name, mailing address and telephone number of the fiduciary; the names and last known addresses of all family members who, if they survived the decedent, would qualify as the decedent's heirs, and any other information the fiduciary reasonably believes to be useful to establish the identity of the heirs of the decedent. If within 90 days after the last publication of the notice no person has established entitlement as an heir of the decedent by providing the fiduciary with substantial credible evidence of heirship, the fiduciary shall treat the intestate estate as abandoned property and comply with the provisions of the "Uniform Unclaimed Property Act (1981)," R.S.46:30B-1 et seq.

If at least one person provides the fiduciary with substantial credible evidence of heirship before the intestate estate is paid or delivered to the administrator of unclaimed property, the fiduciary shall conduct a diligent investigation to locate all heirs of the decedent and, upon the conclusion of the investigation, shall distribute the intestate estate in shares determined pursuant to this chapter.

Nothing in this section affects the power and duty of the fiduciary to allow and settle the debts of the decedent or other claims against the intestate estate other than claims by heirs in accordance with the terms of applicable law.

2. R.S.46:30B-37.1 is amended to read as follows:

Presumption of abandonment; unclaimed estate assets.

46:30B-37.1 Presumption of abandonment: unclaimed estate assets. Except as otherwise provided in this section, property held by a fiduciary as defined in N.J.S.3B:1-1 or an assignee under N.J.S.2A:19-1 et seq. and remaining unclaimed for 90 days after the account of that fiduciary or assignee is allowed or settled informally is presumed abandoned. Unclaimed property held by a fiduciary of an intestate estate payable to the unknown heirs of an intestate decedent shall be presumed abandoned 90 days after publication by the fiduciary of the notice required in N.J.S.3B:5-5.

3. R.S.46:30B-58 is amended to read as follows:

Establishment by owner of right to property before payment or delivery; erroneous presumption of abandonment.

46:30B-58. Establishment by owner of right to property before payment or delivery; erroneous presumption of abandonment. If the owner establishes the right to receive the abandoned property to the satisfaction of the holder before the property has been delivered or it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property to the administrator, and the property will no longer be presumed abandoned. In that case, the holder shall file with the administrator a verified written explanation of the proof of claim or of the error in the presumption of abandonment, except that a fiduciary holding property initially thought to be payable to unknown heirs of an intestate decedent and presumed abandoned under R.S.46:30B-37.1 shall not be required to file such verified written explanation.

4. R.S.46:30B-77 is amended to read as follows:

Filing claim; another state excluded.

46:30B-77. Filing claim; another state excluded. a. A person, excluding another state, claiming an interest in any property paid or delivered to the administrator may file with him a claim on a form prescribed by him and verified by the claimant.

b. The administrator shall allow the claim of persons asserting entitlement as heirs to the property of an intestate decedent paid or delivered to the administrator pursuant to N.J.S.3B:5-5 only upon receipt of (1) substantial credible evidence of heirship, (2) satisfactory evidence that a diligent investigation to locate all heirs of the decedent has been concluded, (3) the names, last known addresses, and a description of the relationships of all of the heirs of the decedent discovered as a result of that investigation, or otherwise, and (4) a release and refunding bond or other instrument satisfactory to the administrator, providing the administrator and the State with full indemnity for claims by other heirs of the decedent. The administrator shall make payment or delivery as otherwise provided in this article to the heirs in shares as prescribed in N.J.S.3B:5-3 through N.J.S.3B:5-14.

5. R.S.46:30B-78 is amended to read as follows:

Time to consider claim; notice of denial.

46:30B-78. Time to consider claim; notice of denial. The administrator shall consider each claim within 90 days after it is filed or, in the case of a claim of a person asserting an entitlement

as an heir to the property of an intestate decedent, within 90 days of the claimant's submission of the matters (1) through (4) required in subsection b. of R.S.46:30B-77, and give written notice to the claimant if the claim is denied in whole or in part. The notice may be given by mailing it to the last address, if any, stated in the claim as the address to which notices are to be sent. If an address for notices is not stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim. A notice of denial need not be given if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.

6. This act shall take effect immediately and shall be applicable to all estates where a fiduciary has been appointed and has not been discharged.

Approved June 30, 1995.

CHAPTER 153

AN ACT concerning Medicaid and amending P.L.1968, c.413.

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

1. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read as follows:

C.30:4D-3 Definitions.

3. Definitions. As used in this act, and unless the context otherwise requires:

a. "Applicant" means any person who has made application for purposes of becoming a "qualified applicant."

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

c. "Department" means the Department of Human Services, which is herein designated as the single State agency to administer the provisions of this act.

d. "Director" means the Director of the Division of Medical Assistance and Health Services.

e. "Division" means the Division of Medical Assistance and Health Services.

f. "Medicaid" means the New Jersey Medical Assistance and Health Services Program.

g. "Medical assistance" means payments on behalf of recipients to providers for medical care and services authorized under this act.

h. "Provider" means any person, public or private institution, agency or business concern approved by the division lawfully providing medical care, services, goods and supplies authorized under this act, holding, where applicable, a current valid license to provide such services or to dispense such goods or supplies.

i. "Qualified applicant" means a person who is a resident of this State and is determined to need medical care and services as provided under this act, and who:

(1) Is a recipient of Aid to Families with Dependent Children;

(2) Is a recipient of Supplemental Security Income for the Aged, Blind and Disabled under Title XVI of the Social Security Act;

(3) Is an "ineligible spouse" of a recipient of Supplemental Security Income for the Aged, Blind and Disabled under Title XVI of the Social Security Act, as defined by the federal Social Security Administration;

(4) Would be eligible to receive public assistance under a categorical assistance program except for failure to meet an eligibility condition or requirement imposed under such State program which is prohibited under Title XIX of the federal Social Security Act such as a durational residency requirement, relative responsibility, consent to imposition of a lien;

(5) Is a child between 18 and 21 years of age who would be eligible for Aid to Families with Dependent Children, living in the family group except for lack of school attendance or pursuit of formalized vocational or technical training;

(6) Is an individual under 21 years of age who qualifies for categorical assistance on the basis of financial eligibility, but does not qualify as a dependent child under the State's program of Aid to Families with Dependent Children (AFDC), or groups of such individuals, including but not limited to, children in foster placement under supervision of the Division of Youth and Family Services whose maintenance is being paid in whole or in part from public funds, children placed in a foster home or institution by a private adoption agency in New Jersey or children in intermediate care facilities, including institutions for the mentally retarded, or in psychiatric hospitals;

(7) Meets the standard of need applicable to his circumstances under a categorical assistance program or Supplemental Security

Income program, but is not receiving such assistance and applies for medical assistance only;

(8) Is determined to be medically needy and meets all the eligibility requirements described below:

(a) The following individuals are eligible for services, if they are determined to be medically needy:

(i) Pregnant women;

(ii) Dependent children under the age of 21;

(iii) Individuals who are 65 years of age and older; and

(iv)Individuals who are blind or disabled pursuant to either 42 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

(b) The following income standard shall be used to determine medically needy eligibility:

(i) For one person and two person households, the income standard shall be the maximum allowable under federal law, but shall not exceed 133 1/3% of the State's payment level to two person households eligible to receive assistance pursuant to P.L.1959, c.86 (C.44:10-1 et seq.); and

(ii) For households of three or more persons, the income standard shall be set at 133 1/3% of the State's payment level to similar size households eligible to receive assistance pursuant to P.L.1959, c.86 (C.44:10-1 et seq.).

(c) The following resource standard shall be used to determine medically needy eligibility:

(i) For one person households, the resource standard shall be 200% of the resource standard for recipients of Supplemental Security Income pursuant to 42 U.S.C.§1382(1)(B);

(ii) For two person households, the resource standard shall be 200% of the resource standard for recipients of Supplemental Security Income pursuant to 42 U.S.C.§1382(2)(B);

(iii) For households of three or more persons, the resource standard in subparagraph (c)(ii) above shall be increased by $100.00 for each additional person; and

(iv) The resource standards established in (i), (ii), and (iii) are subject to federal approval and the resource standard may be lower if required by the federal Department of Health and Human Services.

(d) Individuals whose income exceeds those established in subparagraph (b) of paragraph (8) of this subsection may become medically needy by incurring medical expenses as defined in 42 C.F.R.435.831(c) which will reduce their income to the applicable medically needy income established in subparagraph (b) of paragraph (8) of this subsection.

(e) A six-month period shall be used to determine whether an individual is medically needy.

(f) Eligibility determinations for the medically needy program shall be administered as follows:

(i) County welfare agencies are responsible for determining and certifying the eligibility of pregnant women and dependent children. The division shall reimburse county welfare agencies for 100% of the reasonable costs of administration which are not reimbursed by the federal government for the first 12 months of this program's operation. Thereafter, 75% of the administrative costs incurred by county welfare agencies which are not reimbursed by the federal government shall be reimbursed by the division;

(ii) The division is responsible for certifying the eligibility of individuals who are 65 years of age and older and individuals who are blind or disabled. The division may enter into contracts with county welfare agencies to determine certain aspects of eligibility. In such instances the division shall provide county welfare agencies with all information the division may have available on the individual.

The division shall notify all eligible recipients of the Pharmaceutical Assistance to the Aged and Disabled program, P.L.1975, c.194 (C.30:4D-20 et seq.) on an annual basis of the medically needy program and the program's general requirements. The division shall take all reasonable administrative actions to ensure that Pharmaceutical Assistance to the Aged and Disabled recipients, who notify the division that they may be eligible for the program, have their applications processed expeditiously, at times and locations convenient to the recipients; and

(iii) The division is responsible for certifying incurred medical expenses for all eligible persons who attempt to qualify for the program pursuant to subparagraph (d) of paragraph (8) of this subsection;

(9) (a) Is a child who is at least one year of age and under six years of age; and

(b) Is a member of a family whose income does not exceed 133% of the poverty level and who meets the federal Medicaid eligibility requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.§1396a);

(10) Is a pregnant woman who is determined by a provider to be presumptively eligible for medical assistance based on criteria established by the commissioner, pursuant to section 9407 of Pub.L.99-509 (42 U.S.C.§1396a(a));

(11) Is an individual 65 years of age and older, or an individual who is blind or disabled pursuant to section 301 of Pub.L.92-603

(42 U.S.C.§1382c), whose income does not exceed 100% of the poverty level, adjusted for family size, and whose resources do not exceed 100% of the resource standard used to determine medically needy eligibility pursuant to paragraph (8) of this subsection;

(12) Is a qualified disabled and working individual pursuant to section 6408 of Pub.L.101-239 (42 U.S.C.§1396d) whose income does not exceed 200% of the poverty level and whose resources do not exceed 200% of the resource standard used to determine eligibility under the Supplemental Security Income Program, P.L.1973, c.256 (C.44:7-85 et seq.);

(13) Is a pregnant woman or is a child who is under one year of age and is a member of a family whose income does not exceed 185% of the poverty level and who meets the federal Medicaid eligibility requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.§1396a), except that a pregnant woman who is determined to be a qualified applicant shall, notwithstanding any change in the income of the family of which she is a member, continue to be deemed a qualified applicant until the end of the 60-day period beginning on the last day of her pregnancy;

(14) Is a child born after September 30, 1983 who has attained six years of age but has not attained 19 years of age and is a member of a family whose income does not exceed 100% of the poverty level; or

(15) (a) Is a specified low-income medicare beneficiary pursuant to 42 U.S.C.§1396a(a)10(E)iii whose resources beginning January 1, 1993 do not exceed 200% of the resource standard used to determine eligibility under the Supplemental Security Income program, P.L.1973, c.256 (C.44:7-85 et seq.) and whose income beginning January 1, 1993 does not exceed 110% of the poverty level, and beginning January 1, 1995 does not exceed 120% of the poverty level.

(b) An individual who has, within 36 months, or within 60 months in the case of funds transferred into a trust, of applying to be a qualified applicant for Medicaid services in a nursing facility or a medical institution, or for home or community-based services under section 1915(c) of the federal Social Security Act (42 U.S.C.§1396n(c)), disposed of resources or income for less than fair market value shall be ineligible for assistance for nursing facility services, an equivalent level of services in a medical institution, or home or community-based services under section 1915(c) of the federal Social Security Act (42 U.S.C.§1396n(c)). The period of the ineligibility shall be the number of months resulting from dividing the uncompensated value of the transferred resources or income by the average monthly private

payment rate for nursing facility services in the State as determined annually by the commissioner. In the case of multiple resource or income transfers, the resulting penalty periods shall be imposed sequentially. Application of this requirement shall be governed by 42 U.S.C. §1396p(c). In accordance with federal law, this provision is effective for all transfers of resources or income made on or after August 11, 1993. Notwithstanding the provisions of this subsection to the contrary, the State eligibility requirements concerning resource or income transfers shall not be more restrictive than those enacted pursuant to 42 U.S.C. §1396p(c).

(c) An individual seeking nursing facility services or home or community-based services and who has a community spouse shall be required to expend those resources which are not protected for the needs of the community spouse in accordance with section 1924(c) of the federal Social Security Act (42 U.S.C. §1396r-5(c)) on the costs of long-term care, burial arrangements, and any other expense deemed appropriate and authorized by the commissioner. An individual shall be ineligible for Medicaid services in a nursing facility or for home or community-based services under section 1915(c) of the federal Social Security Act (42 U.S.C. §1396n(c)) if the individual expends funds in violation of this subparagraph. The period of ineligibility shall be the number of months resulting from dividing the uncompensated value of transferred resources and income by the average monthly private payment rate for nursing facility services in the State as determined by the commissioner. The period of ineligibility shall begin with the month that the individual would otherwise be eligible for Medicaid coverage for nursing facility services or home or community-based services.

This subparagraph shall be operative only if all necessary approvals are received from the federal government including, but not limited to, approval of necessary State plan amendments and approval of any waivers.

j. "Recipient" means any qualified applicant receiving benefits under this act.

k. "Resident" means a person who is living in the State voluntarily with the intention of making his home here and not for a temporary purpose. Temporary absences from the State, with subsequent returns to the State or intent to return when the purposes of the absences have been accomplished, do not interrupt continuity of residence.

l. "State Medicaid Commission" means the Governor, the Commissioner of Human Services, the President of the Senate and the Speaker of the General Assembly, hereby constituted a com-

mission to approve and direct the means and method for the payment of claims pursuant to this act.

m. "Third party" means any person, institution, corporation, insurance company, public, private or governmental entity who is or may be liable in contract, tort, or otherwise by law or equity to pay all or part of the medical cost of injury, disease or disability of an applicant for or recipient of medical assistance payable under this act.

n. "Governmental peer grouping system" means a separate class of skilled nursing and intermediate care facilities administered by the State or county governments, established for the purpose of screening their reported costs and setting reimbursement rates under the Medicaid program that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated State or county skilled nursing and intermediate care facilities.

o. "Comprehensive maternity or pediatric care provider" means any person or public or private health care facility that is a provider and that is approved by the commissioner to provide comprehensive maternity care or comprehensive pediatric care as defined in subsection b. (18) and (19) of section 6 of P.L.1968, c.413 (C.30:4D-6).

p. "Poverty level" means the official poverty level based on family size established and adjusted under Section 673(2) of Subtitle B, the "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C.§9902(2)).

2. Section 6 of P.L.1968, c.413 (C.30:4D-6) is amended to read as follows:

C.30:4D-6 Basic medical care and services.

6. a. Subject to the requirements of Title XIX of the federal Social Security Act, the limitations imposed by this act and by the rules and regulations promulgated pursuant thereto, the department shall provide medical assistance to qualified applicants, including authorized services within each of the following classifications:

(1) Inpatient hospital services;

(2) Outpatient hospital services;

(3) Other laboratory and X-ray services;

(4) (a) Skilled nursing or intermediate care facility services;

(b) Such early and periodic screening and diagnosis of individuals who are eligible under the program and are under age 21, to ascertain their physical or mental defects and such health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby, as may be provided in reg-

ulations of the Secretary of the federal Department of Health and Human Services and approved by the commissioner;

(5) Physician's services furnished in the office, the patient's home, a hospital, a skilled nursing or intermediate care facility or elsewhere.

b. Subject to the limitations imposed by federal law, by this act, and by the rules and regulations promulgated pursuant thereto, the medical assistance program may be expanded to include authorized services within each of the following classifications:

(1) Medical care not included in subsection a.(5) above, or any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice, as defined by State law;

(2) Home health care services;

(3) Clinic services;

(4) Dental services;

(5) Physical therapy and related services;

(6) Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;

(7) Optometric services;

(8) Podiatric services;

(9) Chiropractic services;

(10)Psychological services;

(11) Inpatient psychiatric hospital services for individuals under 21 years of age, or under age 22 if they are receiving such services immediately before attaining age 21;

(12) Other diagnostic, screening, preventive, and rehabilitative services, and other remedial care;

(13) Inpatient hospital services, nursing facility services and intermediate care facility services for individuals 65 years of age or over in an institution for mental diseases;

(14) Intermediate care facility services;

(15) Transportation services;

(16) Services in connection with the inpatient or outpatient treatment or care of drug abuse, when the treatment is prescribed by a physician and provided in a licensed hospital or in a narcotic and drug abuse treatment center approved by the Department of Health pursuant to P.L.1970, c.334 (C.26:2G-21 et seq.) and whose staff includes a medical director, and limited to those services eligible for federal financial participation under Title XIX of the federal Social Security Act;

(17) Any other medical care and any other type of remedial care recognized under State law, specified by the Secretary of the federal Department of Health and Human Services, and approved by the commissioner;

(18) Comprehensive maternity care, which may include: the basic number of prenatal and postpartum visits recommended by the American College of Obstetrics and Gynecology; additional prenatal and postpartum visits that are medically necessary; necessary laboratory, nutritional assessment and counseling, health education, personal counseling, managed care, outreach and follow-up services; treatment of conditions which may complicate pregnancy; and physician or certified nurse-midwife delivery services;

(19) Comprehensive pediatric care, which may include: ambulatory, preventive and primary care health services. The preventive services shall include, at a minimum, the basic number of preventive visits recommended by the American Academy of Pediatrics;

(20) Services provided by a hospice which is participating in the Medicare program established pursuant to Title XVIII of the Social Security Act, Pub.L.89-97 (42 U.S.C.§1395 et seq.). Hospice services shall be provided subject to approval of the Secretary of the federal Department of Health and Human Services for federal reimbursement;

(21) Mammograms, subject to approval of the Secretary of the federal Department of Health and Human Services for federal reimbursement, including one baseline mammogram for women who are at least 35 but less than 40 years of age; one mammogram examination every two years or more frequently, if recommended by a physician, for women who are at least 40 but less than 50 years of age; and one mammogram examination every year for women age 50 and over.

c. Payments for the foregoing services, goods and supplies furnished pursuant to this act shall be made to the extent authorized by this act, the rules and regulations promulgated pursuant thereto and, where applicable, subject to the agreement of insurance provided for under this act. Said payments shall constitute payment in full to the provider on behalf of the recipient. Every provider making a claim for payment pursuant to this act shall certify in writing on the claim submitted that no additional amount will be charged to the recipient, his family, his representative or others on his behalf for the services, goods and supplies furnished pursuant to this act.

No provider whose claim for payment pursuant to this act has been denied because the services, goods or supplies were determined to be medically unnecessary shall seek reimbursement from the recipient, his family, his representative or others on his behalf for such services, goods and supplies provided pursuant to this act; provided, however, a provider may seek reimbursement from a recipient for services, goods or supplies not authorized by this act, if the recipient elected to receive the services, goods or supplies with the knowledge that they were not authorized.

d. Any individual eligible for medical assistance (including drugs) may obtain such assistance from any person qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability on a prepayment basis), who undertakes to provide him such services.

No copayment or other form of cost-sharing shall be imposed on any individual eligible for medical assistance, except as mandated by federal law as a condition of federal financial participation.

e. Anything in this act to the contrary notwithstanding, no payments for medical assistance shall be made under this act with respect to care or services for any individual who:

(1) Is an inmate of a public institution (except as a patient in a medical institution); provided, however, that an individual who is otherwise eligible may continue to receive services for the month in which he becomes an inmate, should the commissioner determine to expand the scope of Medicaid eligibility to include such an individual, subject to the limitations imposed by federal law and regulations, or

(2) Has not attained 65 years of age and who is a patient in an institution for mental diseases, or

(3) Is over 21 years of age and who is receiving inpatient psychiatric hospital services in a psychiatric facility; provided, however, that an individual who was receiving such services immediately prior to attaining age 21 may continue to receive such services until he reaches age 22. Nothing in this subsection shall prohibit the commissioner from extending medical assistance to all eligible persons receiving inpatient psychiatric services; provided that there is federal financial participation available.

f. Any provision in a contract of insurance, will, trust agreement or other instrument which reduces or excludes coverage or payment for goods and services to an individual because of that individual's eligibility for or receipt of Medicaid benefits shall be null and void, and no payments shall be made under this act as a result of any such provision.

g. The following services shall be provided to eligible medically needy individuals as follows:

(1) Pregnant women shall be provided prenatal care and delivery services and postpartum care, including the services cited in subsection a.(1), (3) and (5) of this section and subsection b.(1)-(10), (12), (15) and (17) of this section, and nursing facility services cited in subsection b.(13) of this section.

(2) Dependent children shall be provided with services cited in subsection a.(3) and (5) of this section and subsection b.(1), (2), (3), (4), (5), (6), (7), (10), (12), (15) and (17) of this section, and nursing facility services cited in subsection b.(13) of this section.

(3) Individuals who are 65 years of age or older shall be provided with services cited in subsection a.(3) and (5) of this section and subsection b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10), (12), (15) and (17) of this section, and nursing facility services cited in subsection b.(13) of this section.

(4) Individuals who are blind or disabled shall be provided with services cited in subsection a.(3) and (5) of this section and subsection b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10), (12), (15) and (17) of this section, and nursing facility services cited in subsection b.(13) of this section.

(5) (a) Inpatient hospital services, subsection a.(1) of this section, shall only be provided to eligible medically needy individuals, other than pregnant women, if the federal Department of Health and Human Services discontinues the State's waiver to establish inpatient hospital reimbursement rates for the Medicare and Medicaid programs under the authority of section 601(c)(3) of the Social Security Act Amendments of 1983, Pub.L.98-21 (42 U.S.C.§1395ww(c)(5)). Inpatient hospital services may be extended to other eligible medically needy individuals if the federal Department of Health and Human Services directs that these services be included.

(b) Outpatient hospital services, subsection a.(2) of this section, shall only be provided to eligible medically needy individuals if the federal Department of Health and Human Services discontinues the State's waiver to establish outpatient hospital reimbursement rates for the Medicare and Medicaid programs under the authority of section 601(c)(3) of the Social Security Amendments of 1983, Pub.L.98-21 (42 U.S.C.§1395ww(c)(5)). Outpatient hospital services may be extended to all or to certain medically needy individuals if the federal Department of Health and Human Services directs that these services be included. However, the use of outpatient hospital

services shall be limited to clinic services and to emergency room services for injuries and significant acute medical conditions.

(c) The division shall monitor the use of inpatient and outpatient hospital services by medically needy persons.

h. In the case of a qualified disabled and working individual pursuant to section 6408 of Pub.L.101-239 (42 U.S.C.§1396d), the only medical assistance provided under this act shall be the payment of premiums for Medicare part A under 42 U.S.C.§1395i-2 and §1395r.

i. In the case of a specified low-income medicare beneficiary pursuant to 42 U.S.C. §1396a(a)10(E)iii, the only medical assistance provided under this act shall be the payment of premiums for Medicare part B under 42 U.S.C.§1395r as provided for in 42 U.S.C.§1396d(p)(3)(A)(ii).

3. This act shall take effect on July 1, 1995.

Approved June 30, 1995.

CHAPTER 154

AN ACT concerning the Office of the State Medical Examiner and amending P.L.1967, c.234.

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

1. Section 6 of P.L.1967, c.234 (C.52:17B-83) is amended to read as follows:

C.52:17B-83 County medical examiner; appointment; term.

6. The office of county medical examiner is hereby created and shall be maintained in each county, except that several counties may jointly maintain the office on a cooperative basis. The office shall be directed by a county medical examiner who shall be appointed by the board or boards of chosen freeholders of the county or counties maintaining such office for a term of five years; provided, however, that any person in office as county physician or chief medical examiner on the effective date of this act shall continue as county medical examiner until the expiration

of the term for which he was appointed. The county medical examiner shall be a licensed physician, of recognized ability and good standing in his community, with such training or experience as may be prescribed by standards promulgated by the State Medical Examiner by rule or regulation.

If the board of chosen freeholders shall fail to appoint a county medical examiner or if the office of county medical examiner shall become vacant or upon the written request of any assignment judge of the Superior Court or of the board of chosen freeholders of the county, the State Medical Examiner shall designate one of his assistants to perform the duties of the office. Whenever the State Medical Examiner shall have taken over the duties of a county medical examiner, he shall have all the authority conferred by law upon a county medical examiner and he may appoint such assistants, aides, investigators or other personnel as he may deem necessary. In such event, the treasurer of the county or counties, as the case may be, shall reimburse the Office of the State Medical Examiner or its designee for all costs incurred in properly conducting the county's death investigations and performing all other functions of the county medical examiner.

The State Medical Examiner may promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this section.

2. This act shall take effect immediately.

Approved June 30, 1995.

CHAPTER 155

AN ACT concerning reimbursement for services provided by the Department of Human Services and revising parts of statutory law.

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

1. R.S.30:1-12 is amended to read as follows:

Findings; general policy; commissioner's power.

30:1-12. a. The Legislature finds that the Commissioner of Human Services is obligated by State and federal law to assure

that programs that serve eligible, low-income, handicapped, elderly, abused, and disabled persons are provided in an accessible, efficient, cost-effective and high quality manner. In order to meet these ends, the commissioner must have sufficient authority to require institutions and agencies that are under his direct or indirect supervision to meet State and federal mandates. This authority is especially necessary given the manner in which certain services are provided by county or local agencies, but are funded in whole or part by the State. The Legislature finds that the commissioner must have the authority to establish rules, regulations and directives, including incentives and sanctions, to assure that these institutions and agencies are providing services in a manner consistent with these mandates.

b. The commissioner shall have power to determine all matters relating to the unified and continuous development of the institutions and noninstitutional agencies within his jurisdiction. He shall determine all matters of policy and shall have power to regulate the administration of the institutions or noninstitutional agencies within his jurisdiction, correct and adjust the same so that each shall function as an integral part of a general system. The rules, regulations, orders and directions issued by the commissioner pursuant thereto, for this purpose shall be accepted and enforced by the executive having charge of any institution or group of institutions or noninstitutional agencies or any phase of the work within the jurisdiction of the department.

In order to implement the public policy of this State concerning the provision of charitable, hospital, relief and training institutions established for diagnosis, care, treatment, training, rehabilitation and welfare of persons in need thereof, for research and for training of personnel, and in order that the personnel, buildings, land, and other facilities provided be most effectively used to these ends and to advance the public interest, the commissioner is hereby empowered to classify and designate from time to time the specific functions to be performed at and by any of the aforesaid institutions under his jurisdiction and to designate, by general classification of disease or disability, age or sex, the classes of persons who may be admitted to, or served by, these institutions or agencies.

In addition to and in conjunction with its general facilities and services for the mentally ill, mentally retarded and tuberculous, the department may at its discretion establish and maintain specialized facilities and services for the residential care, treatment and rehabilitation of persons who are suffering from chronic men-

tal or neurological disorders, including, but not limited to alcoholism, drug addiction, epilepsy and cerebral palsy.

The commissioner shall have the power to regulate the administration of agencies under his supervision including, but not limited to, municipal and county welfare agencies. The commissioner may issue rules, regulations, orders and directions to assure that programs administered by the agencies are financially and programmatically efficient and effective, and to establish incentives and impose sanctions to assure the appropriate operation of programs and compliance with State and federal laws and regulations.

In addition, the commissioner shall have the authority to:

(1) review and approve county and municipal welfare agency budgets; and

(2) take over and operate county or municipal welfare operations in situations in which the commissioner determines that the welfare board is failing to substantially follow federal or State law, thereby placing clients, who are dependent on public assistance benefits to survive in a humane and healthy manner, at serious risk. In this situation, the commissioner shall have the authority to bill the county for the cost of such operations and for necessary changes to assure that services are provided to accomplish federal and State mandates in an effective and efficient manner.

No rule, regulation, order or direction shall abridge the authority of a county or municipal welfare agency to establish wages and terms and conditions of employment for its employees through collective negotiation with an authorized employee organization pursuant to P.L.1984, c.14 (C.44:7-6.1 et seq.).

The commissioner shall have the power to promulgate regulations to assure that services in State and county psychiatric facilities are provided in an efficient and accessible manner and are of the highest quality. Regulations shall include, but shall not be limited to, the transfer of patients between facilities; the maintenance of quality in order to obtain certification by the United States Department of Health and Human Services; the review of the facility's budget; and the establishment of sanctions to assure the appropriate operation of facilities in compliance with State and federal laws and regulations.

The commissioner shall have the power to promulgate regulations to assure that county adjusters effectively and efficiently conduct investigations, notify legally responsible persons of amounts to be assessed against them, petition the courts, represent patients in psychiatric facilities, and as necessary reopen the

question of payment for maintenance of persons residing in psychiatric facilities. Regulations may include minimum standards for determining payment of care by legally responsible persons; a uniform reporting system of findings, conclusions and recommendations; and the establishment of sanctions to assure compliance with State laws and regulations.

c. The commissioner shall have the power to conduct an investigation into the financial ability to pay, directly or indirectly, of any person receiving services from the department, or his chargeable relatives. This authority shall include the power to issue subpoenas to compel testimony and the production of documents. The commissioner may contract with a public or private entity to perform the functions set forth in this subsection, subject to terms and conditions required by the commissioner.

2. R.S.30:4-24 is amended to read as follows:

General principles, applicability.

30:4-24. The provisions of Title 30 of the Revised Statutes shall govern the admission and commitment of the mentally ill, tuberculous, and mentally retarded to the several institutions designated therefor and govern and control all phases of the relationship between such patients and such institutions including payments, maintenance, custody, treatment, parole and discharge as though each provision of Title 30 of the Revised Statutes has been specifically enacted, unless otherwise specified in law, with relation to each institution, its board of managers and officials, and to all other officials, boards and authorities.

Title 30 of the Revised Statutes is to be administered in accordance with the general principles laid down in this section, which are declared to be the public policy of this State that:

(1) adequate residential and nonresidential facilities be provided for the prompt and effective diagnosis, care, treatment, training and rehabilitation of individuals suffering from diseases and dysfunctions of the brain, mind and nervous system, including the various forms of mental illness and mental retardation;

(2) such facilities be closely integrated with other community health, welfare and social resources;

(3) the human dignity and the moral and constitutional rights of such individuals be upheld and protected by appropriate statutes;

(4) family and community ties and mutual responsibilities be reinforced;

(5) inasmuch as such mental disorders may in some cases substantially impair the individual's ability to guide his actions in his own best interests or with due regard for the rights of others, provision be made for the due process of law by which such an individual may be placed under protection, treatment or restraint in his own or the public interest;

(6) the primary responsibility for the costs of services provided to an individual rests with him and his responsible relatives;

(7) it is in the public interest that facilities be available to all persons without limitation because of economic circumstances, and that extraordinary hardships to any individual or his relatives which may result from severe or prolonged disability be mitigated;

(8) means and facilities be provided by the State for scientific studies directed toward expanding knowledge of the causes, prevention, control, management and cure of diseases and dysfunctions of the brain, mind and nervous system; and

(9) as an intrinsic part of the program established by the State, provision be made for the instruction of professional and nonprofessional personnel in the skills required for the proper diagnosis, care, training, treatment and rehabilitation of persons suffering from disorders of the brain, mind and nervous system, and for the pursuit of relevant research.

3. Section 11 of P.L.1965, c.59 (C.30:4-24.3) is amended to read as follows:

C.30:4-24.3 Confidentiality; exceptions.

11. All certificates, applications, records, and reports made pursuant to the provisions of Title 30 of the Revised Statutes and directly or indirectly identifying any individual presently or formerly receiving services in a noncorrectional institution under Title 30 of the Revised Statutes, or for whom services in a noncorrectional institution shall be sought under this act shall be kept confidential and shall not be disclosed by any person, except insofar as:

a. the individual identified or his legal guardian, if any, or, if he is a minor, his parent or legal guardian, shall consent; or

b. disclosure may be necessary to carry out any of the provisions of this act or of article 9 of chapter 82 of Title 2A of the New Jersey Statutes; or

c. a court may direct, upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make such disclosure would be contrary to the public interest; or

d. disclosure may be necessary to conduct an investigation into the financial ability to pay of any person receiving services or his chargeable relatives pursuant to the provisions of R.S.30:1-12.

Nothing in this section shall preclude disclosure, upon proper inquiry, of information as to a patient's current medical condition to any relative or friend or to the patient's personal physician or attorney if it appears that the information is to be used directly or indirectly for the benefit of the patient.

Nothing in this section shall preclude the professional staff of a community agency under contract with the Division of Mental Health Services in the Department of Human Services, or of a screening service, short-term care or psychiatric facility as those facilities are defined in section 2 of P.L.1987, c.116 (C.30:4-27.2) from disclosing information that is relevant to a patient's current treatment to the staff of another such agency.

4. Section 13 of P.L.1965, c.59 (C.30:4-25.1) is amended to read as follows:

C.30:4-25.1 Definitions; classes for application for admission to functional services.

13. a. For the purpose of Title 30 of the Revised Statutes:

(1) "Eligible mentally retarded person" or "eligible developmentally disabled person" means a person who has been declared eligible for admission to functional services of the Division of Developmental Disabilities and who complies with the provisions of section 5 of P.L.1995, c.155 (C.30:4-25.9).

(2) "Evaluation services" means those services and procedures in the Division of Developmental Disabilities by which eligibility for functional services for the mentally retarded is determined and those services provided by the Division of Developmental Disabilities for the purpose of advising the court concerning the need for guardianship of individuals over the age of 18 who appear to be mentally deficient.

(3) "Functional services" means those services and programs in the Division of Developmental Disabilities available to provide the mentally retarded with education, training, rehabilitation, adjustment, treatment, care and protection.

(4) "Mental deficiency" or "mentally deficient" means that state of mental retardation in which the reduction of social competence is so marked that persistent social dependency requiring guardianship of the person shall have been demonstrated or be anticipated.

(5) "Mental retardation" or "mentally retarded" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which are manifested during the development period. For the purposes of Title 30 of the Revised Statutes, the term "developmentally disabled" may be used interchangeably with mental retardation to refer to persons who receive services from the Division of Developmental Disabilities.

(6) "Residential services" or "residential functional services" means observation, examination, care, training, treatment, rehabilitation and related services, including community care, provided by the Division of Developmental Disabilities to patients who have been admitted or transferred to, but not discharged from any residential functional service for the mentally retarded.

(7) "Income" means, but is not limited to, wages, benefits, interest earned, pensions, annuity payments and support from a third party pursuant to statute, rule or order or by contract.

(8) "Assets" or "resources" means, but is not limited to, cash, trusts, bank accounts, certificates of deposit, stocks, bonds and savings bonds.

b. Application for admission of an eligible mentally retarded person to functional services of the Division of Developmental Disabilities may be made under any of the following classes:

Class F. Application to the commissioner by the parent, guardian or person or agency having care and custody of the person of a minor or by the guardian of the person of a mentally deficient adult;

Class G. Application to the commissioner by a mentally retarded person over 18 years of age on his own behalf;

Class H. Application to the commissioner by a Superior Court, Chancery Division, Family Part having jurisdiction over an eligible mentally retarded minor;

Class I. Application to the commissioner with an order of commitment to the custody of the commissioner issued by a court of competent jurisdiction during or following criminal process involving the eligible mentally deficient person.

Application shall be made on such forms and accompanied by such relevant information as may be specified from time to time by the commissioner.

C.30:4-25.9 Conditions of eligibility for functional services participation.

5. a. An applicant for functional services from the Division of Developmental Disabilities, any person acting on his behalf pursuant to section 14 of P.L.1965, c.59 (C.30:4-25.2), or the applicant's chargeable relatives, as appropriate, shall agree, if the applicant is determined eligi-

ble for functional services pursuant to section 15 of P.L.1965, c.59 (C.30:4-25.3), to comply with the following conditions of eligibility and continued functional services participation:

(1) The applicant for residential services or other person listed in this subsection shall assign to the Commissioner of Human Services any rights of the applicant to support or payment from a third party under any law, regulation, court order or administrative order unless specifically prohibited by federal law or regulation;

(2) The applicant or other person listed in this subsection shall apply for and maintain all current and future benefits for which the applicant may be eligible, including, but not limited to, Medicare, Medicaid, any other State or federal benefits and any third party support pursuant to statute, rule, court order or contract; and

(3) The applicant or other person listed in this subsection shall make payments as required pursuant to R.S.30:4-60.

b. The Division of Developmental Disabilities may terminate any services received by, or the placement of, the eligible developmentally disabled person within 60 days if the conditions of eligibility set forth in this section are not complied with by the eligible developmentally disabled person or other person listed in subsection a. of this section. During any appeals process period, services to a developmentally disabled person shall not be terminated.

c. Nothing in this section or Title 30 of the Revised Statutes shall be construed to deny functional services to any person who meets the eligibility conditions and criteria for functional services, but does not have the ability to pay the full per capita costs or payments required pursuant to R.S.30:4-60.

6. Section 15 of P.L.1965, c.59 (C.30:4-25.3) is amended to read as follows:

C.30:4-25.3 Determination of eligibility.

15. Promptly on receipt of the application for determination of eligibility for admission to functional services of the Division of Developmental Disabilities, the commissioner shall determine the state of mental retardation and need for functional services. Such determination shall be made under rules promulgated by the commissioner. Any mentally retarded person who makes such application or on whose behalf application is made and who is found to require functional services of the Division of Developmental Disabilities shall be declared eligible subject to the person's and his legally chargeable relatives' compliance with the provisions of section 5 of P.L.1995, c.155 (C.30:4-25.9).

7. Section 16 of P.L.1965, c.59 (C.30:4-25.4) is amended to read as follows:

C.30:4-25.4 Issuance of statement of eligibility.

16. The commissioner or his designated agent shall, immediately upon determination of the state of mental retardation of the individual, as provided herein, report his findings to the applicant, and in the event that the mentally retarded person who makes such application or on whose behalf the application has been made is found eligible, the commissioner or his designated agent shall issue to the applicant a statement of eligibility for the functional services of the Division of Developmental Disabilities. The statement of eligibility shall advise the applicant of the particular functional service deemed most appropriate for the training, habilitation, care and protection of the mentally retarded individual as of the time of determination and shall further advise the applicant concerning the immediate availability of such services, or alternate services.

The statement of eligibility shall also advise the applicant of the requirements of section 5 of P.L.1995, c.155 (C.30:4-25.9), R.S.30:4-66 and R.S.30:4-74.

8. Section 21 of P.L.1987, c.116 (C.30:4-27.21) is amended to read as follows:

C.30:4-27.21 Transfer of patients.

21. a. A person involuntarily committed to a State psychiatric facility listed in R.S.30:1-7 may be transferred to another State psychiatric facility in accordance with rules adopted by the commissioner that specify the clinical and programmatic factors and the procedures related to the transfer.

b. A person involuntarily committed to a State psychiatric facility may be transferred to a facility for psychiatric or medical care pursuant to an agreement between the department and that facility which specifies the clinical and programmatic factors and the procedures related to the transfer.

c. A developmentally disabled person who resides in a State developmental center or other residential functional services placement for the developmentally disabled who is in need of involuntary commitment shall be involuntarily committed to a State or county psychiatric facility. As a result of the involuntary commitment, the physical transfer of the developmentally disabled person from the developmental center or other residential functional services placement to a State or county psychiatric

facility and from the facility back to the developmental center or other residential functional services placement shall be on a two-way commissioner's order of transfer, which order shall be in effect for as long as the person is involuntarily committed. The person is not required to file a new application for functional services from the Division of Developmental Disabilities upon transfer back to the developmental center or other residential functional services placement. The person's legal settlement shall remain unchanged and the person shall not gain or lose legal settlement because of the transfers.

9. R.S.30:4-34 is amended to read as follows:

County adjuster for commitment of mentally ill.

30:4-34. In each county where county counsel, county solicitor, county clerk, county physician or county probation officer, or any of their assistants is in charge and supervision of the preparation of papers relating to the commitment of the mentally ill, such person shall be known as "county adjuster" and such duties shall, except as otherwise provided in section 2 of P.L.1981, c.403 (C.30:4-34.1), continue to pertain to the office of such county counsel, county solicitor, county clerk, county physician or county probation officer or their successors in office, but, notwithstanding the foregoing, in case any other county official or employee shall be at the time of the adoption of this act, in charge and supervision of the preparation of papers relating to the commitment of the mentally ill, the governing body of the county may designate that county official or employee as county adjuster. In all other counties the judge of the Superior Court, with the consent of the county governing body, shall designate some county official or employee as county adjuster.

The county adjuster shall have charge and supervision of the preparation of papers relating to the commitment of the mentally ill in such county, and in cases arising in other counties in which the legal settlement appears to be in his county. Classification under civil service rules shall not be affected by reason of such designation or additional duties, and additional compensation, if any, for such services may be fixed by the county governing body and paid in the same manner as other county employees are paid. Each county governing body shall notify the various institutions for the mentally ill of the name and address of the county adjuster.

The judge of the Superior Court within the county may appoint the county adjuster to act as referee for the purpose of taking testimony bearing solely on the question of legal settlement and the

financial ability of the mentally ill patient or his legally responsible relatives to pay the cost of maintenance and shall make return to the court of his findings, conclusions and recommendations. Such findings, conclusions and recommendations shall be subject to the approval of the court and shall not be effective until incorporated in an appropriate order or judgment of the court. The county adjuster, acting as such referee, may subpena witnesses and compel their attendance on forms approved by the court.

10. R.S.30:4-49 is amended to read as follows:

Legal settlement in county; aliens.

30:4-49. Except as hereinafter provided, legal settlement in a county within the meaning of this article shall be continuous residence in such county for a period of not less than five years immediately preceding the date of application for admission or commitment, excluding the time, if any, spent by the patient in any charitable, or correctional institution or public hospital. An alien who has taken up his residence in any county in this State immediately upon arriving in this country, having had such county as his destination, and who shall have resided in such county for a period of at least three years immediately preceding the date of application for admission or commitment, shall be deemed to have a legal settlement in such county.

11. R.S.30:4-51 is amended to read as follows:

Legal settlement in State.

30:4-51. Legal settlement in this State, as distinguished from legal settlement in any political subdivision thereof, shall be continuous residence in the State for a period of at least one year immediately preceding the date of the application for admission or commitment, excluding the time, if any, spent by the patient in any charitable or correctional institution or public hospital.

12. R.S.30:4-52 is amended to read as follows:

State to bear costs of nonresident.

30:4-52. Any patient not having lived in the State for at least one year prior to the application for admission or commitment to any institution for the care and treatment of the mentally ill or developmentally disabled in this State shall not be deemed to have a legal settlement in this State but shall be admitted or committed to one of the institutions owned by the State pending his

removal to the place where he has a legal settlement, if any, and the cost and expense of care and treatment of such patient during such confinement, and his removal, when the cost of his removal is not otherwise provided for, shall be borne by the State.

13. R.S.30:4-56 is amended to read as follows:

Judgment of commitment; expense; filing fee.

30:4-56. The final judgment of commitment shall contain a determination of the mentally ill patient's legal settlement and shall provide for the payment of the expense of the care and treatment of the patient. The judgment, together with the complaint or a certified copy thereof, shall be filed in the office of the clerk of the county, who shall forward within 10 days after receipt of same a certified copy of the judgment, and in all cases a certified copy of the complaint on which the judgment is founded, to the chief executive officer of the institution to which the patient is committed.

Any person made responsible for the payment of all or a part of the cost of maintenance of a mentally ill patient shall, forthwith upon the entry of the order of the court, receive from the county adjuster notice of the amount required to be paid by the terms of said order and shall further receive notice that in the event that there is any change in his financial ability which would permit him to pay a greater portion of the cost of maintenance then such person shall report these facts to the county adjuster for consideration. Failure to do so shall oblige such person or his estate to pay any greater sum found to be due and owing by the court from the date of improved financial ability of such person.

At the time of making the final judgment, the court shall further tax a filing fee of $1.00 to be paid to the clerk for the use of the county in each case, which fee shall be paid in all nonindigent cases by the person made chargeable in the judgment, and in all indigent cases by the county in which the action is had unless the indigent person is chargeable to another county in which case such other county shall be liable for the fee.

14. R.S.30:4-60 is amended to read as follows:

Payments by patient; determination of amounts.

30:4-60. a. If the court shall determine that the patient is mentally ill and, basing its determination upon a formula of financial ability to pay as promulgated annually by the Department of the Treasury, that the patient has sufficient estate to pay for his main-

tenance as fixed by the State Board of Human Services or board of chosen freeholders, as the case may be, or is able to pay a sum in excess of that chargeable to the county of legal settlement, if any, or if the person or persons legally liable for his support, as herein provided, using the same formula, are able to pay such amount of maintenance, fixed as aforesaid, the court, after determining the legal settlement of such patient may, in its discretion, commit or direct the admission or hospitalization of such patient to any State, county, or private mental hospital in this State. In the final judgment of commitment or order directing admission or hospitalization it shall direct that the cost of the care and maintenance of such patient in the institution designated in the judgment, determined by utilizing the aforesaid formula, shall be paid out of the estate of the patient or by the person chargeable by law with his support, or by contract, as the case may be, and the judgment shall specify the amount of maintenance as fixed from time to time for such institution, which shall be paid thereunder, and shall, in the discretion of the court, contain such direction as may seem proper concerning security to be given for such payment. As long as the amount contributed by the patient's estate or his legally responsible relatives for the maintenance of the patient exceeds the amount chargeable as fixed pursuant to R.S.30:4-78, no order shall be entered against the county of legal settlement for any part of such maintenance.

If on final hearing a patient and his chargeable relatives are found unable to pay an amount for maintenance in excess of the amount chargeable to the county of legal settlement, the court shall direct that such patient be committed to the institution as a patient chargeable to the county of legal settlement, if any, or to the State, as provided in this article, and on reasonable notice to the persons to be charged, may further direct that such patient or his or her chargeable relatives, or any of them, pay monthly in advance to the institution in which such patient is confined in the case of State patients, or to the county treasurer of the county chargeable in the case of county patients, such part of the cost of the maintenance of such patient as the court may direct in the manner provided herein.

b. If the department determines that the person is developmentally disabled and eligible for functional services from the Division of Developmental Disabilities, the department, using a formula of financial ability to pay as promulgated annually by the Department of the Treasury, shall determine if the developmentally disabled person has sufficient income, assets, resources or estate to pay for his maintenance as fixed by the State Board of Human Services, or is able to make any payment towards his

maintenance, or if the person's chargeable relatives or other persons chargeable by contract are able to pay the person's maintenance or make any payment towards the person's maintenance on the person's behalf. The department shall determine the legal settlement of the developmentally disabled person pursuant to section 86 of P.L.1965, c.59 (C.30:4-165.3).

The department shall send written notice of the periodic payment amount to the person or his parent or guardian, chargeable relative or other person chargeable by contract for the person's support. All required payments shall be made directly to the department unless otherwise specified in the notice. The notice may, in the discretion of the department, contain such direction as may seem proper concerning security to be given for the payment. The payment notice shall be separate and independent of any order of commitment to the care and custody of the commissioner or any order of guardianship.

The department shall annually review and revise, as appropriate, its payment calculations. If the financial circumstances of the person or persons chargeable by law or contract for the developmentally disabled person's support change prior to the annual review, the chargeable person or persons shall immediately notify the department in writing.

C.30:4-60.2 "Estate," "patient" defined.

15. Notwithstanding any other provision of law to the contrary, whenever the term "estate" appears in any provision of Chapter 4 of Title 30 of the Revised Statutes for the purpose of describing the mechanism for satisfying or contributing to the costs of maintaining a patient, the term shall mean and include only those payments made directly to the State or county by the patient or his legally responsible relative, payments made on behalf of a deceased patient, payments made on behalf of the patient to the State or county in its capacity as a representative of the patient, or payments made on behalf of the patient to the State or county in its capacity as a representative of the patient and which would otherwise be due and payable directly to the patient. No other payments to the State, regardless of their source or the circumstances of their receipt, shall be considered to be a part of the patient's estate.

As used in this section, "patient" includes a person over the age of 18 who has been admitted to, but not discharged from, a short-term care or psychiatric facility and a developmentally disabled person of any age who is receiving functional services from the Division of Developmental Disabilities.

16. R.S.30:4-60.1 is amended to read as follows:

Transcript of evidence of indigency furnished institution.

30:4-60.1. Upon the making of any order committing a person to a mental hospital supported in whole or in part from county, municipal or State funds, the county adjuster of the county in which the court making the order is located, shall forthwith deliver to the chief executive officer of the institution a transcript of the evidence presented to the court or a copy of the testimony taken by the county adjuster on behalf of the court relating to the question of indigency including a statement of the kind, value and location of the patient's estate, or, in the event that a relative of the patient is made chargeable with his support, a detailed statement of the financial means of such chargeable relative.

17. R.S.30:4-63 is amended to read as follows:

Full paying patients.

30:4-63. a. The court may, after final hearing, commit any patient to any State or county psychiatric institution irrespective of the patient's legal settlement where provision is made for his care and maintenance, in an amount approved by the State Board of Human Services or by the board of chosen freeholders, as the case may be. The patient may remain as a full paying patient in such institution as long as such sum shall be regularly paid out of the estate of such patient, or by the person or persons chargeable by law with his care and maintenance, or under contract. In the event that such sum cannot be paid because of a change in the financial circumstances of the patient or his legally responsible relatives then the court may make such order as may be necessary with regard to the manner and the amount of maintenance which shall be paid on behalf of the patient and by whom.

b. The department may admit a person found eligible for functional services from the Division of Developmental Disabilities to a residential functional services placement irrespective of the person's legal settlement if provision is made for the payment of the full cost of the person's care and maintenance, in an amount approved by the State Board of Human Services. The person may remain as a full paying person in the residential functional services placement, or in another residential functional services placement deemed appropriate by the department, as long as the full per capita amount for the placement is regularly paid from the person's income, benefits, assets, resources or estate, or by the person chargeable by law or under contract with his care and maintenance.

18. R.S.30:4-66 is amended to read as follows:

Liability for patient's support.

30:4-66. Every patient supported in a State or county charitable institution or other residential functional service shall be personally liable for his maintenance and for all necessary expenses incurred by the institution or other residential functional service in his behalf and the husband, wife, father or mother of a child under 18 years of age, and the children, severally and respectively, being of sufficient ability, of every patient so confined, whose estate is not sufficient for his support, shall support, and maintain the patient in the institution or other residential functional service, as the case may be, in such manner and to such an amount as the court shall direct pursuant to subsection a. of R.S.30:4-60 in the case of mentally ill patients, and in the case of developmentally disabled persons, as required pursuant to subsection b. of R.S.30:4-60. All spouses living separate and apart from their spouses so confined, and all parents of illegitimate children so confined shall also be personally liable for such expense.

But no payment shall be ordered to be made by a chargeable relative 55 years of age or over except with respect to the maintenance of his or her spouse or his or her natural or adopted child under the age of 18 years.

19. Section 1 of P.L.1985, c.292 (C.30:4-68.2) is amended to read as follows:

C.30:4-68.2 Monthly personal needs allowance, $35.

1. A patient admitted to a residential functional service by the Division of Developmental Disabilities or committed to a State or county psychiatric hospital who is not eligible for medical assistance under the "New Jersey Medical Assistance and Health Services Act," P.L.1968, c.413 (C.30:4D-1 et seq.), but who is a recipient of other State assistance, shall be entitled to a $35.00 monthly personal needs allowance.

20. R.S.30:4-74 is amended to read as follows:

Continuing liability of patient's estate or persons chargeable.

30:4-74. A patient's estate or the person chargeable for his support or the State or county as provided by law, shall be liable for institutional or functional services support from the time of the patient's admission or commitment whether he was admitted or committed as a paying or nonpaying patient and irrespective of change of status after admission or commitment.

21. Section 1 of P.L.1962, c.207 (C.30:4-75.1) is amended to read as follows:

C.30:4-75.1 Authority to collect moneys due the State.

1. The Department of Human Services shall have the authority to collect all moneys due to the State for services, assistance, relief or care provided by the State through the department from the recipients thereof or from the persons legally responsible therefor pursuant to any agreement with the State or pursuant to any obligation established by law or by contract.

The Attorney General shall provide all legal assistance necessary and proper to collect the moneys due to the State and shall have all the remedies and may take all of the proceedings for the collection thereof which may be had or taken for or upon the recovery of a judgment in a civil action and may institute and maintain any action or proceeding in the courts necessary therefor.

22. R.S.30:4-78 is amended to read as follows:

Rates for maintenance of State patients and convict and criminal mentally ill and payment thereof.

30:4-78. The State House Commission shall fix the rate or rates of per capita payment for the reasonable cost of maintenance and clothing of patients in State psychiatric facilities chargeable to the counties.

The State House Commission shall fix the per capita cost rate or rates to be paid by the State to the several counties on behalf of the reasonable cost of maintenance of State patients in any county psychiatric facility, including outpatient psychiatric services, which payments shall be made by the State Treasurer on the warrant of the Comptroller to the board of chosen freeholders, upon a statement furnished by such board to the department, giving the name and number of such county or State patients who may have been thus supported in such psychiatric facilities. This statement shall set forth the amount, if any, received by the county from any person or persons for or on behalf of the maintenance of any such patients in such county psychiatric facilities. Any amount received from a person or persons for the maintenance of a patient in a county psychiatric facility shall be shared between the county and the State in the same ratio as the reasonable cost of maintenance and clothing are the responsibility of the State and county for the corresponding service period. The county shall credit the amount received from the person or persons to the State on the monthly State Aid reimbursement report filed by the

county with the department, except that the credit shall not exceed the State's share of the reasonable cost of maintenance and clothing costs for the patient.

The State House Commission shall likewise fix the per capita rate or rates which each county shall pay to the treasurer for the reasonable cost of maintenance and clothing of each patient residing in a State psychiatric facility or a State facility for the developmentally disabled or receiving other residential functional services for the developmentally disabled, having a legal settlement in such county. Any payments received from the estate of a mentally ill patient as defined in section 15 of P.L.1995, c.155 (C.30:4-60.2), including federal Social Security benefits but not including any funds received from the Medicare or Medicaid programs, in support of the patient in a State psychiatric hospital, shall be shared between the county and State in the same ratio as the reasonable cost of maintenance and clothing are the responsibility of the county and State for the corresponding service period. The State shall credit the amount received from the person or persons to the county of settlement, except that the credit shall not exceed the county's share of the reasonable cost of maintenance and clothing for that patient.

On the effective date of P.L.1995, c.155 (C.30:4-25.9 et al.), all payments received from the estate of the patient, as defined in section 15 of P.L.1995, c.155 (C.30:4-60.2), by the county or State on behalf of a patient receiving residential functional services, shall be treated as payment for current services or the most recent service periods and retained by the State to offset the maintenance and clothing costs of the patient. If the payment is received by the county, the county shall file the monthly report on contributions received by the county on behalf of patients with the department and process payment of the funds to the department, except that, if the patient has county settlement and the payment is for a specific service period, it shall be shared by the State and county in the same ratio that the State and county shared in the costs for the corresponding service period. A credit to the county shall not exceed the county's share of the reasonable cost of the maintenance and clothing for the patient.

The State House Commission shall likewise fix the rate or rates to be paid for the reasonable cost of maintenance and clothing of the convict and criminal mentally ill in any State psychiatric facility, which rate or rates shall be paid by the State in the case of State patients, and in the case of county patients, the same rate or rates shall be paid, to

be divided between the State and county in the proportion of nine on the part of the State and one on the part of the county.

Notice of any change in rate or rates to be paid by the counties shall be given in writing by the State House Commission to the commissioner and by him transmitted to the clerk of the respective boards of chosen freeholders.

The State share of payments to the several county psychiatric facilities on behalf of the reasonable cost of maintenance of patients shall be at the rate of 130% during the period July 1 through December 31 of each year and at the rate of 50% during the period January 1 through June 30 of each year; provided that the total amount to be paid by the State in each year shall not exceed 90% of the total reasonable per capita cost for the period January 1 though December 31 of each year.

The rate to be paid by the counties to the State on behalf of the maintenance of county patients in State psychiatric facilities and State facilities for the developmentally disabled and county patients receiving other residential functional services for the developmentally disabled shall be 50% of the actual reasonable per capita cost of maintenance of such patients.

During the period of July 1 through December 31 of each year, the State shall pay to each county an amount equal to 40% of the total per capita costs for the reasonable cost of maintenance and clothing of county patients in State psychiatric facilities for the period January 1 through December 31 of that year.

During the period of July 1 through December 31 of each year, the State shall pay to each county an amount equal to 50% of the total per capita costs for the reasonable cost of maintenance and clothing of county patients residing in State facilities for the developmentally disabled and receiving other residential functional services for the developmentally disabled for the period January 1 through December 31 of that year.

The per capita cost of maintenance of patients in county and State psychiatric facilities and State facilities for the developmentally disabled and county patients receiving other residential functional services for the developmentally disabled, as aforesaid, shall be reported to the State Comptroller upon forms to be prescribed from time to time by the State Comptroller.

23. Section 1 of P.L.1938, c.239 (C.30:4-80.1) is amended to read as follows:

C.30:4-80.1 Lien against property of persons confined.

1. Every charitable institution maintained in whole or in part by State or county funds, to which persons have been or may be committed or admitted by virtue of Title 30 of the Revised Statutes, shall have a lien against the property of persons confined or who had been confined therein, for the total cost of the care and maintenance of the patient in such institution at the per capita cost rate of maintenance fixed in accordance with law. Such a lien shall also attach to the real and personal property of any person chargeable by law with the support and maintenance of such patient and against whom a court of competent jurisdiction has entered an order directing such person to pay all or a part of the cost of maintaining such patient in a State or county hospital, provided that the amount of the lien shall not exceed the amount of maintenance required to be paid by such order of court. The lien shall also attach to the real and personal property of any person chargeable by law with the support and maintenance of the patient pursuant to subsection b. of R.S.30:4-60, but the amount of the lien shall not exceed the amount of maintenance to be paid. Such lien when properly filed as set forth herein shall have priority over all unrecorded encumbrances and shall be at the rate to be determined as provided in Title 30 of the Revised Statutes.

24. Section 86 of P.L.1965, c.59 (C.30:4-165.3) is amended to read as follows:

C.30:4-165.3 Investigation of residency, ability to pay; records maintained by county.

86. Whenever any developmentally disabled person is admitted to residential functional services the commissioner or his designated agent shall investigate and take statements concerning residency of the person and the financial ability to pay for the cost of the residential functional services. The department shall determine the financial ability to pay for the cost of care and maintenance and the legal settlement in accordance with applicable provisions of Title 30 of the Revised Statutes and notify the county of settlement, if any, that a person has been admitted.

The county shall maintain a record of any person receiving residential functional services and make the record available for examination by the department. The county shall cooperate fully with the department in the department's review and investigation of the person or his chargeable relative's financial ability to pay

for the residential functional services provided to the person. A determination of indigency shall be made by the department and retained in the person's record maintained by the county.

If arrangements are made which are satisfactory to the department for full payment of the cost of care and treatment of the person and if the commissioner or his designated agent is satisfied that the person requires residential functional services and should be admitted then he shall be so admitted.

25. Section 1 of P.L.1970, c.289 (C.30:4-165.7) is amended to read as follows:

C.30:4-165.7 Filing of complaint for guardianship.

1. The commissioner or any parent, spouse, relative, or interested party, on behalf of an alleged mental incompetent who is receiving functional or other services and is over 18 years of age, may file a complaint upon notice to the alleged mental incompetent with the Superior Court in the county furnishing the services or in which such parent, spouse, relative, or interested party resides, for a judgment designating a guardian. The county of settlement shall be served with a copy of the moving papers, however, the county may waive service of the moving papers if it has no reason to oppose the action. If the county elects to oppose the action it shall do so within 30 days after being served with a copy of the moving papers.

26. This act shall take effect 180 days after enactment, except that sections 1, 3 and 22 shall take effect immediately.

Approved June 30, 1995.

CHAPTER 156

AN ACT establishing a special purpose funding mechanism for the Department of Insurance, amending R.S.45:15-29 and supplementing Title 17 of the Revised Statutes.

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

C.17:1C-19 Findings, declarations relative to the Department's expenses.

1. a. The Legislature finds and declares that:

(1) The Department of Insurance has a statutory obligation to protect the interests of New Jersey's insurance consumers and to regulate and oversee the operations of the insurance industry. The special needs of the department relative to the monitoring of the financial condition of insurers and health maintenance organizations is recognized by the Legislature as being unique from its other responsibilities.

(2) In order to maintain an adequate level of financial oversight and perform all lawful duties in this regard, it is necessary to establish a special purpose funding mechanism for the department's special needs.

(3) A special purpose funding source is a clear indication of the commitment that the State of New Jersey has made to the special needs of the department relative to its administrative activities related to the financial regulation, supervision and monitoring of insurers and health maintenance organizations. A special purpose funding source will assist in maintenance of New Jersey's accreditation by the National Association of Insurance Commissioners (NAIC.). Accreditation under the NAIC Financial Regulation and Standards Program is an indication of the department's ability to implement and enforce strong financial solvency standards.

b. The Legislature therefore intends for the actual incurred expenses of the Department of Insurance for all services related to the department's financial regulation, supervision and monitoring of insurers and health maintenance organizations to be apportioned among insurers and health maintenance organizations doing business in our State.

c. The Legislature also finds that establishing a dedicated funding mechanism for the operations of the New Jersey Real Estate Commission is in the public's interest.

C.17:1C-20 Certification of expenses incurred, apportionment.

2. a. The Director of the Division of Budget and Accounting in the Department of the Treasury shall, on or before August 15 in each year, ascertain and certify to the Commissioner of Insurance by category the total amount of expenses incurred by the State in connection with the administration of the special functions of the Department of Insurance relative to the financial regulation, supervision and monitoring of insurers and health maintenance organizations during the preceding fiscal year. Those expenses shall include, in addition to the direct cost of personal service, the cost of maintenance and operation, the cost of employee benefits and the workers' compensation paid for and on account of person-

nel, rentals for space occupied in State-owned or State-leased buildings and all other direct and indirect costs of the administration of those functions of the department, as well as any amounts remaining uncollected from the special purpose apportionment of the previous fiscal year. Certification made pursuant to this subsection shall be made by the director in consideration of revenues paid by insurers and health maintenance organizations pursuant to all other special purpose assessments made pursuant to applicable law in effect on the effective date of this act.

b. (1) Upon receipt of the certification made by the Director of the Division of Budget and Accounting pursuant to subsection a. of this section, but no later than September 1 in each year following the close of the previous fiscal year, the commissioner shall issue, in accordance with the provisions of this section, a special purpose apportionment for the amount of the expenses incurred by, or on behalf of, the department for those special purposes recognized in this act.

(2) Special purpose apportionments made pursuant to this section shall be distributed among all of the companies engaged in business pursuant to subtitle 3 of Title 17 of the Revised Statutes (R.S.17:17-1 et seq.), subtitle 3 of Title 17B of the New Jersey Statutes (N.J.S.17B:17-1 et seq.), and P.L.1973, c.337 (C.26:2J-1 et seq.), in this State in the proportion that the net written premiums received by each of them for such insurance written or renewed on risks, in this State during the calendar year immediately preceding, bears to the sum total of all such net written premiums received by all companies writing that insurance or coverage within the State during that calendar year, as reported.

"Net written premiums received" means gross direct premiums written, less return premiums thereon and dividends credited or paid to policyholders as reported on the company's annual financial statement. For the purpose of calculating the apportionment amount for companies engaged in business pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), "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).

c. For the purposes of this section, no company shall be required to pay a special purpose apportionment which exceeds .10 percent of its net written premiums received during the calendar year immediately preceding.

d. The commissioner shall certify the amount of the special purpose apportionment issued to each company. Each company shall remit the amount so certified and apportioned to it to the

department in accordance with the procedures established in this act. Amounts collected by the department shall be used for reimbursement to the State for expenses incurred in connection with the special functions of the Department of Insurance relative to the financial regulation, supervision and monitoring of insurers and health maintenance organizations.

C.17:1C-21 Filing of objections to apportionment.

3. Within 15 days after the date of mailing a statement of special purpose apportionment as provided in this act, a company may file its objections to its apportionment with the commissioner. Upon receiving those objections, the commissioner shall either: amend the statement as warranted, consistent with sections 5 and 9 of this act; or schedule and send a notice of a hearing on the objections, which hearing shall be held not less than 30 nor more than 60 days after the date of the notice.

C.17:1C-22 Commissioner's findings, notice.

4. If upon receiving the objections, or after the hearing, the commissioner finds any part of the special purpose apportionment against the objecting company excessive, erroneous, unlawful or invalid, he shall transmit to the objector, by registered mail, his findings and an amended statement of special purpose apportionment in accordance with those findings, which shall have the same force and effect as an original statement of special purpose apportionment. If the commissioner finds the entire statement of special purpose apportionment unlawful or invalid, he shall notify the objector, by registered mail, of that determination, and the original statement of special purpose apportionment shall be null and void. If the commissioner finds that the statement as rendered is neither excessive, erroneous, unlawful or invalid, in whole or in part, he shall transmit notice thereof to the objector by registered mail.

C.17:1C-23 Notice of delinquency.

5. If a statement of special purpose apportionment against which objections are filed is not paid in full within 30 days after the date of mailing to the objector of notice of a finding that the objections have been disallowed; or if an amended statement of special purpose apportionment is not paid within 30 days of the date a copy thereof is mailed by registered mail to the objector, the commissioner shall give notice of the delinquency to the State Treasurer and to the objector, and the State Treasurer shall proceed to make the collection.

C.17:1C-24 Action for recovery.

6. No action for recovery of an amount paid under this act shall be maintained in any court unless objections have been filed with the commissioner. In an action for recovery of any payments, plaintiff may raise any relevant issue of law, but the commissioner's findings of fact shall be presumptive evidence of the facts therein stated.

C.17:1C-25 No action, proceeding maintained in court for delaying collection, payment.

7. No action or proceeding shall be maintained in any court for the purpose of restraining or delaying the collection or payment of a statement of special purpose apportionment rendered in accordance with the provisions of this act. A company against which a statement of special purpose apportionment is rendered shall pay the amount thereof, and after the payment may in the manner provided by this act at any time within two years from the date of the payment, bring an action at law against the State to recover the amount paid, with legal interest thereon from the date of payment, upon the ground that the special purpose apportionment was excessive, erroneous, unlawful or invalid, in whole or in part.

C.17:1C-26 Procedure exclusive.

8. The procedure provided in this act for determining the lawfulness of statements of special purpose apportionment and the recovery of payments made pursuant to those statements of special purpose apportionment shall be exclusive of all other remedies and procedures.

C.17:1C-27 Failure, refusal to pay, notice to Treasurer.

9. If any company to which a statement of special purpose apportionment as provided in this act has been mailed fails or refuses to pay the amount within 30 days, or fails to file with the commissioner objections to the statement of special purpose apportionment as provided in this act, the commissioner shall transmit to the State Treasurer a certified copy of both the statement of special purpose apportionment and the notice of the neglect or refusal of the company to pay the amount thereof, and at the same time shall mail by registered mail to the company a copy of the items transmitted to the State Treasurer.

C.17:1C-28 Collection of amount due.

10. Within 10 days after receipt of the notice and certified copy of the statement of special purpose apportionment, the State Trea-

surer shall proceed to collect the amount stated to be due, with legal interest, by seizure and sale of any goods or chattels, including stocks, securities, bank accounts, evidences of debt and accounts receivable belonging to the company anywhere within the State.

C.17:1C-29 Additional remedy.

11. As an additional remedy, the State Treasurer may issue a certificate to the Clerk of the Superior Court, that a company is indebted under this act in an amount stated in the certificate. The clerk shall immediately enter upon his record of docketed judgments the name of the company, and of the State, the amount of debt so certified, and the date of the entry. The entry shall have the same force and effect as the entry of a docketed judgment in the office of the clerk, and the State Treasurer 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 the company's right of appeal.

C.17:1C-30 Exemption from fees, charges.

12. a. Notwithstanding any law or regulation to the contrary, a company paying the amounts apportioned to it in statements of special purpose apportionment made pursuant to section 2 of this act shall be exempt from all fees or charges imposed by the Department of Insurance pursuant to any other provision of law or regulation.

b. Nothing in this section shall be construed to exempt a company from paying any other special purpose assessment made pursuant to any applicable law in effect on the effective date of this act.

c. Notwithstanding the provisions of subsection a. of this section, any fee imposed by the Department of Insurance for the periodic examination of domestic insurers pursuant to section 3 of P.L.1993, c.236 (C.17:23-22) shall remain in effect.

d. Nothing in this section shall exempt a company from paying any fine or penalty imposed by the commissioner for a violation of a statute or regulation.

C.17:1C-31 Permitted increase in amount assessable.

13. The total amount assessable to companies in any fiscal year for all special purpose assessments made pursuant to applicable law as of the effective date of this act, including the special purpose apportionment established by this act, shall not increase, as a percentage, more than the percentage increase in the combined net written premiums received, as defined in subsection b. of section 2 of this act, by all companies for the previous year.

C.17:1C-32 Rules, regulations.

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

15. R.S.45:15-29 is amended to read as follows:

Payment of fines, penalties; funding of commission's expenses.

45:15-29. a. All fines and penalties received by the commission pursuant to the provisions of this article shall be paid by it into the State treasury monthly. The payments shall be made on or before the tenth day of each month following their receipt, and at the time of payment a statement thereof shall be filed with the Director of the Division of Budget and Accounting.

b. All expenses incurred by the commission shall be paid from fees collected by the commission pursuant to the provisions of article I of chapter 15 of Title 45 of the Revised Statutes. Monies collected annually pursuant to this subsection shall be dedicated to the commission for the purposes of funding its incurred expenses for the current fiscal year, which expenses shall include, in addition to the direct cost of personal service, the cost of maintenance and operation, the cost of employee benefits and the workers' compensation paid for and on account of personnel, rentals for space occupied in State-owned or State-leased buildings and all other direct and indirect costs of the administration thereof.

16. This act shall take effect on July 1, 1995.

Approved June 30, 1995.

CHAPTER 157

AN ACT concerning the emission inspection and registration of certain motor vehicles, amending P.L.1966, c.16, P.L.1969, c.119, R.S.39:3-20, P.L.1975, c.156, P.L.1962, c.198, and P.L.1987, c.373, supplementing Title 39 of the Revised Statutes and repealing parts of the statutory law.

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

C.39:8-59 Findings, declarations relative to emissions from diesel-powered vehicles.

1. The Legislature finds and declares that exhaust emissions from diesel buses, heavy-duty diesel trucks, and other diesel-powered motor vehicles contribute significantly to air pollution problems within the State; that such emissions diminish the quality of life and health of our citizens; and that the technology and state of the art in determining and controlling the level of unacceptable exhaust emissions from diesel buses, heavy-duty diesel trucks, and other diesel-powered motor vehicles are continually being advanced and that the procedures, test methods and standards for determination of such unacceptable levels must be reflective of those advances.

The Legislature therefore determines that it is in the public interest to establish a program regulating exhaust emissions from diesel buses, heavy-duty diesel trucks, and certain other diesel-powered motor vehicles.

C.39:8-60 Definitions relative to emissions inspections.

2. As used in this act:

"Diesel bus" means any diesel-powered autobus or motorbus of any size or configuration, whether registered in this State or elsewhere, that is designed or used for intrastate or interstate transportation of passengers for hire or otherwise on a public road, street or highway or any public or quasi-public property in this State, and shall include, but need not be limited to: autobuses under the jurisdiction of the Department of Transportation pursuant to Titles 27 or 48 of the Revised Statutes; autobuses of the New Jersey Transit Corporation and its contract carriers that are under the inspection jurisdiction of the Department of Transportation; autobuses that are subject to federal motor carrier safety regulations; autobuses under the authority of the Interstate Commerce Commission or its successor agency; school buses, as defined pursuant to R.S.39:1-1; hotel, casino, charter, and special buses; and any other diesel-powered autobus or motorbus as determined by rule or regulation adopted by the Division of Motor Vehicles in consultation with the Department of Transportation;

"Diesel-powered motor vehicle" means a vehicle, whether registered in this State or elsewhere, that is self-propelled by a compression ignition type of internal combustion engine using diesel fuel and that (1) is designed or used for transporting per-

sons or property on any public road, street or highway or any public or quasi-public property in this State, (2) is greater than 8,500 pounds gross vehicle weight, (3) is not a diesel bus or heavy-duty diesel truck, and (4) is not a heavy-duty diesel truck or other diesel-powered motor vehicle owned and operated by a county, municipality, fire district, or duly incorporated nonprofit organization for first aid, emergency, ambulance, rescue, or fire-fighting purposes. Diesel-powered motor vehicle shall also mean a vehicle that is designed or used for construction or farming purposes and is greater than 8,500 pounds gross vehicle weight, except that the Division of Motor Vehicles, in consultation with the Department of Environmental Protection, may exempt from the requirements of this act diesel-powered motor vehicles that are registered as construction vehicles under Titles 39 and 41 of the Revised Statutes or that are greater than 8,500 pounds gross vehicle weight and are designed or used for construction or farming purposes;

"Director" means the Director of the Division of Motor Vehicles;

"Division" means the Division of Motor Vehicles;

"EPA" means the United States Environmental Protection Agency;

"Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the loaded weight of a single or combination (articulated) vehicle. The GVWR of a combination (articulated) vehicle, commonly referred to as the "gross combination weight rating" or "GCWR," is the GVWR of the power unit plus the GVWR of the towed unit or units;

"Heavy-duty diesel truck" means any diesel-powered motor vehicle, whether registered in this State or elsewhere, with a GVWR of 18,000 or more pounds that is designed or used for the transporting of property on any public road, street or highway or any public or quasi-public property in this State. Heavy-duty diesel truck shall not mean a heavy-duty diesel truck owned and operated by a county, municipality, fire district, or duly incorporated nonprofit organization for first aid, emergency, ambulance, rescue, or fire-fighting purposes;

"Periodic inspection program" or "periodic inspection" means a program in which diesel buses, heavy-duty diesel trucks, and other diesel-powered motor vehicles registered in this State are periodically inspected in accordance with the provisions of this act;

"Person" means a corporation, company, association, society, firm, partnership, or joint stock company, or an individual, and shall also include the State and all of its political subdivisions

and any agencies, authorities, corporations, or instrumentalities of the State or any political subdivision thereof; and

"Roadside enforcement program" or "roadside inspection" means a roadside examination program conducted pursuant to this act for the inspection of exhaust emissions, emission control apparatus and such other items as the Department of Environmental Protection, in consultation with the Director of the Division of Motor Vehicles and the Commissioner of Transportation, prescribes, of diesel buses, heavy-duty diesel trucks, and other diesel-powered motor vehicles along any public road, street or highway or any public or quasi-public property in this State or at such other locations as may be designated by the director in consultation with the Commissioner of Transportation.

C.39:8-61 Exhaust emissions standards, test methods.

3. The Department of Environmental Protection, in consultation with the Division of Motor Vehicles and the Department of Transportation, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) establishing exhaust emissions standards and test methods, and standards for emission control apparatus and related items, in accordance with P.L.1966, c.16 (C.26:2C-8.1 et seq.) or as may be authorized or provided otherwise by federal law, rule or regulation, for diesel buses, heavy-duty diesel trucks, and other diesel-powered motor vehicles. The test methods shall be accurate, objective, and capable of being performed routinely in the periodic inspection program and the roadside enforcement program. In adopting such standards and test methods, the Department of Environmental Protection may consider, but need not necessarily adopt, exhaust control technology current at the time of adoption of the rules and regulations, as well as guidance, standards, directives, and other information issued by the EPA, any other state, or any governmental agency, scientific research entity, or industry. The Department of Environmental Protection may provide that the standards and test methods vary according to the age of the vehicle or according to other relevant factors, and the department may provide exemptions based upon good cause, including, but not limited to, whether the vehicle has been tested within the previous six months or other reasonable period of time in accordance with the law of another state or jurisdiction and has been found to be in compliance with the exhaust emissions standards of the state or jurisdiction in which the vehicle was tested.

The provisions of this act shall not apply to any heavy-duty diesel truck or other diesel-powered motor vehicle owned and operated by a county, municipality, fire district, or duly incorporated nonprofit organization for first aid, emergency, ambulance, rescue, or fire-fighting purposes.

C.39:8-62 No operation in violation of standards established.

4. No owner or lessee of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle shall operate, or cause or allow the operation of, that diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle in this State in violation of the standards established by the Department of Environmental Protection and determined in accordance with test methods and procedures established pursuant to this act.

C.39:8-63 Violations, penalties.

5. a. The owner and the lessee, if any, of a heavy-duty diesel truck operated in violation of section 4 of this act shall be jointly and severally liable for a civil penalty of: $700 for the first violation, except as otherwise provided in this subsection; and $1,300 for the second or subsequent violation, except as otherwise provided in this subsection. A second or subsequent violation is one that occurs within one year of the occurrence of a previous violation committed with respect to the same heavy-duty diesel truck, without regard to the date of the hearing that adjudicated the violation and without regard to the identity of the defendant against whom it was adjudicated. The complaint and summons shall state whether the charges pertain to a first violation or to a second or subsequent violation, but if the complaint and summons fail to allege a second or subsequent violation, the civil penalty imposed shall be that for a first violation. The penalty for a first violation may be reduced to $150 and the penalty for a second or subsequent violation may be reduced to $500 if the defendant provides a certification of the repairs to the vehicle that is satisfactory to the court and in compliance with emissions standards. The director may specify by rule or regulation the manner of the repairs and the certification necessary to effect a reduction of penalty. The director may, by rule or regulation, provide that information pertaining to penalties, the repairs that may effect a reduction of penalty, and the certification necessary to substantiate those repairs and compliance with emissions standards be served with the complaint and summons. The director may, by rule or regulation, prescribe a form for certifying repairs and compliance with emissions standards, with instructions as to how the form should

be completed and certified. The director may provide that the form be served with the complaint and summons.

Notwithstanding any other provision of law or any rule or regulation adopted pursuant thereto to the contrary, repairs to effect a reduction of penalty under the provisions of this subsection shall be made before the hearing date or within 45 days of the occurrence of the violation, whichever is sooner. A defendant who is permitted to waive appearance and plead guilty by mail shall also be permitted to submit the certification of repairs by mail; provided that if the court deems the certification to be inadequate, it shall afford the defendant the option to withdraw the defendant's guilty plea.

b. The owner and the lessee, if any, of a diesel bus operated in violation of section 4 of this act shall be jointly and severally liable for a civil penalty determined by a penalty schedule that the director, in consultation with the Commissioner of Transportation, shall adopt by rule or regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), but in no event shall the penalties established thereby exceed the penalties established by subsection a. of this section for heavy-duty diesel trucks. The penalty schedule may provide for a reduction of penalty if the defendant provides a certification of the repairs to the vehicle that is satisfactory to the court and in compliance with emissions standards. The director, in consultation with the Commissioner of Transportation, may, by rule or regulation, specify the timing and manner of the repairs and compliance with emissions standards, and the certification necessary to effect a reduction of penalty. The director, in consultation with the Commissioner of Transportation, may, by rule or regulation, provide whether information pertaining to repairs and compliance with emissions standards, and whether a form to certify those repairs and that compliance, should be served with the complaint and summons.

Notwithstanding the provisions of this subsection to the contrary, the New Jersey Transit Corporation shall not be liable for any civil penalty assessed for a violation of section 4 or a violation of any other provision of this act if the diesel bus that is the subject of the violation is operated by a lessee or contractor, or an employee or agent of a lessee or contractor, of the New Jersey Transit Corporation. However, if a diesel bus that is the subject of a violation is leased by the New Jersey Transit Corporation from another person, and the diesel bus is operated by the New Jersey Transit Corporation or an employee thereof, the New Jersey Transit Corporation as lessee, and not the owner of the diesel bus, shall be liable for any civil penalty assessed for the violation.

c. The owner and the lessee, if any, of a diesel-powered motor vehicle operated in violation of section 4 of this act shall be jointly and severally liable for a civil penalty determined by a penalty schedule that the director shall adopt by rule or regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), but in no event shall the penalties established thereby exceed the penalties established by subsection a. of this section for heavy-duty diesel trucks. The penalty schedule may provide for a reduction of penalty if the defendant provides a certification of the repairs to the vehicle that is satisfactory to the court and in compliance with emissions standards. The director may, by rule or regulation, specify the timing and manner of the repairs and compliance with emissions standards, and the certification necessary to effect a reduction of penalty. The director may, by rule or regulation, provide whether information pertaining to repairs and compliance with emissions standards, and whether a form to certify those repairs and that compliance, should be served with the complaint and summons.

C.39:8-64 Periodic inspection, roadside enforcement programs.

6. a. The director, in consultation with the Department of Environmental Protection and the Department of Transportation and with the approval of the Attorney General, shall establish and implement a periodic inspection program and a roadside enforcement program to implement the standards and test methods adopted pursuant to section 3 of this act. These programs shall be designed to measure exhaust emissions and to inspect emission control apparatus and related items on diesel buses, heavy-duty diesel trucks, and other diesel-powered motor vehicles. The programs shall include, at a minimum, diesel buses and heavy-duty diesel trucks subject to the rules and regulations adopted pursuant to section 3 of this act; provided that the director, in consultation with the Department of Transportation, may exempt vehicles from either program for good cause, which may include that vehicles belonging to an exempted class are, by law, subject to emissions testing in another program. The director, in consultation with the Department of Environmental Protection and with the approval of the Attorney General, may, by rule or regulation, expand the periodic inspection program and the roadside enforcement program to include other diesel-powered motor vehicles that are subject to the rules and regulations adopted pursuant to section 3 of this act. The director, in consultation with the Commissioner of Transpor-

tation, may, by rule or regulation, impose upon every owner and lessee of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle subject to periodic inspection the obligation to have the vehicle periodically inspected in a manner determined by the director in consultation with the Commissioner of Transportation, to effect repairs or to abstain from operating or to limit the operation of a rejected vehicle or a vehicle overdue for inspection, and may take other action necessary or appropriate for implementation of the periodic inspection program. The director, in consultation with the Commissioner of Transportation, may, by rule or regulation, impose upon every owner and lessee of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle subject to roadside inspection the obligation to abstain from operating or to limit the operation of a vehicle that has been tested and found to be in violation of the rules and regulations adopted pursuant to section 3 of this act, or to effect repairs, and may take other action necessary or appropriate for implementation of the roadside enforcement program. A school bus, as defined pursuant to R.S.39:1-1, shall be exempt from the roadside enforcement program. However, nothing in this subsection allowing or mandating exemptions from the periodic inspection program or the roadside enforcement program shall be construed to limit any other enforcement actions permitted by law.

b. The Department of Transportation shall exercise all authority, including but not limited to administrative, implementation, enforcement, and penalty authority, of the director and the division for the purposes of this act in connection with the periodic inspection program for diesel buses and the roadside enforcement program for diesel buses that are under the jurisdiction of the Department of Transportation pursuant to Titles 27 and 48 of the Revised Statutes or any other law, rule, or regulation. The Department of Transportation shall consult with the division and the Department of Environmental Protection in conducting the periodic inspection program for diesel buses and the roadside enforcement program for diesel buses that are under the jurisdiction of the Department of Transportation. Any periodic inspection that may be required pursuant to this act for a diesel bus under the jurisdiction of the Department of Transportation shall be conducted only in conjunction with any periodic safety inspection required for that diesel bus pursuant to law, rule, or regulation. Any suspension of registration privileges with respect to diesel buses requested by the Department of Transportation for a violation of this act or any rule or regulation adopted pursuant thereto shall be implemented by the division.

C.39:8-65 Pilot roadside enforcement program.

7. In implementing the roadside enforcement program, the director, in consultation with the Commissioner of Transportation, shall phase in roadside inspections by establishing a pilot roadside enforcement program providing a six-month grace period in which warnings shall be issued in lieu of the civil penalties established by this act or any rule or regulation adopted pursuant thereto. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), procedures for the pilot program may be adopted immediately.

C.39:8-66 Procedures for conducting test methods.

8. a. The director, in consultation with the Department of Environmental Protection and the Department of Transportation, shall establish procedures by which test methods established pursuant to section 3 of this act shall be conducted in the periodic inspection program and in the roadside enforcement program.

b. The director, in consultation with the Department of Transportation and with the approval of the Attorney General, may, by rule or regulation, require that personnel from, and agents of, the division and the Department of Transportation, and personnel from the Division of State Police, who perform the test methods utilized in the roadside enforcement program, and licensees and persons employed by licensees who perform the tests and test methods utilized in the periodic inspection program in accordance with the provisions of section 11 of this act, be trained to do so and be examined, periodically if the rule or regulation so provides, to ensure that their training and competence are adequate. Testing in the roadside enforcement program may be conducted by personnel from the division, the Department of Transportation, or the Division of State Police, or by agents appointed by or under contract with the director or the Department of Transportation.

c. The director, in consultation with the Department of Environmental Protection and the Department of Transportation and with the approval of the Attorney General, shall designate one or more test methods among those established pursuant to section 3 of this act that shall be utilized in the roadside enforcement program established pursuant to section 6 of this act. The director, in consultation with the Department of Transportation and with the approval of the Attorney General, shall establish a form or forms upon which the results of these designated tests or test methods shall be reported in the ordinary course. The form shall contain a

statement or statements establishing the following: the type of test performed; the result achieved; that the person completing the form is the person who performed the test; that the tester has been certified by the director as having adequate training and competence to perform the test; that the tester is an employee or agent of the State and was acting in an official capacity when the tester performed the test; and any other information that the director may prescribe. The form shall contain a certification subscribed by the person performing the test and certifying that that person did perform the test in a proper manner and believes the test results to be valid and accurate. The presentation of a form prepared in accordance with the provisions of this subsection to a court by any party to a proceeding shall be evidence that all of the requirements and provisions of this subsection have been met and that the form has been prepared in accordance with the provisions of this subsection. The form shall be admissible evidence as proof of the statements contained therein in any civil penalty proceeding brought pursuant to the provisions of this act or any rule or regulation adopted pursuant thereto. A copy of the form shall be served, if practicable, with the complaint and summons upon the defendant or the defendant's agent for service of process; and, in any event, shall be served upon such person at least 20 days before the hearing. Whenever the form is served upon a defendant or a defendant's agent, together with the complaint and summons, the law enforcement officer serving the form shall execute and file with the court a proof of service on a form prescribed by the Administrative Director of the Courts and in a manner consistent with the Rules Governing the Courts of the State of New Jersey. The form shall not be admissible if it is not served at least 20 days before the hearing, provided that the court, upon a showing of good cause and that the defendant is not prejudiced, may postpone the hearing, subject to the Rules Governing the Courts of the State of New Jersey.

d. A roadside inspection of a diesel bus to enforce standards adopted pursuant to section 3 of this act shall be conducted only in conjunction with a roadside safety inspection that is conducted pursuant to law, rule or regulation.

C.39:8-67 Provision of State Police officers.

9. The Superintendent of the State Police, in consultation with and subject to the approval of the Attorney General, shall provide State Police officers to assist the director and the Department of Transportation in conducting the roadside enforcement program and the pilot roadside enforcement program. The State Police officers shall have authority to direct diesel buses, heavy-duty

diesel trucks, or other diesel-powered motor vehicles from the roadway for the purpose of inspection, and shall perform other police duties necessary for or helpful to the implementation of the programs.

C.39:8-68 Additional penalties.

10. In addition to any other penalties that may be applicable, the operator of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle who fails to comply with any direction given pursuant to section 9 of this act, or who refuses to submit or resists submitting a vehicle under the operator's control for roadside inspection, or who fails to comply with any other obligation imposed upon that person as part of the roadside enforcement program shall be jointly and severally liable with the owner and the lessee, if any, of the vehicle for a civil penalty of $500. The owner and the lessee, if any, of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle subject to periodic inspections who violates any rule or regulation adopted pursuant to section 6 of this act pertaining to periodic inspections shall be liable for a civil penalty determined by a penalty schedule that the director, in consultation with the Commissioner of Transportation, shall adopt by rule or regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), but in no event shall a penalty established thereby exceed $500.

Notwithstanding the provisions of this section to the contrary, the New Jersey Transit Corporation shall not be liable for any civil penalty assessed for a violation of this section if the diesel bus that is the subject of the violation is operated by a lessee or contractor, or an employee or agent of a lessee or contractor, of the New Jersey Transit Corporation. However, if a diesel bus that is the subject of a violation of this section is leased by the New Jersey Transit Corporation from another person, and the diesel bus is operated by the New Jersey Transit Corporation or an employee thereof, the New Jersey Transit Corporation as lessee, and not the owner of the diesel bus, shall be liable for any civil penalty assessed for the violation.

C.39:8-69 Licensing of diesel emission inspection centers.

11. a. The director, in consultation with the Department of Transportation and after appropriate inquiry and investigation, shall issue licenses to operate diesel emission inspection centers to as many qualified and properly equipped persons, including owners or lessees of diesel buses, heavy-duty diesel trucks, or other diesel-powered motor vehicles, as the director determines shall be necessary to conduct periodic inspections. A licensee

shall inspect and pass or reject a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle presented to the licensee for inspection. Passing shall indicate that the licensee or the licensee's employee has inspected the diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle as prescribed by the director and has found that the vehicle conforms to the standards established by law and rule or regulation. The director, in consultation with the Department of Transportation and with the approval of the Attorney General, may establish by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) an application fee for the licensing of diesel emission inspection centers, which fee shall not exceed $250 per year.

b. For the purpose of documenting compliance with periodic inspection requirements, the director shall furnish official inspection forms to licensed diesel emission inspection centers. The director shall require each diesel emission inspection center and each owner or lessee of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle subject to periodic inspection to keep such records and file such reports regarding these inspections as the director shall deem necessary. The director may conduct such audits or inspections of these centers as the director deems appropriate.

c. The director may deny, suspend or revoke a diesel emission inspection center license or refuse renewal thereof for cause, including, but not limited to, one or more of the following:

(1) Violation of any provision of this act or of any rule or regulation adopted pursuant thereto; or

(2) Fraud or misrepresentation in securing a license or in the conduct of the licensed activity; or

(3) Conviction of a crime demonstrating that the applicant or licensee is unfit; or

(4) Improper, negligent, or fraudulent inspection of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle; or

(5) Other good cause.

d. In addition to any other civil or criminal penalties that may be applicable, a person licensed by the director to operate a diesel emission inspection center who commits fraud or misrepresentation in securing a license or in the conduct of the licensed activity or who improperly or negligently or fraudulently conducts an inspection of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle shall be liable for a civil penalty of $1,500. In addition to any other civil or criminal penalties that may be applicable, a person licensed by the director to operate a

diesel emission inspection center who otherwise violates any provision of this act or of any rule or regulation adopted pursuant thereto shall be liable for a civil penalty of $500.

C.39:8-70 Civil penalty.

12. Any person who violates any provision of sections 2 through 20 of this act or any rule or regulation adopted pursuant thereto shall be liable for a civil penalty. The amount of the penalty shall be that specified in the other sections of this act or in the rules or regulations adopted pursuant to this act; but if no amount is otherwise specified, then the amount shall be $200. Additionally, the director may suspend the registration privileges of a vehicle registered in this State that is operated in violation of this act or any rule or regulation adopted pursuant thereto.

C.39:8-71 Issuance of ticket for violations; service.

13. a. A complaint and summons charging a violation of this act or any rule or regulation adopted pursuant thereto and seeking the imposition of a civil penalty in accordance with the provisions of this act or any rule or regulation adopted pursuant to this act shall be a ticket in the form prescribed by the Administrative Director of the Courts pursuant to the Rules Governing the Courts of the State of New Jersey and may contain information advising the persons to whom it is issued of the manner in which and time within which an answer to the alleged violation is required. The ticket may also advise that penalties may result from a failure to answer, that the failure to answer or appear shall be considered an admission of liability, and that a default judgment may be entered. Service of the ticket shall be subject to the Rules Governing the Courts of the State of New Jersey. The ticket may be served personally upon the operator of a vehicle, and the owner's or the lessee's name may be recorded on the ticket, together with the plate number and state or jurisdiction as shown by the registration plates of the vehicle and the make or model of the vehicle. A ticket may be served upon the owner or the lessee of the vehicle by affixing the ticket to the vehicle in a conspicuous place. A ticket may be served by mail upon the owner or the lessee of the vehicle on file with the division, the Department of Transportation, or the licensing authority of another jurisdiction by mailing the ticket to the vehicle owner or lessee by regular or certified mail to the address on file with the division, the Department of Transportation, or the licensing authority of another jurisdiction. Service of a ticket by regular or certified mail shall have the same

effect as if the ticket were served personally, subject to the Rules Governing the Courts of the State of New Jersey.

b. Subject to the Rules Governing the Courts of the State of New Jersey, the ticket shall contain sufficient information to identify the person or persons charged and to inform them of the nature, date, time and location of the alleged violation. Subject to the Rules Governing the Courts of the State of New Jersey, the original of the ticket shall be signed by the complaining witness, who shall certify to the truth of the facts set forth therein. Any person may serve as the complaining witness. For the purposes of the certification, the complaining witness may rely upon information from the division, the Department of Transportation, or the Division of State Police, upon official reports, and upon any form prepared in accordance with subsection c. of section 8 of this act. The original ticket or a true copy of the ticket shall be considered a record kept in the ordinary business of the division and shall be prima facie evidence of the facts contained therein.

c. Any operator who drives a vehicle in this State when the owner or lessee of that vehicle causes, authorizes, or otherwise permits such operation shall be the owner's or lessee's agent for service of any ticket, process, or penalty or other notice against the owner or lessee arising out of any alleged violation of this act or any rule or regulation adopted pursuant thereto. The owner and the lessee, if any, of a vehicle driven by any operator in this State shall be the operator's agent or agents for service of any ticket, process, or penalty or other notice arising out of any alleged violation of section 10 of this act pertaining to a roadside inspection. Subject to the Rules Governing the Courts of the State of New Jersey, any service of ticket, process, or penalty or other notice served on an operator who operates in this State, or on an owner or lessee of the vehicle, shall also constitute service upon the remaining persons, so long as the ticket, process, or penalty or other notice advises the person actually served of that person's responsibility to notify the remaining persons.

d. Subject to the Rules Governing the Courts of the State of New Jersey, judicial proceedings under this act may be instituted on any day of the week, and the institution of the proceedings on a Sunday or a holiday shall not be a bar to the successful prosecution thereof. Subject to the Rules Governing the Courts of the State of New Jersey, any process served on a Sunday or holiday shall be as valid as if served on any other day of the week.

e. A municipal court before which proceedings pursuant to this act are instituted shall, subject to the Rules Governing the Courts of the State of New Jersey, immediately, upon expiration of the time for a defendant to answer or appear: (1) with respect to a resident of New Jersey, mail notice as provided in the Rules Governing the Courts of the State of New Jersey; or (2) with respect to a nonresident of New Jersey, mail notice as provided in the Rules Governing the Courts of the State of New Jersey. The notice shall be upon a form approved by the Administrative Director of the Courts that informs the defendant of the following: the infraction charged; the time and date of the infraction; the amount of penalties due; the defendant's right to have a hearing; and that a civil judgment may be entered against the defendant for failure to answer or appear or pay the amount of penalties due. Upon failure to answer or appear in response to the notice, the court shall give notice of that fact to the division in a manner prescribed by the director, and money judgment shall be entered and execution shall issue in accordance with the Rules Governing the Courts of the State of New Jersey. If the judgment has been docketed in the Superior Court pursuant to section 15 of this act, execution shall be under the jurisdiction of that court. In no case of an unsatisfied judgment shall an arrest warrant or execution against the body of the defendant issue unless otherwise provided by the Rules Governing the Courts of the State of New Jersey. If notice has been given under this subsection of a person's failure to respond to a failure to appear notice and if the person appears or if the case is dismissed or otherwise disposed of, the court shall promptly give notice to that effect to the division.

f. If the defendant is the owner or lessee of a vehicle that is the subject of the violation and if the defendant fails to respond to a failure to appear notice, the judge or the division may suspend the registration privileges of the defendant in this State. The division shall keep a record of a suspension ordered by the court pursuant to this subsection. If the registration privileges of the defendant have been suspended pursuant to this subsection and if the defendant appears or the case is disposed of and if the defendant satisfies all penalties and costs that are owing, the court shall forward to the division a notice to restore the defendant's registration privileges. Upon receiving a notice to restore and upon the defendant's payment of the restoration fee in accordance with section 23 of P.L.1975, c.180 (C.39:3-10a), the division shall record the restoration and notify the defendant of the restoration.

C.39:8-72 Action for recovery of civil penalty.

14. An action for the recovery of a civil penalty for violation of this act or any rule or regulation adopted pursuant to this act shall be within the jurisdiction of and may be brought before the municipal court in the municipality where the offense was committed or where the defendant may be found, or where the measurement of emissions was physically made. The municipal prosecutor shall proceed in the matter on behalf of the State, unless the county prosecutor or the Attorney General assumes responsibility for the prosecution. The civil penalties provided by this act or any rule or regulation adopted pursuant thereto shall be recovered in the name of the division or the Department of Transportation, as appropriate, and any money collected by the court in payment of a civil penalty shall be conveyed to the State Treasurer for deposit into the State General Fund. The civil penalties provided by this act or any rule or regulation adopted pursuant thereto shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq. If the ticket has not been marked to indicate that a court appearance is required, the defendant shall have the option to waive trial, enter a plea of guilty, and pay the penalty, either by mail or in person, to the violations clerk, subject to the Rules Governing the Courts of the State of New Jersey.

C.39:8-73 Docketing of judgments; enforcement.

15. a. The court administrator of the municipal court shall docket in the Superior Court a municipal court judgment imposing a civil penalty pursuant to this act, or any rule or regulation adopted pursuant thereto, that remains unpaid at the time of the judgment's entry in the municipal court. The court administrator shall give notice of the docketing to the division in a manner prescribed by the director. The provisions and procedures of N.J.S.2B:12-26 shall apply to the docketing, except that the court administrator of the municipal court, rather than the division, shall effect the docketing; provided that nothing in this act shall be construed to prohibit the director or the director's designee from docketing the judgment on behalf of the division and in accordance with N.J.S.2B:12-26 if the court administrator of the municipal court fails to do so or if the director or the director's designee chooses to do so for any other reason. No fee shall be charged to docket the judgment. The docketing shall have the same force and effect as a civil judgment docketed in the Superior Court, and the director and the director's designees shall have all

of the remedies and may take all of the proceedings for the collection thereof that may be had or taken upon recovery of a judgment in an action, but without prejudice to any right of appeal.

b. If the defendant is the owner or lessee of a vehicle that is the subject of the violation, and if the defendant fails to pay a civil penalty imposed pursuant to this act or any rule or regulation adopted pursuant thereto, the director may suspend the registration privileges of the defendant in this State.

c. Any vehicle that is registered or present in this State and for which a civil penalty has been assessed pursuant to this act or any rule or regulation adopted pursuant thereto may be placed out of service by the division or the Division of State Police if the civil penalty remains unpaid after the date on which it became due and owing. A vehicle placed out of service pursuant to this act by either the division or the Division of State Police shall not be operated until all civil penalties that are due and owing are paid to the division. When a vehicle is placed out of service pursuant to this act, an administrative out-of-service order shall be prepared on a form or forms specified by the director and a copy served upon the operator of the vehicle or upon the owner or lessee of the vehicle. The operator of a vehicle served with an out-of-service order pursuant to this act shall report the issuance of the out-of-service order to the owner and the lessee, if any, of the vehicle within 24 hours. When a vehicle is placed out of service pursuant to this act it shall be the responsibility of the owner or lessee of that vehicle to arrange for the prompt removal of that vehicle, by means other than operating the vehicle, and to pay all costs associated therewith. The vehicle shall be removed to a secure storage place where the division and the Division of State Police can readily confirm its non-operation. If the owner or lessee fails to comply, or is otherwise incapable of complying with this subsection, the division or the Division of State Police may make such arrangements for the removal of the vehicle to a secure storage place where the division and the Division of State Police can readily confirm its non-operation, with all attendant charges and expenses to be paid by the owner, lessee, or bailee. No entity of government of this State or any political subdivision thereof shall be held liable for costs associated with or incurred in the enforcement of this subsection. Upon payment by cashier's check or money order, or in such other form as may be determined by the director, subject to law or the Rules Governing the Courts of the State of New Jersey, of all unpaid civil penalties and attendant

storage charges and expenses for a vehicle that has been placed out of service, the director shall remove the out-of-service order. Any person who operates, and any owner or lessee who causes or allows to be operated, a vehicle in violation of an out-of-service order prepared and served in accordance with the provisions of this subsection shall be liable for a civil penalty of $1,500, and, if the person has the vehicle registered in this State, the director may suspend the registration privileges of the vehicle.

d. The Department of Transportation shall exercise the duties, powers, and responsibilities of the director and the division set forth in this section with respect to the periodic inspection program for diesel buses and the roadside enforcement program for diesel buses under the jurisdiction of the department as set forth in subsection b. of section 6 of this act.

C.39:8-74 Distribution of fees.

16. Notwithstanding any other provisions of this title to the contrary, all fees and other monies that the division, the Department of Transportation, or the State Treasurer receives pursuant to the provisions of this act or any rule or regulation adopted pursuant thereto shall be paid to the Commercial Vehicle Enforcement Fund established pursuant to section 17 of this act; except that monies received for attendant storage charges and expenses as provided in subsection c. of section 15 of this act shall be paid to the entity that incurred those charges and expenses.

C.39:8-75 "Commercial Vehicle Enforcement Fund."

17. a. There is established in the General Fund a separate, nonlapsing, dedicated account to be known as the "Commercial Vehicle Enforcement Fund." The Commercial Vehicle Enforcement Fund shall be administered by the division in consultation with the Department of Transportation. All fees and other monies collected pursuant to this act or any rule or regulation adopted pursuant thereto shall be forwarded to the State Treasury for deposit into the Commercial Vehicle Enforcement Fund account. All fees and other monies deposited in the Commercial Vehicle Enforcement Fund account shall be used to fund the costs of administering the programs and activities of the Department of Law and Public Safety, the Department of Transportation and the Department of Environmental Protection established or specified in this act and in subsection f. of R.S.39:3-20, subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury.

b. A municipality may be eligible for periodic grants from the fund in such amounts as the director, in consultation with the Commissioner of Transportation, may determine pursuant to rule or regulation to subsidize costs of prosecuting and trying actions pursuant to this act.

C.39:8-76 Receivable account.

18. The State Treasurer shall establish a receivable account for the sole purpose of defraying the expenses incurred for program implementation and administration of this act. The receivable account shall be relieved by monies deposited into the Commercial Vehicle Enforcement Fund established pursuant to section 17 of this act.

C.39:8-77 Rules, regulations.

19. Except as otherwise provided in this act, the division, the Department of Environmental Protection, and the Department of Transportation may adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act.

C.39:8-78 Report.

20. On the first day of the forty-eighth month after this act takes effect, the Attorney General, in consultation with the Commissioner of Environmental Protection and the Commissioner of Transportation, shall submit to the Governor and to the members of the Legislature a report assessing the effectiveness of the programs required by this act and the necessity and feasibility of providing for periodic centralized emissions inspections of diesel buses, heavy-duty diesel trucks, and other diesel-powered motor vehicles.

C.39:3-6.11 Definitions relative to apportioned vehicles.

21. As used in this act:

"Apportioned vehicle" means any vehicle used or intended for use in two or more member jurisdictions that register vehicles; is used for the transportation of persons for hire or is designed, used, or maintained for transportation of persons for hire or is designed, used, or maintained for transportation of property; and has a declared gross weight in excess of 26,000 pounds, or has three or more axles regardless of weight, or is used in combination when the gross vehicle weight of such combination exceeds 26,000 pounds; except that recreation vehicles, vehicles displaying restricted plates, city pick-up and delivery vehicles, buses used in transportation of chartered parties, and government-owned vehicles are not apportioned vehicles.

"Base jurisdiction" means, for the purpose of fleet registration, the jurisdiction where the registrant has an established place of business, where mileage is accrued by the fleet vehicles and where operational records for the vehicles are maintained or can be made available.

"Fleet" means one or more apportioned vehicles.

"In-jurisdiction miles" means the total number of miles operated by a fleet of apportioned vehicles in a jurisdiction during the preceding year. Mileage of New Jersey registered vehicles accrued in jurisdictions that are not member jurisdictions shall be counted as in-jurisdiction miles operated in New Jersey.

"International Registration Plan" means a registration reciprocity agreement among the signatory states of the United States and provinces of Canada providing the payment of registration fees on the basis of fleet miles operated in each jurisdiction.

"Interstate operations" means apportioned vehicle movement between or through two or more jurisdictions.

"Jurisdiction" means a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a state, province or territory of a country.

"Member jurisdiction" means a jurisdiction which is a party to the International Registration Plan.

"Motor carrier audit" means a physical examination of a motor carrier's operational records including source documentation to verify fleet mileage and accuracy of the carrier's record keeping system.

"Negotiable title" means a title issued by a jurisdiction that documents ownership of a vehicle and can be used to transfer ownership.

"Operational records" means documents supporting miles traveled in each jurisdiction and total miles travelled, such as, but not limited to fuel reports, trip sheets, and logs.

"Owner" means a person, business firm, or corporation holding the negotiable title to a vehicle or in whom the legal right of possession or control of the vehicle is vested.

"Preceding year" means the period of twelve consecutive months immediately before July 1 of the year preceding the commencement of the registration year for which apportioned registration is sought.

"Reciprocity" means that an apportioned vehicle properly registered in New Jersey shall be exempt from further registration requirements by any other member jurisdictions.

"Reciprocity agreement" means the agreement, arrangement or understanding governing the reciprocal grant of rights and privileges to vehicles that are based in and properly registered under

the applicable laws of the jurisdiction that are parties to the International Registration Plan.

"Registrant" means a person, business firm, or corporation in whose name a vehicle or fleet of vehicles is registered.

"Registration year" means the 12-month period when the registration plates issued by the base jurisdiction are valid according to the laws of the base jurisdiction.

"Restricted plate" means a registration plate that has restrictions of time, geographic area, mileage or commodities or persons which may be hauled, such as a dealer plate or a farm plate.

"Total miles" means the total number of miles accumulated in all jurisdictions during the preceding year by all vehicles of the fleet while they were a part of the fleet. Mileage accumulated by the fleet that did not engage in interstate operations shall not be included in total miles.

C.39:3-6.12 Membership in International Registration Plan.

22 a. The Director of the Division of Motor Vehicles, on behalf of the State of New Jersey, may enter into and become a member of the International Registration Plan. Such plan may provide, but shall not be limited to, the following:

(1) the grant of full reciprocity, in accordance with the plan, to apportioned vehicles not based in New Jersey which are operated in interstate commerce in exchange for equivalent reciprocity for New Jersey-based apportioned vehicles;

(2) the exchange of audits of operational records or owners of fleets of apportioned vehicles with jurisdictions participating in the plan; and

(3) Provisions for the orderly administration of the plan, including the collection and disbursement of proportional registration fees, cooperative enforcement activities and the free exchange of information.

b. The director shall adopt rules and regulations in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of the International Registration Plan.

c. The director may, by contract, agreement or otherwise, or by appointment as a motor vehicle agent or by licensing, authorize a private corporation, organization or association to register apportioned vehicles and to maintain and perform motor carrier audits of the records necessary for participation in the International Registration Plan on behalf of the Division of Motor Vehicles.

C.39:3-6.13 Registration of apportioned vehicles.

23. a. The Division of Motor Vehicles or its designee shall register all apportioned vehicles within its jurisdiction upon

application and payment of registration fees and upon proof of proper insurance and proof of filing of Federal Form 2290 pursuant to the federal highway motor vehicle use tax, 26 U.S.C. §4481 et seq. A registration certificate shall be issued for each vehicle that is registered and that certificate shall identify the vehicle for which it is issued and shall list the jurisdictions in which the vehicle has been apportioned, the weight of the vehicle and the fee classification of the vehicle. The registration card shall be carried in or upon the vehicle for which it has been issued at all times.

b. Any registration issued for an apportioned vehicle pursuant to this section may be suspended, cancelled or revoked by the Division of Motor Vehicles in the event of the registrant's falsification of information, misstatement of fact, failure to pay fees, or failure to maintain the vehicle in accordance with standards set by the Federal Department of Transportation.

C.39:6.14 Registration, administrative fees.

24. a. The registration fee for an apportioned vehicle shall be determined by the number of in-jurisdiction miles an apportioned vehicle drives in the State of New Jersey and in each of the jurisdictions in which it is authorized to travel by its registration. The formula used for the registration fee shall be in accord with the International Registration Plan and shall be set forth in regulation.

b. In addition to the registration fee, the Division of Motor Vehicles shall set by regulation an administrative fee which will be collected from each registrant to subsidize the cost of the administration of the program.

c. The administrative fee collected pursuant to this act shall be forwarded to the State Treasurer and be deposited into the Commercial Vehicle Enforcement Fund established pursuant to section 17 of this act.

C.39:3-6.15 Preservation of operational records.

25. a. A registrant whose application for apportioned registration has been accepted shall preserve its operational records for a period of three years after the close of the registration year. Such records shall be made available to the Division of Motor Vehicles or its designee upon request for an audit as to the accuracy of computation, payments and assessments for deficiencies or allowances for credit during the normal business hours of the day.

b. If a registrant fails to make records available to the Division of Motor Vehicles or its designee upon proper request or if a registrant fails to maintain operational records from which true

liability can be determined, the Director of the Division of Motor Vehicles has the discretion to:

(1) suspend, revoke or cancel the registration.

(2) assess liability based upon the director's estimate of the actual miles traveled by the registrant in each jurisdiction; and

(3) take whatever action is reasonably necessary to advance the purposes of the International Registration Plan.

c. At the option of the carrier, on-board recording devices that are pre-approved by the director may be used in lieu of, or in addition to, handwritten trip reports for apportioned registration record keeping purposes.

C.39:3-6.16 Temporary registration.

26. a. The Director of the Division of Motor Vehicles may issue temporary registration credentials for any vehicle or combination of vehicles that could be lawfully operated in the jurisdiction if full registration or apportioned registration were obtained.

b. A person desiring a temporary registration certificate shall make application therefor on forms provided by the division. Every application shall be accompanied by the fee established by regulation.

c. The temporary registration shall be carried in the cab of the vehicle for which the permit is issued and shall not be valid for more than 72 hours.

C.39:3-6.17 Violation, fines.

27. A person who violates any provision of sections 21 through 26 of this act shall be subject to a fine of $500 for each offense. Such fine shall be forwarded by the judge to whom the same has been paid to the State Treasurer for deposit into the State General Fund.

C.39:3-6.18 Motor carrier audits of operational records.

28. The Division of Motor Vehicles or its designee shall perform motor carrier audits of the operational records of carrier accounts registered in New Jersey in accordance with the International Registration Plan Agreement and, upon the completion of any such audit, shall notify each jurisdiction in which the registrant is apportioned of the accuracy of the records of the registrant.

C.39:3-6.19 Supersedure; nonapplicability.

29. a. Registration of apportioned vehicles under this act and the State's participation in the International Registration Plan supersedes all other statutes, acts, and reciprocal agreements covering in whole or in part any of the matters covered by this act.

b. The State's participation in the International Registration Plan shall not affect any reciprocal or other agreement, arrangement or understanding the State has with any non-member jurisdiction.

C.39:3-6.20 "Proportional Registration Distributive Fund."

30. a. The Division of Motor Vehicles shall distribute the registration fees collected for participating jurisdictions in accordance with the International Registration Program Agreement.

b. There is created within the State Treasury a special account to be known as the "Proportional Registration Distributive Fund" into which all fees collected for other jurisdictions shall be deposited and held in trust until distributed pursuant to subsection a. of this section.

c. Funds collected for other jurisdictions pursuant to the International Registration Plan shall not be considered funds of the State of New Jersey and shall not be appropriated for purposes other than distribution pursuant to subsection a. of this section.

C.39:3-6.21 Reciprocity.

31. After July 1, 1995, if no agreement, arrangement or declaration is in effect with respect to another jurisdiction as authorized by this act, any vehicle properly registered or licensed in such other jurisdiction, and for which evidence of compliance is supplied, shall receive, when operated in this State, the same exemptions, benefits, and privileges granted by such other jurisdiction to vehicles properly registered in this State. Reciprocity extended under this section shall apply to commercial vehicles only when engaged exclusively in interstate commerce, except as to a foreign registered trailer or semi-trailer in intrastate commerce when hauled by a truck, road tractor, or truck tractor registered with the director in conformity with R.S.39:3-20.

32. Section 1 of P.L.1966, c.16 (C.26:2C-8.1) is amended to read as follows:

C.26:2C-8.1 Codes, rules, regulations concerning motor vehicles.

1. a. The department, after consultation with the Director of the Division of Motor Vehicles, shall have the power to formulate and promulgate, amend and repeal codes, rules and regulations establishing standards and requirements for the control of air contaminants from motor vehicles.

b. The department, after consultation with the Director of the Division of Motor Vehicles, shall adopt rules and regulations, consistent with the federal Clean Air Act, establishing exhaust

emission standards and test methods and standards for emission control apparatus and related items. The department shall not require the "I/M 240" test, but shall adopt an alternative test that is acceptable to the United States Environmental Protection Agency. The department may provide that the standards and test methods vary according to the model year, type, or other vehicle characteristic that the department deems necessary to facilitate inspections or to comply with the federal Clean Air Act. The emission standards and test methods adopted pursuant to this subsection shall not set any quota for emission test failures and shall not require the failure of motor vehicles at any predetermined rate. This subsection shall not preclude the use of the "I/M 240" test in sampling for performance evaluation only or the use of the test at the option of a private inspection facility.

33. Section 3 of P.L.1969, c.119 (C.39:3-6.1) is amended to read as follows:

C.39:3-6.1 Definitions.

3. As used in this act unless other meaning is clearly apparent from the language or context, or unless inconsistent with the manifest intention of the Legislature:

"Commercial vehicle" means any vehicle which is operated in interstate commerce and used for the transportation of persons for hire, compensation or profit, or designed or used primarily for the transportation of property.

"Jurisdiction" means and includes a State, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country and a state or province of a foreign country.

"Properly registered," as applied to place of registration, means:

(a) The jurisdiction where the person registering the vehicle has his legal residence, or

(b) In the case of a commercial vehicle, the jurisdiction in which it is registered if the commercial enterprise in which such vehicle is used has a place of business therein and, if the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled in or from such place of business and, the vehicle has been assigned to such place of business, or

(c) In the case of a commercial vehicle, the jurisdiction where, because of an agreement or arrangement between two or more

jurisdictions, or pursuant to a declaration, the vehicle has been registered as required by that jurisdiction.

In case of doubt or dispute as to the proper place of registration of a vehicle, the division shall make the final determination, but in making such determination, the division may confer with departments of the other jurisdictions affected.

"Fleet" means one or more commercial vehicles.

The words "division," "motor vehicle," "person," "vehicle," and "owner" shall each have the meanings ascribed to them respectively by R.S.39:1-1.

The director shall promulgate regulations, after public hearing, establishing definitions of other words and terms as may be necessary for the administration of this act.

34. R.S.39:3-20 is amended to read as follows:

Commercial motor vehicle registrations; fees.

39:3-20. For the purpose of this section, gross weight means the weight of the vehicle or combination of vehicles, including load or contents.

a. The director is authorized to issue registrations for commercial motor vehicles other than omnibuses or motor-drawn vehicles upon application therefor and payment of a fee based on the gross weight of the vehicle, including the gross weight of all vehicles in any combination of vehicles of which the commercial motor vehicle is the drawing vehicle. The gross weight of a disabled commercial vehicle or combination of disabled commercial vehicles being removed from a highway shall not be included in the calculation of the registration fee for the drawing vehicle.

Except as otherwise provided in this subsection, every registration for a commercial motor vehicle other than an omnibus or motor-drawn vehicle shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued; provided, however, that the director may require registrations which shall expire, and issue certificates thereof which shall become void, on a date fixed by the director, which shall not be sooner than three months or later than 26 months after the date of issuance of such certificates, and the fees for such registrations or registration applications, including any other fees or charges collected in connection with the registration fee, shall be fixed by the director in amounts proportionately less or greater than the fees established

by law. The director may fix the expiration date for registration certificates at a date other than 11 months if the director determines that such change is necessary, appropriate or convenient in order to aid in implementing the vehicle inspection requirements of chapter 8 of Title 39 or for other good cause. The minimum registration fee shall be as follows:

For vehicles not in excess of 5,000 pounds, $53.50.

For vehicles in excess of 5,000 pounds and not in excess of 18,000 pounds, $53.50 plus $11.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

For vehicles in excess of 18,000 pounds and not in excess of 50,000 pounds, $53.50 plus $12.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

For vehicles in excess of 50,000 pounds, $53.50 plus $13.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

b. The director is also authorized to issue registrations for commercial motor vehicles having three or more axles and a gross weight over 40,000 pounds but not exceeding 70,000 pounds, upon application therefor and proof to the satisfaction of the director that the applicant is actually engaged in construction work or in the business of supplying material, transporting material, or using such registered vehicle for construction work.

Except as otherwise provided in this subsection, every registration for these commercial motor vehicles shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued; provided, however, that the director may require registrations which shall expire, and issue certificates thereof which shall become void on a date fixed by the director, which shall not be sooner than three months or later than 26 months after the date of issuance of such certificates, and the fees for such registrations or registration applications, including any other fees or charges collected in connection with the registration fee, shall be fixed by the director in amounts proportionately less or greater than the fees established by law. The director may fix the expiration date for registration certificates at a date other than 11 months if the director determines that such change is necessary, appropriate or convenient in order to aid in implementing the vehicle inspection requirements of chapter 8 of Title 39 or for other good cause.

The registration fee shall be $22.50 for each 1,000 pounds or portion thereof.

For purposes of calculating this fee, weight means the gross weight, including the gross weight of all vehicles in any combination of which such commercial motor vehicle is the drawing vehicle.

Such commercial motor vehicle shall be operated in compliance with the speed limitations of Title 39 of the Revised Statutes and shall not be operated at a speed greater than 30 miles per hour when one or more of its axles has a load which exceeds the limitations prescribed in R.S.39:3-84.

c. The director is also authorized to issue registrations for each of the following solid waste vehicles: two-axle vehicles having a gross weight not exceeding 42,000 pounds; tandem three-axle and four-axle vehicles having a gross weight not exceeding 60,000 pounds; four-axle tractor-trailer combination vehicles having a gross weight not exceeding 60,000 pounds. Registration is based upon application to the director and proof to his satisfaction that the applicant is actually engaged in the performance of solid waste disposal or collection functions and holds a certificate of convenience and necessity therefor issued by the Department of Environmental Protection.

Except as otherwise provided in this subsection, every registration for a solid waste vehicle shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued.

The registration fee shall be $50 plus $11.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

d. The director is also authorized to issue registrations for commercial motor-drawn vehicles upon application therefor. The registration year for commercial motor-drawn vehicles shall be April 1 to the following March 31 and the fee therefor shall be $18 for each such vehicle.

At the discretion of the director, an applicant for registration for a commercial motor-drawn vehicle may be provided the option of registering such vehicle for a period of four years. In the event that the applicant for registration exercises the four-year option, a fee of $64 for each such vehicle shall be paid to the director in advance.

If any commercial motor-drawn vehicle registered for a four-year period is sold or withdrawn from use on the highways, the director may, upon surrender of the vehicle registration and plate, refund $16 for each full year of unused prepaid registration.

e. It shall be unlawful for any vehicle or combination of vehicles registered under this act, having a gross weight, including load

or contents, in excess of the gross weight provided on the registration certificate to be operated on the highways of this State.

The owner, lessee, bailee or any one of the aforesaid of a vehicle or combination of vehicles, including load or contents, found or operated on any public road, street or highway or on any public or quasi-public property in this State with a gross weight of that vehicle or combination of vehicles, including load or contents, in excess of the weight limitation permitted by the certificate of registration for the vehicle or combination of vehicles, pursuant to the provisions of this section, shall be assessed a penalty of $500 plus an amount equal to $100 for each 1,000 pounds or fractional portion of 1,000 pounds of weight in excess of the weight limitation permitted by the certificate of registration for that vehicle or combination of vehicles. A vehicle or combination of vehicles for which there is no valid certificate of registration is deemed to have been registered for zero pounds for the purposes of the enforcement of this act, in addition to any other violation of this Title, but is not deemed to be lawfully or validly registered pursuant to the provisions of this Title.

This section shall not be construed to supersede or repeal the provisions of section 39:3-84, 39:4-75, or 39:4-76 of this Title.

f. Of the registration fees collected by the director pursuant to this section for vehicles with gross vehicle weights in excess of 5,000 pounds, an amount equal to $3 per 1,000 pounds or portion thereof in excess of 5,000 pounds for each registration shall be forwarded to the State Treasurer for deposit in the Commercial Vehicle Enforcement Fund established pursuant to section 17 of this act (C.39:8-75). Moneys in the fund shall be used by the Department of Law and Public Safety and the Department of Transportation for enforcement of laws and regulations governing commercial motor vehicles.

35. Section 6 of P.L.1975, c.156 (C.39:8-14) is amended to read as follows:

C.39:8-14 Self inspections.

6. a. The director may license any person who is the owner or lessee of 10 or more motor vehicles to initially inspect, reinspect and certify those vehicles if such person has available to him the equipment, facilities and qualified employees, or other qualified person under his control by contract, necessary to make the required initial inspection, adjustments, corrections or repairs.

When the licensee, or his employee, or other qualified person under his control conducts an initial inspection, he shall certify that he or his employee or other qualified person under his control by contract has inspected the motor vehicle as prescribed by the director and has found that the motor vehicle conforms to the standards established by law or regulation. When a motor vehicle is reinspected, the licensee shall certify that the items for which a vehicle was initially rejected have been adjusted, corrected or repaired by him or under his direction and that the condition of the items conforms to the standards established by law or regulation. The certification shall be evidenced by a private inspection approval sticker placed on the vehicle as prescribed by the director.

b. Any inspection or reinspection conducted pursuant to this section relating to emissions from a motor vehicle powered with diesel fuel that is also subject to the provisions of P.L.1995, c.157 (C.39:8-59 et al.) shall be conducted in accordance with the provisions of that act.

36. Section 90 of P.L.1962, c.198 (C.48:4-2.1a) is amended to read as follows:

C.48:4-2.1a Discontinuance of operation of motor vehicle.

90. a. The Commissioner of Transportation may make rules, regulations and orders applicable to the construction, equipment and insurance required of every motor vehicle within the jurisdiction of the Department of Transportation, and shall inspect, through the department's agents, inspectors and employees, any such motor vehicle to determine the manner of compliance with such rules, regulations and orders.

b. In the event of noncompliance with such rules, regulations and orders, or with statutory requirements, the commissioner may, through the department's agents, inspectors and employees, cause the immediate discontinuance of the operation of such motor vehicle, and no such motor vehicle shall be restored to service without the express approval of the commissioner.

c. Any person who shall remove or deface any notice of discontinuance that has been affixed or otherwise attached to the motor vehicle without approval of the commissioner is guilty of a crime of the fourth degree. In addition to any other penalties or remedies provided by law, a person who violates this subsection is subject to a civil penalty of $1,000.

d. Any person who owns or causes to be operated a motor vehicle subject to this section without a valid certificate of

inspection issued by the commissioner, or in violation of rules or orders made by the commissioner concerning insurance requirements of that vehicle, is a disorderly person. In addition to any other penalties or remedies provided by law, a person who violates this subsection is subject to a civil penalty of $500 per day for each vehicle so operated.

e. Any person who operates a motor vehicle subject to this section without a valid certificate of inspection issued by the commissioner, or in violation of rules or orders made by the commissioner concerning insurance requirements of that vehicle, is a petty disorderly person.

f. Any inspection conducted pursuant to this section relating to emissions from a motor vehicle powered with diesel fuel that is also subject to the provisions of P.L.1995, c.157 (C.39:8-59 et al.) shall be conducted in accordance with the provisions of that act.

37. Section 1 of P.L.1987, c.373 (C.48:4-2.1b) is amended to read as follows:

C.48:4-2.1b Vehicle emission, brake tests, emissions inspections.

1. The Commissioner of Transportation may, in conjunction with any program of self-inspection established to ensure compliance with regulations adopted under section 90 of P.L.1962, c.198 (C.48:4-2.1a), and at the request of any owner or operator of a motor vehicle required to be self-inspected, authorize Department of Transportation personnel to conduct vehicle emission tests and brake tests. The commissioner may adopt regulations setting the amount of and providing for the charging and collecting of a fee for each vehicle emission test and each brake test conducted pursuant to this section, which fee shall be in an amount necessary to cover only the actual costs of the program.

Any inspection conducted pursuant to this section relating to emissions from a motor vehicle powered with diesel fuel that is also subject to the provisions of P.L.1995, c.157 (C.39:8-59 et al.) shall be conducted in accordance with the provisions of that act.

Repealer.

38. The following are repealed:

P.L.1977, c.259 (C.39:5E-1 et seq.);
R.S.39:3-6; and
Sections 6 and 10 of P.L.1969, c.119 (C.39:3-6.4 and 39:3-6.8).

39. This act shall take effect immediately and shall apply to interstate commercial registrations that are valid on or after July 1, 1995.

Approved June 30, 1995.

CHAPTER 158

AN ACT requiring State agencies to obtain and furnish certain information to the Division of Taxation for the purposes of State tax administration, 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.54:50-24 Definitions relative to State agency information.

1. As used in this act:

"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, 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. §1361; and

"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.

C.54:50-25 Information required by State agency.

2. Notwithstanding any other provision of law, each State agency, as part of the procedure for granting, renewing, amending, supplementing, or reinstating the license of any person, or at the time the State agency contracts to purchase or purchases goods or services or leases real or personal property from any person, or contracts for the construction, alteration or renovation of real property, including the construction or repair of highways, roads, streets or similar projects, shall require each person to provide to the State agency that person's federal social security number or federal taxpayer identification number, or both numbers when the person has both numbers, or, where the person does not have a federal social security number or federal taxpayer identification number, the reason why such person does not have that number. The numbers or reasons shall be obtained by such agency as part of the administration of the taxes administered by the Director of the Division of Taxation for the purpose of establishing the identification of persons affected by such taxes.

Whenever a partnership or S corporation is under contract with a State agency, the partnership or S corporation shall provide to the State agency for each partner of the partnership or shareholder of the S corporation the federal social security number or federal taxpayer identification number, or both when the partner or shareholder has both numbers, or, when the partner or shareholder does not have either number, the reason or reasons why the partner or shareholder does not have either number. The partnership or S corporation shall identify the share of ownership attributable to each partner or shareholder whenever the partnership or S corporation is required to furnish the federal social security number of each partner or shareholder, or federal taxpayer identification number of each partner or shareholder, or both, if applicable under this section, or when the partner or shareholder does not have either number.

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; and

(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.

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.

C.54:50-27 Information, report not public 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 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.

5. This act shall take effect January 1, 1996.

Approved June 30, 1995.

CHAPTER 159

AN ACT concerning the set-off of vendor debt against contract payments from the State, supplementing chapter 49 of Title 54 of the Revised Statutes.

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

C.54:49-19 Set off against contract payment to satisfy tax; notification.

1. a. Whenever any taxpayer under contract to provide goods or services to the State of New Jersey or its agencies or instrumentalities, and including the legislative and judicial branches of State government, or under contract for construction projects of the State of New Jersey or its agencies or instrumentalities, and including the legislative and judicial branches of State govern-

ment, is entitled to payment for the goods or services or on that construction project and at the same time the taxpayer is indebted for any State tax, the Director of the Division of Taxation shall seek to set off so much of that payment as shall be necessary to satisfy the indebtedness. The director, in consultation with the Director of the Division of Budget and Accounting in the Department of the Treasury, shall establish procedures and methods to effect a set-off. The director shall give notice of the set-off to the taxpayer, the provider of goods or services or the contractor or subcontractor of construction projects and provide an opportunity for a hearing within 30 days of such notice under the procedures for protests established under R.S.54:49-18, but no request for conference, protest, or subsequent appeal to the Tax Court from any protest under this section shall stay the collection of the indebtedness. No payment shall be made to the taxpayer, the provider of goods or services or the contractor or subcontractor of construction projects pending resolution of the indebtedness. Interest that may be payable by the State pursuant to P.L.1987, c.184 (C.52:32-32 et seq.), to the taxpayer, the provider of goods and services or the contractor or subcontractor of construction projects shall be stayed.

b. The Department of the Treasury shall notify each provider of goods or services and contractor or subcontractor of a construction project under contract with the State, its agencies or instrumentalities in an amount of $500,000 or greater on the effective date of P.L.1995, c.159 (C.54:49-19 et seq.) of the provisions of this section in writing within 30 days after its effective date. A contract entered into by the State, its agencies or instrumentalities with a provider of goods or services or a contractor or subcontractor of a construction project after the effective date of P.L.1995, c.159 (C.54:49-19 et seq.) shall contain a notice of the provisions in this section.

C.54:49-20 Set-off for partner, shareholder; notification.

2. a. Notwithstanding any provision of law to the contrary, whenever any partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services or construction projects at the same time a partner or shareholder of that entity is indebted for any State tax, the director shall seek to set off that partner's or shareholder's share of the payment due the partnership or S corporation. The amount set off shall not allow for the deduction of

any expenses or other deductions which might be attributable to the partner or shareholder subject to set-off under this act.

b. The Department of the Treasury shall notify each partnership and S corporation under contract with the State, its agencies or instrumentalities in an amount of $500,000 or greater on the effective date of P.L.1995, c.159 (C.54:49-19 et seq.) of the provisions of this section in writing within 30 days after its effective date. A contract entered into by the State, its agencies or instrumentalities with a partnership or S corporation after the effective date of P.L.1995, c.159 (C.54:49-19 et seq.) shall contain a notice of the provisions in this section.

3. This act shall take effect January 1, 1996.

Approved June 30, 1995.

CHAPTER 160

AN ACT concerning employer returns and payments of gross income tax withholding and the payment of taxes by electronic funds transfer, amending N.J.S.54A:7-4 and P.L.1992, c.140.

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

1. N.J.S.54A:7-4 is amended to read as follows:

Employer's or other payor's return and payment of withheld taxes.

54A:7-4. Employer's or other payor's return and payment of withheld taxes.

(a) General. -- Every employer or payor of a pension or annuity required to deduct and withhold tax under this act shall, for each calendar month, on or before the 15th day of the month following the close of such calendar month, file a withholding return as prescribed by the director and pay over to the director or to a depository designated by the director the taxes so required to be deducted and withheld. Any return due with respect to the last quarter of a calendar year shall be filed and the amount of the withholding shall be paid on or before January 31 next following. The director may, if the director believes such action necessary

for the protection of the revenues, require any employer or payor of a pension or annuity to make such return and pay to the director the tax deducted and withheld at any time, or from time to time. Where the amount of wages paid by an employer is not sufficient under this act to require the withholding of tax from the wages of any of that employer's employees, the director may, by regulation, permit such employer to file an annual return on or before February 28 of the following calendar year.

The director may, by regulation, require the filing and payment of withholding returns and taxes on a semimonthly or more frequent basis or require the filing of returns on a quarterly basis, with payments of the taxes withheld on a monthly or more frequent basis, if the director deems such action in the best interest of the State.

(b) Deposit in trust for director. --Whenever any employer or payor of a pension or annuity fails to collect, truthfully account for, pay over the tax, or make returns of the tax as required in this section, the director may serve a notice requiring such employer or payor to collect the taxes which become collectible after service of such notice, to deposit such taxes in a bank approved by the director in a separate account, in trust for and payable to the State of New Jersey and keep the amount of such tax in such account until payment over to the director. Such notice shall remain in effect until a notice of cancellation is served by the director.

2. 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.

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 com-

puter 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.

3. This act shall take effect immediately and apply to tax liabilities incurred after January 1, 1996.

Approved June 30, 1995.

CHAPTER 161

AN ACT establishing a sales and use tax reporting and review system for alcoholic beverage wholesalers and retailers, amending P.L.1966, c.30, and supplementing Chapter 1 of Title 33 and Chapter 50 of Title 54 of the Revised Statutes.

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

1. Section 24 of P.L.1966, c.30 (C.54:32B-24) is amended to read as follows:

C.54:32B-24 General powers of the director.

24. General powers of the director. In addition to the powers granted to the director in this act, the director is hereby authorized and empowered:

1. To make, adopt and amend rules and regulations appropriate to the carrying out of this act and the purposes thereof;

2. To extend, for cause shown by general regulation or individual authorization, the time of filing any return for a period not exceeding three months on such terms and conditions as the director may require; and for cause shown, to remit penalties and interest as provided for in the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.;

3. To delegate the director's functions hereunder to any officer or employee of the director's division such of the director's powers as the director may deem necessary to carry out efficiently the provisions of this act, and the person or persons to whom such power has been delegated shall possess and may exercise all of the power and perform all of the duties herein conferred and imposed upon the director;

4. To prescribe methods for determining the amount of receipt, amusement charges, or rents and for determining which of them are taxable and which are nontaxable;

5. To require any person required to collect tax to keep detailed records of all receipts, amusement charges, or rents received, charged or accrued, including those claimed to be nontaxable, and also of the nature, type, value and amount of all purchases, sales, services rendered, admissions, occupancies, names and addresses of customers, and other facts relevant in determining the amount of tax due and to furnish such information upon request to the director;

6. To assess, determine, revise and readjust the taxes imposed by this act;

7. To publish and maintain, as the director deems necessary, lists of specific items of tangible personal property which are found to be foods and drugs exempt from tax under sections 13 and 14 of P.L.1980, c.105 (C.54:32B-8.1 and 54:32B-8.2);

8. To enter into agreements with other states and the District of Columbia, providing for the reciprocal enforcement of the sales and use tax laws imposed by the states entering into such an agreement. Such agreement may empower the duly authorized officer of any contracting state, which extends like authority to officers or employees of this State, to sue for the collection of that state's sales and use taxes in the courts of this State;

9. To require alcoholic beverage wholesalers to make report of sales to retailers, as wholesaler and retailer are defined pursuant to the "New Jersey Alcoholic Beverage Control Act," R.S.33:1-1 et seq., with such content, in such form and at such times as the director may prescribe. The information provided to the director under this paragraph shall identify retailers by their sales tax registration number issued pursuant to section 15 of P.L.1966, c.30 (C.54:32B-15) and shall be available for transmission to the director by electronic means, or computer tape or disc, as the director may require.

C.33:1-17.1 Requirement of alcoholic beverage retail licensee clearance certificate.

2. An alcoholic beverage retail license or license that confers the right to sell alcoholic beverages to consumers shall not be issued, renewed or transferred unless the licensee, if subject to review in the prior calendar year pursuant to section 3 of P.L.1995, c.161 (C.54:50-28), or prospective licensee, if subject to review pursuant to section 3 of P.L.1995, c.161 (C.54:50-28), shall have been issued an alcoholic beverage retail licensee clearance certificate for the review period pursuant to section 3 of P.L.1995, c.161 (C.54:50-28).

C.54:50-28 Issuance of alcoholic beverage retail licensee clearance certificate.

3. a. The Director of the Division of Taxation shall, by December 31 of each calendar year, review the records pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the retail sales tax in fourth class cities, P.L.1947, c.71 (C.40:48-8.15 et seq.), and the tax on predominantly tourism related retail receipts pursuant to the "Tourism Improvement and Development District Act," P.L.1992, c.165 (C.40:54D-1 et seq.), of those alcoholic beverage retail licensees and holders of any license that confers the right to sell alcoholic beverages to consumers that are subject to review pursuant to subsection e. of this section to determine if the licensees have satisfied all requirements for filing those taxes and information returns and for paying those taxes for which they have been liable individually or as operators of current or past businesses. The same review shall be performed at any time upon request by a prospective alcoholic beverage retail licensee or prospective holder of any license that confers the right to sell alcoholic beverages to consumers subject to review pursuant to subsection e. of this section, within such time limits as the director may determine.

b. If the director determines that a licensee or prospective licensee has complied with all requirements for filing tax and information returns pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the retail sales tax in fourth class cities, P.L.1947, c.71 (C.40:48-8.15 et seq.), and the tax on predominantly tourism related retail receipts pursuant to the "Tourism Improvement and Development District Act," P.L.1992, c.165 (C.40:54D-1 et seq.) and for paying or remitting those taxes, the director shall issue to the licensee or prospective licensee an alcoholic beverage retail licensee clearance certificate.

c. If the director determines that the licensee or prospective licensee has not filed all required tax and information returns or has not paid or remitted all tax, penalties, interest or fees due pur-

suant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the retail sales tax in fourth class cities, P.L.1947, c.71 (C.40:48-8.15 et seq.), and the tax on predominantly tourism related retail receipts pursuant to the "Tourism Improvement and Development District Act," P.L.1992, c.165 (C.40:54D-1 et seq.), the director shall issue a notice of delinquency or deficiency listing unfiled returns or balances due. The director may require a licensee or prospective licensee to resolve all delinquencies and deficiencies before an alcoholic beverage retail licensee clearance certificate is issued, or upon review of the total circumstances, the director shall issue an interim alcoholic beverage retail licensee clearance certificate if the director determines to the director's satisfaction that the licensee or prospective licensee will resolve all such delinquencies and deficiencies.

d. The director's issuance of a regular or interim alcoholic beverage retail licensee clearance certificate shall not constitute a waiver of authority to demand resolution of all deficiencies and delinquencies and shall not prevent further audit or the assessment of additional taxes, penalties, interest or fees as may be provided by law.

e. Alcoholic beverage retail licensees and holders of any license that confers the right to sell alcoholic beverages to consumers, or prospective licensees or holders, subject to the review required by this section are:

(1) in calendar year 1995, alcoholic beverage licensees and prospective licensees with business locations or prospective locations in Bergen, Burlington, Essex, Gloucester, Middlesex, Ocean and Salem counties;

(2) in calendar year 1996, alcoholic beverage licensees and prospective licensees with business locations or prospective locations in those counties listed in paragraph (1) of this subsection and in Hudson, Hunterdon, Mercer, Monmouth, Somerset, Union, and Warren counties; and

(3) in calendar year 1997 and each calendar year thereafter, alcoholic beverage licensees and prospective licensees with business locations or prospective locations in those counties listed in paragraphs (1) and (2) of this subsection and in Atlantic, Camden, Cape May, Cumberland, Morris, Passaic, and Sussex counties.

4. This act shall take effect immediately, and section 1 shall apply to sales to retailers made on and after the first day of the second month following enactment.

Approved June 30, 1995.

CHAPTER 162

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, 1995 and regulating the disbursement thereof," approved June 30, 1994 (P.L.1994, c.67).

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

1. In addition to the sums appropriated under P.L.1994, c.67, there is appropriated out of the General Fund the following sum for the purpose specified:

STATE AID
42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management
42 Natural Resource Management-State Aid

21-4895 Natural Resources Engineering $150,000
State Aid:
Erosion control ..... ($150,000)
Grant to Bloomfield township, Essex county, for erosion control project.

2. This act shall take effect immediately.

Approved June 30, 1995.

CHAPTER 163

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, 1995 and regulating the disbursement thereof," passed June 30, 1994 (P.L.1994, c.67).

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.1994, c.67, there is appropriated out of the General Fund the following sum for the purpose specified:

GENERAL FUND
CAPITAL CONSTRUCTION
42 DEPARTMENT OF ENVIRONMENTAL PROTECTION
40 Community Development and Environmental Management
42 Natural Resource Management

Capital Projects:
Bureau of Parks
Liberty State Park,
Boring and Testing ..... ($90,000)

The amount hereinabove for Liberty State Park, Boring and Testing is appropriated for the purpose of sampling the sediment of an unused channel at Liberty State Park, testing the sample to determine its toxicity for proper disposal, and testing the depth of the channel's bedrock to determine piling locations for future dock construction.

2. This act shall take effect immediately.

Approved June 30, 1995.

CHAPTER 164

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. 4000, dated June 30, 1995.

AN ACT making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1996 and regulating the disbursement thereof.

ANTICIPATED RESOURCES FOR THE FISCAL YEAR 1995-96 GENERAL FUND

Undesignated Fund Balance, July 1, 1995	$562,961,000
Major Taxes	
Sales	$4,356,000,000
Corporation Business.....	1,145,000,000
Motor Fuels	480,000,000
Motor Vehicle Fees.....	420,000,000
Transfer Inheritance.....	305,000,000
Insurance Premiums.....	270,000,000
Cigarette	245,000,000
Petroleum Products Gross Receipts	213,000,000
Public Utility Excise.....	125,000,000
Corporation Banks and Financial Institutions	70,000,000
Alcoholic Beverage Excise.....	78,000,000
Realty Transfer	53,000,000
Savings Institutions.....	20,000,000
Motor Fuel Use--Motor Carrier	9,000,000
Tobacco Products Wholesale Sales.....	4,000,000
Total--Major Taxes	$7,793,000,000
Miscellaneous Taxes, Fees, Revenues	
Executive Branch--	
Department of Agriculture:	
Fertilizer Inspection Fees	$181,000
Milk Control Licenses and Fees	360,000
Miscellaneous Revenue.....	1,000
Other Animal, Plant Disease and Pest Control	5,000
Department of Banking:	
Bank Assessments	2,708,000
Examination Fees	3,530,000
Licenses and Other Fees.....	2,632,000
Department of Community Affairs:	
Affordable Housing and Neighborhood Preservation--Fair Housing	16,325,000

Boarding Home Fees	240,000
Construction Fees	.5,481,000
Fire Safety	13,871,000
Hackensack Meadowlands Development Commission	4,000,000
Housing Inspection Fees	.6,330,000
Planned Real Estate Development Fees	828,000
Department of Education:	
Academy for the Advancement of Teaching and Administration	275,000
Audit Recoveries	1,900,000
Audit of Enrollments	16,000,000
Miscellaneous Revenue	110,000
Non-Public Schools Textbook Recoveries	500,000
School Construction Inspection Fees	925,000
State Board of Examiners	1,600,000
Department of Environmental Protection:	
Air Pollution Fees and Fines	15,160,000
Clean Water Enforcement Act	6,000,000
Coastal Area Development Review Act	380,000
Endangered Species Tax Check-Off	312,000
Excess Diversion	275,000
Freshwater Wetlands - Fees	1,700,000
Freshwater Wetlands - Fines	10,000
Hazardous Waste Fees	6,000,000
Hazardous Waste Fines	1,200,000
Hunters' and Anglers' Licenses	10,975,000
Indirect Cost Recoveries - DEP Other Funds	8,130,000
Industrial Site Recovery Act	2,000,000
Laboratory Certification Fees	500,000
Laboratory Certification Fines	85,000
Marina Rentals	860,000
Marine Lands-Preparation and Filing Fees	160,000
Medical Waste	3,800,000
Miscellaneous Revenues	27,000
New Jersey Pollutant Discharge Elimination System	11,200,000
New Jersey Water Supply Authority Debt Service Repayments	770,000
Parks Management Fees and Permits	4,400,000
Parks Management Fines	120,000
Pesticide Control Fines	120,000
Pesticide Control Fees	3,500,000
Radiation Protection Fees	3,300,000
Radiation Protection Fines	100,000
Radon Testers Certification.	312,000
Recycling Fees	400,000
Shellfish and Marine Fisheries	75,000
Solid and Hazardous Waste Disclosure	4,000,000
Solid Waste - Utility RegulationAssessments	3,200,000
Solid Waste - Utility Regulation Fines	800,000
Solid Waste Fines - DEP	500,000
Solid Waste Management Fees - DEP.	7,000,000

Spring Meadow Golf Course	500,000
Stormwater Permits	1,400,000
Stream Encroachment	1,350,000
Toxic Catastrophe Prevention - Fees	1,900,000
Toxic Catastrophe Prevention - Fines	150,000
Treatment Works Approval	1,100,000
Underground Storage Tanks	2,000,000
Water Allocation	2,250,000
Water Management Supply Regulations	870,000
Water/Wastewater Operators Licenses	205,000
Waterfront Development Fees	750,000
Waterfront Development Fines	100,000
Well Permits/Well Drillers/Pump Installers Licenses	300,000
Wetlands	10,000
Worker and Community Right to Know-Fines	100,000
Department of Health:	
Animal Control Act	550,000
Consumer Health Penalties	640,000
HealthStart	330,000
New Jersey Essential Health Services Commission	1,200,000
Rabies Control	453,000
Vital Statistics Registration	150,000
Department of Human Services:	
Child Care Licensing/Adoption Law	120,000
General Assistance - Emergency Assistance Audits	5,000,000
Marriage License Fees	1,409,000
Maximization of Federal HCFA Reimbursement	2,715,000
Medicaid Uncompensated Care - Acute	195,750,000
Medicaid Uncompensated Care - Mental Health	12,000,000
Medicaid Uncompensated Care - Psychiatric	168,104,000
Medicaid Uncompensated Care - UMDNJ	43,989,000
Patients' and Residents' Cost Recoveries:	
Developmental Disability	17,015,000
Psychiatric Hospitals	46,595,000
Special Residential Services	7,812,000
Sale of Garden State Health Plan	20,000,000
Special Education Medicaid Initiative.	85,000,000
Title IV-A Emergency Assistance - Juvenile Initiative	8,500,000
Department of Insurance:	
Actuarial Services	269,000
Fair Act Administration	11,500,000
Insurance Fraud Prevention	11,147,000
Special Purpose Assessment	12,817,000
Insurance Licenses and other Fees	10,771,000
Examination Billings	2,840,000
Real Estate Commission	3,532,000
Department of Labor:	
Special Compensation Fund	1,540,000
Workers' Compensation Assessment	11,694,000
Workplace Standards - Licenses,	
Permits and Fines	2,238,000

Department of Law and Public Safety:	
Beverage Licenses	2,000,000
Division of Consumer Affairs:	
General revenues:	
Charities Registration Section	695,000
Controlled Dangerous Substances	100,000
Legalized Games of Chance Control	1,390,000
New Jersey Cemetery Board	230,000
Private Employment Agencies	258,000
Weights and Measures - General	2,612,000
Professional Examining Board Fees:	
State Board of Architects	904,000
State Board of Audiology and Speech - Language Pathology Advisory	138,000
State Board of Certified Public Accountants	868,000
State Board of Chiropractors	325,000
State Board of Cosmetology and Hairstyling	1,435,000
State Board of Dentistry	877,000
State Board of Electrical Contractors	461,000
State Board of Marriage Counselor Examiners	126,000
State Board of Master Plumbers	342,000
State Board of Medical Examiners	4,658,000
State Board of Mortuary Science	282,000
State Board of Nursing	2,264,000
State Board of Occupational Therapists and Assistants	106,000
State Board of Ophthalmic Dispensers and Ophthalmic Technicians	218,000
State Board of Optometrists	244,000
State Board of Orthotics and Prosthetics	53,000
State Board of Pharmacy	744,000
State Board of Physical Therapy	288,000
State Board of Professional Engineers and Land Surveyors	1,046,000
State Board of Professional Planners	256,000
State Board of Psychological Examiners	271,000
State Board of Public Movers and Warehousemen	254,000
State Board of Real Estate Appraisers	587,000
State Board of Respiratory Care	287,000
State Board of Shorthand Reporting	66,000
State Board of Social Workers	571,000
State Board of Veterinary Medical Examiners	183,000
Escheated Estates	7,000,000
Escheats Settlement Recoveries	741,000
Other Boating Fees	1,000
Pleasure Boat Licenses	1,500,000
Racing Licenses and Fees	1,950,000
Securities Enforcement	5,398,000
State Medical Examiners	810,000
State Police - Fingerprint Fees	1,014,000
State Police - Other Licenses	245,000

State Police - Private Detective Licenses	220,000
Violent Crime Compensation	3,500,000
Department of Military and Veterans' Affairs:	
Soldiers' Homes	17,780,000
Department of State:	
Commercial Recording - Expedited	2,170,000
Commissions	1,212,000
General Revenue--Fees	19,019,000
Department of Transportation:	
Air Safety Fund	850,000
Applications and Highway Permits	600,000
Autonomous Transportation Authorities	24,500,000
Auto Body Repair Shop Licensing	315,000
Drunk Driving Fines	962,000
Federal Commercial Driver License Program	1,354,000
Interest On Purchase of Right-Of-Way	144,000
Logo Sign Program	1,250,000
Motor Vehicle Security--Responsibility Law Administration	9,257,000
Motor Vehicle Surcharge Program	20,000,000
Motor Vehicle Surcharge Program - Delinquent	76,000,000
Motor Vehicle Surcharge Program - Enhanced Collection Effort	43,000,000
Outdoor Advertising	240,000
Petitions and Motor Carrier Inspections	145,000
Parking Offenses	367,000
Photo Licensing	1,000,000
Salvage Title Program	527,000
Uninsured Motorists Program	3,426,000
Department of the Treasury:	
Assessments - Cable TV	2,730,000
Assessments - Public Utility	19,703,000
Casino Fines	130,000
Coin-Operated Telephones	6,000,000
Equipment Leasing Fund - Debt Service Recovery	4,826,000
Escrow Interest - Construction Accounts	30,000
Higher Education Bond Interest Recoveries	334,000
Nuclear Emergency Response Assessment	3,911,000
Public Utility Gross Receipts andFranchise Taxes	270,000,000
Public Utility Tax--Administration	250,000
Railroad Tax - Class II	2,765,000
Railroad Tax - Franchise	3,250,000
Rate Payer Advocate	4,000,000
Surplus Property	1,400,000
Travel Services	92,000
Other Sources:	
Miscellaneous Revenue	500,000
Inter-Departmental Accounts:	
Administration and Investment of Pension Funds - Recoveries	38,588,000

Employee Maintenance Deductions	1,100,000
Fringe Benefit Recoveries from Colleges and Universities	59,000,000
Fringe Benefit Recoveries from Federal and Other Funds	92,350,000
Fringe Benefit Recoveries from School Districts	21,000,000
Indirect Cost Recovery - Federal	16,820,000
Rent of State Building Space	901,000
Social Security Recoveries from Federal and Other Funds	35,000,000
New Jersey Sports and Exposition Authority Debt Service Reserve Account Interest	1,000,000
Judicial Branch--	
Court Fees	66,351,000
Court Unification County Reimbursements	178,945,000
Total--Miscellaneous Taxes, Fees, Revenues	$1,976,450,000

Interfund Transfers

Beaches and Harbors Fund	$27,000
Clean Communities Account fund	291,000
Clean Waters Fund	160,000
Community Development Bond Fund	45,000
Correctional Facilities Construction Fund	150,000
Correctional Facilities Construction Fund (Act of 1987)	1,000,000
Cultural Center and Historic Preservation Fund 1987	1,920,000
Emergency Flood Control Fund	362,000
Emergency Medical Technicians Training ...	1,600,000
Energy Conservation Fund	450,000
Farmland Preservation Fund.....	24,000
Fund for the Support of Free Public Schools	5,600,000
General Trust Funds	1,000
Hazardous Discharge Fund	500,000
Hazardous Discharge Fund of 1986.....	5,377,000
Hazardous Discharge Site Cleanup Fund.....	14,428,000
Higher Education Buildings Construction Fund (Act of 1971).....	1,000
Housing Assistance Fund.....	20,000
Human Services Facilities Construction Fund	20,000
Institutional Construction Fund	3,000
Institutions Construction Fund.....	1,000
Jobs, Education and Competitiveness Fund .	395,000
Jobs, Science and Technology Fund.....	75,000
Medical Education Facilities Fund	14,000
Mortgage Assistance Fund	125,000
Motor Vehicle Security Responsibility Fund	4,000
New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-Way Preservation Fund	625,000
Natural Resources Fund	706,000
New Jersey Bridge Rehabilitation and Improvement Fund	600,000

New Jersey Green Acres Fund (1983)	4,448,000
New Jersey Green Acres Fund (1992)	500,000
New Jersey Spill Compensation Security Fund Administrative Costs	15,501,000
Outstanding Checks Account	1,000,000
Pollution Prevention Fund	1,567,000
Public Buildings Construction Fund	8,000
Public Purpose and Community-Based Facilities Construction Fund	1,900,000
Public Purpose Buildings Construction Fund	400,000
Resource Recovery Investment Fund	440,000
Resource Recovery and Solid Waste Disposal Facility Fund	224,000
Safe Drinking Water Fund	1,936,000
Safe Neighborhood Services Fund	9,000,000
Sanitary Landfill Facility Contingency Fund	10,418,000
School Fund Investment Account	2,481,000
Shore Protection Fund	300,000
Solid Waste Services Tax Fund	150,000
State Disability Benefit Fund General Account	25,767,000
State Land Acquisition and Development Fund	100,000
State Lottery Fund	645,500,000
State Lottery Fund Administration	19,230,000
State Recreation and Conservation Land Acquisition Fund (Act of 1971)	18,000
State Recreation and Conservation Land Acquisition and Development	20,000
State Recycling Fund	919,000
State of New Jersey Cash Management Fund	2,300,000
Stormwater Management and Combined Sewer Overflow Abatement Fund	550,000
Transportation Rehabilitation and Improvement Fund of 1979	75,000
Unclaimed Personal Property Trust Fund	41,700,000
Unclaimed Personal Property Trust Fund - Acceleration	7,000,000
Unemployment Compensation Tax Auxiliary Fund	17,911,000
Unsatisfied Claim and Judgment Fund	1,965,000
Wage and Hour Trust Fund	75,000
Water Conservation Fund	648,000
Water Supply Fund	5,967,000
Water Supply Replacement Trust Fund	11,719,000
Worker and Community Right to Know Fund.	2,550,000
Workforce Partnership Development Fund	6,451,000
Total--Interfund Transfers	$875,262,000
Total Revenues, General Fund	$10,644,712,000
Less: Transfer to Reserve Fund	$150,000,000
Total Resources, General Fund	$11,057,673,000

Surplus Revenue Fund	
Undesignated Fund Balance, July 1, 1995....	$246,202,000
Total Resources, Surplus Revenue Fund .	$246,202,000
Reserve Fund	
Transfer from General Fund	$150,000,000
Total Resources, Reserve Fund.....	$150,000,000
Property Tax Relief Fund	
Undesignated Fund Balance, July 1, 1995 ...	$155,030,000
Gross Income Tax.....	4,580,000,000
Total Resources, Property Tax Relief Fund	$4,735,030,000
Gubernatorial Elections Fund	
Undesignated Fund Balance, July 1, 1995....	$1,500,000
Taxpayers' Designations.....	1,500,000
Total Resources, Gubernatorial Elections Fund	$3,000,000
Casino Control Fund	
License Fees	$51,226,000
Total Resources, Casino Control Fund.....	$51,226,000
Casino Revenue Fund	
Undesignated Fund Balance, July 1, 1995....	$0
Gross Revenue Tax.....	298,200,000
Investment Income.....	2,500,000
Total Resources, Casino Revenue Fund...	$300,700,000
Total Resources, All State Funds.	$16,543,831,000
Grand Total Resources, All Funds	$16,543,831,000

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, 1996. 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, 1996 with the Director of the Division of Budget

and Accounting or held by pre-encumbrances on file as of June 30, 1996 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, 1996 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, 1995 are available for payments applicable to fiscal year 1995 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, 1995 together with an explanation of their status. On or before December 1, 1995, 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, 1995, depicting the financial condition of the State and the results of operation for the fiscal year ending June 30, 1995.

DIRECT STATE SERVICES
LEGISLATIVE BRANCH
01 LEGISLATURE
70 Government Direction, Management and Control
71 Legislative Activities
0001 Senate

01-0001 Senate		$9,342,000
Total Appropriation, Senate		$9,342,000
Personal Services:		
Senators (40)	($1,412,000)	
Salaries and Wages	(3,280,000)	
Members' Staff Services	(3,600,000)	
Materials and Supplies	(141,000)	
Services Other Than Personal	(820,000)	
Maintenance and Fixed Charges	(66,000)	
Additions, Improvements and Equipment	(23,000)	

The unexpended balance as of June 30, 1995 in this account is appropriated.

0002 General Assembly

02-0002 General Assembly	$13,490,000
Total Appropriation, General Assembly	$13,490,000

Personal Services:		
Members (80)	($2,812,000)	
Salaries and Wages	(3,900,000)	
Members' Staff Services	(6,300,000)	
Materials and Supplies	(105,000)	
Services Other Than Personal	(330,000)	
Maintenance and Fixed Charges	(43,000)	

The unexpended balance as of June 30, 1995 in this account is appropriated.

Total Appropriation, Legislature	$22,832,000

0003 Office of Legislative Services

03-0003 Legislative Support Services		$20,215,000
Total Appropriation, Office of Legislative Services		$20,215,000
Personal Services:		
Salaries and Wages	($13,589,000)	
Materials and Supplies	(1,342,000)	
Services Other Than Personal	(2,784,000)	
Maintenance and Fixed Charges	(2,472,000)	
Special Purpose:		
Affirmative Action and Equal Employment Opportunity	(23,000)	
Additions, Improvements and Equipment	(5,000)	

The unexpended balance as of June 30, 1995 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.

The sums appropriated for the continuation and expansion of data processing systems shall be available 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, as the Legislative Services Commission shall determine. No funds shall be expended or otherwise made available except upon the approval of the Legislative Information Systems Committee of the Legislative Services Commission and the Commission. The Legislative Services Commission may authorize the expenditure of funds for such capital alterations as may be required to permit the installation of data processing equipment into the State House or State House Annex, including electrical service, climate control, and facility utilization.

Receipts derived from fees and charges for public access to legislative information systems, and the unexpended balances as of June 30, 1995 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 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer.

09 Legislative Commissions

0010 Intergovernmental Relations Commission

09-0010 Intergovernmental Relations Commission		$333,000
Total Appropriation, Intergovernmental Relations Commission		$333,000
Special Purpose:		
The Council of State Governments	($139,000)	
National Conference of State Legislatures	(151,000)	
Northeast-Midwest Research Institute	(43,000)	

The unexpended balance as of June 30, 1995 in this account is appropriated.

0014 Joint Committee on Public Schools

09-0014 Joint Committee on Public Schools		$395,000
Total Appropriation, Joint Committee on Public Schools		$395,000
Special Purpose:		
Expenses of Commission	($395,000)	

The unexpended balance as of June 30, 1995 in this account is appropriated.

0018 State Commission of Investigation

09-0018 State Commission of Investigation		$1,974,000
Total Appropriation, State Commission of Investigation		$1,974,000
Special Purpose:		
Expenses of Commission	($1,974,000)	

The unexpended balance as of June 30, 1995 in this account is appropriated.

0026 Commission On Business Efficiency In The Public Schools

09-0026 Commission On Business Efficiency In The Public Schools		$65,000
Total Appropriation, Commission On Business Efficiency In The Public Schools		$65,000
Special Purpose:		
Expenses of Commission	($65,000)	

The unexpended balance as of June 30, 1995 in this account is appropriated.

0053 New Jersey Law Revision Commission

09-0053 New Jersey Law Revision Commission		$270,000
Total Appropriation, New Jersey Law Revision Commission		$270,000
Special Purpose:		
Expenses of Commission	($270,000)	

The unexpended balance as of June 30, 1995 in this account is appropriated.

0058 State Capitol Joint Management Commission

09-0058 State Capitol Joint Management Commission		$4,263,000
Total Appropriation, State Capitol Joint Management Commission		$4,263,000
Special Purpose:		
Expenses of Commission	($4,263,000)	

The unexpended balance as of June 30, 1995 in this account is appropriated.

0060 New Jersey Information Resources Management Commission

There are appropriated, subject to the approval of the Director of the Division of Budget and Accounting, such sums as may be required to support the New Jersey Information Resources Management Commission.

Total Appropriation, Legislative Commissions	$7,300,000
Total Appropriation, Legislative Branch..	$50,347,000

EXECUTIVE BRANCH

06 OFFICE OF THE CHIEF EXECUTIVE

70 Government Direction, Management and Control

76 Management and Administration

0300 Chief Executive's Office

01-0300 Executive Management		$4,809,000
Total Appropriation, Chief Executive's Office		$4,809,000
Personal Services:		
Salaries and Wages	($3,494,000)	
Materials and Supplies	(113,000)	
Services Other Than Personal	(625,000)	
Maintenance and Fixed Charges	(136,000)	
Special Purpose:		
National Governors' Association	(169,000)	
Coalition of Northeastern Governors	(46,000)	
Education Commission of the States	(80,000)	
National Conference of Commissioners On Uniform State Laws	(29,000)	
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	(75,000)	
Additions, Improvements and Equipment	(32,000)	

The unexpended balance as of June 30, 1995 in this account is appropriated.

Total Appropriation, Executive Branch	$4,809,000

10 DEPARTMENT OF AGRICULTURE

40 Community Development and Environmental Management

42 Natural Resource Management

01-3310 Animal Disease Control		$815,000
02-3320 Plant Pest and Disease Control		1,773,000
03-3330 Resource Development Services		1,356,000
Total Appropriation, Natural Resource Management		$3,944,000
Personal Services:		
Salaries and Wages	($2,075,000)	
Materials and Supplies	(118,000)	
Services Other Than Personal	(139,000)	
Maintenance and Fixed Charges	(102,000)	
Special Purpose:		
Beneficial Insect Laboratory	(650,000)	
Agricultural Recycling Program	(126,000)	
Agricultural Right-To-Farm Program	(100,000)	
Agricultural Economic Analysis and Development Program	(114,000)	
State Soil Conservation Program	(275,000)	
Agricultural Regulatory Mitigation/ Mediation Program	(100,000)	
Fish and Seafood Development and Promotion	(100,000)	
Future Farmers' Youth Development	(45,000)	

Receipts from laboratory test fees are appropriated to support the Animal Health Laboratory program.

Receipts from the sale or studies of beneficial insects are appropriated to support the Beneficial Insect Laboratory.

Receipts from the seed laboratory testing and certification programs are appropriated for program costs.

Receipts from the Nursery Inspection Program are appropriated for program costs.

Receipts derived from the Soybean Integrated Pest Management Program are appropriated for the same purpose.

Receipts from the Stormwater Discharge Permit Program fees are appropriated for program costs.

50 Economic Planning, Development and Security

51 Economic Planning and Development

06-3360 Marketing Services		$2,546,000
Total Appropriation, Economic Planning and Development		$2,546,000
Personal Services:		
Salaries and Wages	($653,000)	
Material and Supplies	(10,000)	
Services Other Than Personal	(46,000)	
Maintenance and Fixed Charges	(28,000)	
Special Purpose:		
Promotion/Market Development	(1,266,000)	
Market Expansion Program	(175,000)	
Wine Promotion Program	(30,000)	
Temporary Emergency Food Assistance Program	(338,000)	

Receipts derived from the distribution of commodities, sale of containers and salvage of commodities, in accordance with applicable federal regulations, are appropriated for expenses of Commodity Distribution.

Revenues in excess of those anticipated, generated at the rate of $.20 per gallon of wine, vermouth and sparkling wines sold by plenary winery and farm winery licenses licensed pursuant to R.S.33:1-10, and certified by the Director of the Division of Taxation, are appropriated to the Department of Agriculture from the alcoholic beverage excise tax for expenses of the Wine Promotion Program. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 1995 in the Promotion/Market Development account is appropriated for the same purpose.

52 Economic Regulation

04-3340 Dairy Industry Regulation		$334,000
05-3350 Other Commodity Regulation		602,000
Total Appropriation, Economic Regulation		$936,000
Personal Services:		
Salaries and Wages	($826,000)	
Materials and Supplies	(7,000)	
Services Other Than Personal	(57,000)	
Maintenance and Fixed Charges	(46,000)	

Receipts from dairy licenses and inspections over and above those anticipated are appropriated for program costs.

Receipts from feed, fertilizer, and liming materials registrations and inspections over and above those anticipated are appropriated for program costs.

Receipts from inspection fees derived from fruit, vegetable, fish and poultry inspections are appropriated for the cost of conducting fruit, vegetable, fish and poultry inspections.

70 Government Direction, Management and Control
76 Management and Administration

99-3370 Management and Administrative Services		$1,470,000
Total Appropriation, Management and Administration		$1,470,000
Personal Services:		
Salaries and Wages	($1,103,000)	
Materials and Supplies	(13,000)	
Services Other Than Personal	(83,000)	
Maintenance and Fixed Charges	(124,000)	
Special Purpose:		
Expenses of State Board of Agriculture.	(18,000)	
Affirmative Action and Equal Employment Opportunity	(28,000)	
Additions, Improvements and Equipment	(101,000)	
Total Appropriation, Department of Agriculture		$8,896,000

14 DEPARTMENT OF BANKING

50 Economic Planning, Development and Security
52 Economic Regulation

01-3010 Regulatory Affairs - Licensing, Applications and Consumer Affairs		$1,119,000
02-3020 Supervision and Examination of Financial Institutions		4,553,000
99-3040 Management and Administrative Services		954,000
Total Appropriation, Economic Regulation		$6,626,000
Personal Services:		
Salaries and Wages	($5,960,000)	
Materials and Supplies	(76,000)	
Services Other Than Personal	(541,000)	
Maintenance and Fixed Charges	(39,000)	
Special Purpose:		
Affirmative Action and Equal Employment Opportunity	(10,000)	

The unexpended balance as of June 30, 1995 in the Pinelands Development Credit Bank account is appropriated for the same purpose.

Receipts in excess of anticipated revenues from examination and licensing fees, bank assessments, fines and penalties, not to exceed $200,000 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Total Appropriation, Department of Banking	$6,626,000

20 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

30 Educational, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services

10-2920 Public Broadcasting Services.....		$4,780,000
Total Appropriation, Cultural and Intellectual Development Services		$4,780,000
Personal Services:		
Salaries and Wages	($3,555,000)	
Materials and Supplies.....	(313,000)	
Services Other Than Personal.....	(501,000)	
Maintenance and Fixed Charges.....	(141,000)	
Special Purpose:		
Affirmative Action and Equal Employment Opportunity	(20,000)	
Additions, Improvements and Equipment.....	(250,000)	

50 Economic Planning, Development and Security

51 Economic Planning and Development

20-2800 Economic Development.....		$4,985,000
20-2840 Economic Development.....		314,000
21-2850 International Trade		1,174,000
22-2860 Travel and Tourism		5,440,000
23-2880 Research and Policy		698,000
26-2810 Development for Small Businesses and Women and Minority Businesses.....		1,092,000
99-2910 Management and Administrative Services.....		942,000
Total Appropriation, Economic Planning and Development.....		$14,645,000
Personal Services:		
Salaries and Wages	($4,232,000)	
Materials and Supplies.....	(95,000)	
Services Other Than Personal.....	(499,000)	
Maintenance and Fixed Charges.....	(96,000)	
Special Purpose:		
Economic Development, Advertising and Promotion	(350,000)	
Prosperity New Jersey.....	(1,500,000)	
New Jersey Community Development Bank	(2,000,000)	
International Trade Advertising and Promotion	(100,000)	
Trade Shows, Missions and Promotions...	(200,000)	
New Jersey Israel Commission	(150,000)	
Travel and Tourism, Advertising and Promotion.....	(2,773,000)	
Travel and Tourism, Advertising and Promotion-Cooperative Marketing Program	(2,000,000)	
New Jersey Council of Economic Advisors	(75,000)	
Small Business Development Center	(500,000)	

Export Development-Yankee Trader Institute	(36,000)
Affirmative Action and Equal Employment Opportunity	(30,000)
Additions, Improvements and Equipment	(9,000)

The amount necessary to provide employer rebate awards as a result of the "New Jersey Urban Enterprise Zone Act," P.L.1983, c.303 (C.52:27H-60 et seq.), are appropriated from the Unemployment Compensation Auxiliary Fund, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated from the Urban Enterprise Zone Assistance Fund such sums as are necessary for administrative services provided to the Urban Enterprise Zone Authority by the Department of Commerce and Economic Development in accordance with the provisions of P.L.1993, c.367 (C.52:27H-65.1 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Economic Development Advertising and Promotion account and the International Trade Advertising and Promotion account shall be allocated between these programs as the Commissioner deems appropriate.

Fifty percent of the receipts collected from the use of the Travel and Tourism logo and slogan and the sale of related tourism promotional items are appropriated for the purpose of administering the Travel and Tourism program, subject to the approval of the Director of the Division of Budget and Accounting.

The Director of the Division of Travel and Tourism shall report semi-annually on the expenditure of State funds and private contributions during the preceding six months for the Travel and Tourism, 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 1996 shall be completed not later than January 31, 1996, the second semi-annual report covering the second six months of fiscal year 1996 shall be completed not later than July 31, 1996 and both reports shall be submitted to the Governor and the Joint Budget Oversight Committee.

Of the amount hereinabove appropriated for the Travel and Tourism Advertising and Promotion account, the Director of the Division of Travel and Tourism shall expend such amounts as the director determines will encourage the optimum effective continuing operation of each of the Tourist Welcome Centers, including but

not limited to, the transfer of the operation of the centers to private, non-profit entities, whether under lease arrangements or such other agreements as the director may determine.

The amount hereinabove for Travel and Tourism, Advertising and Promotion - Cooperative Marketing Program shall be available for expenditure only to the extent that an amount equal to 25% of the State funds are expended from funds raised by the Division of Travel and Tourism 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.

The unexpended balance as of June 30, 1995 for the Council of Economic Advisors is appropriated.

2890 New Jersey Commission on Science and Technology

24-2890 New Jersey Commission on Science and Technology		$430,000
Total Appropriation, New Jersey Commission on Science and Technology		$430,000
Personal Services:		
Salaries and Wages	($368,000)	
Materials and Supplies	(10,000)	
Services Other Than Personal	(41,000)	
Maintenance and Fixed Charges	(11,000)	
Total Appropriation, Department of Commerce and Economic Development		$19,855,000

22 DEPARTMENT OF COMMUNITY AFFAIRS

40 Community Development and Environmental Management

41 Community Development Management

01-8010 Housing Code Enforcement		$4,516,000
02-8020 Housing Services		3,067,000
04-8030 Local Government Services		3,352,000
06-8015 Uniform Construction Code		3,427,000
12-8025 Boarding Home Regulation and Assistance		1,135,000
18-8017 Uniform Fire Code		3,828,000
Total Appropriation, Community Development Management		$19,325,000
Personal Services:		
Board Members (7@ $12,000)	($84,000)	
Salaries and Wages	(14,148,000)	
Materials and Supplies	(192,000)	
Services Other Than Personal	(1,310,000)	
Maintenance and Fixed Charges	(696,000)	
Special Purpose:		
Prevention of Homelessness P.L.1984, c. 180 (C.52:27D- 280 et seq.)	(243,000)	
Neighborhood Preservation-Fair Housing P.L.1985, c.222 (C.52:27D-301 et seq.)	(1,050,000)	

Council on Affordable Housing	(1,350,000)
Main Street New Jersey	(100,000)
Local Fire Fighters' Training	(147,000)
Additions, Improvements and Equipment	(5,000)

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 expended balance as of June 30, 1995, 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.

Any receipts from the sale of truth in renting statements, including fees, fines, and penalties, are appropriated.

Receipts from the New Jersey Housing and Mortgage Finance Agency charges for the Affordable Housing Management Service to municipalities and the unexpended balance as of June 30, 1995, are appropriated for the operation of the Affordable Housing Management Service within the Division of Housing.

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), and any receipts in excess of the amount anticipated are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from the Division of Local Government Services are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Fees for local government, authority, and special district audits, education program administration, debt financing, expedited budget review and other fiscal services as authorized by the Local Finance Board are appropriated for associated expenses, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1995, in the Uniform Construction Code fees account, together with any receipts in excess of the amount 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, 1995, 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.

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 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.

Pursuant to section 15 of P.L.1983, c.530 (C.55:14K-15), the Commissioner shall determine, at least annually, the eligibility of each boarding house resident for rental assistance payments; and notwithstanding any provision of P.L.1983, c.530 (C.55:14K-1 et seq.) to the contrary, moneys held in the Boarding House Rental Assistance Fund that were originally appropriated from the General Fund may be used by the Commissioner for the purpose of providing life safety improvement loans, and any moneys held in the Boarding House Rental Assistance Fund may be used for the purpose of providing rental assistance for repayment of such loans.

The amounts hereinabove for the Uniform Fire Code program classification are payable out of the fees and penalties derived from code enforcement activities. If the receipts are less than anticipated, the appropriations shall be reduced proportionately.

The unexpended balance as of June 30, 1995, 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.

50 Economic Planning, Development and Security
55 Social Services Programs

05-8050 Community Resources		$319,000
08-8060 Programs for the Aging		802,000
14-8061 Ombudsman's Office		305,000
15-8051 Women's Programs		942,000
16-8062 Office of the Public Guardian		744,000
Total Appropriation, Social Services Programs		$3,112,000
Personal Services:		
Salaries and Wages	($1,935,000)	
Materials and Supplies	(98,000)	
Services Other Than Personal	(400,000)	
Maintenance and Fixed Charges	(61,000)	
Special Purpose:		
Federal Programs For the Aging (State Share)	(410,000)	
Expenses of the New Jersey Commission on Women	(7,000)	
Office on the Prevention of Violence Against Women	(200,000)	
Additions, Improvements and Equipment	(1,000)	

In addition to the amount hereinabove for the Ombudsman's office, there is appropriated, subject to the approval of the Director of the Division of Budget and Accounting, additional sums as may be required, if any, equal to the difference between $543,000 and the amount of federal funds received, whereby the total funds available to the office equals $848,000.

Receipts from divorce filing fees pursuant to P.L.1993, c.188, are appropriated.

Receipts from the Office of the Public Guardian are appropriated.

70 Government Direction, Management and Control
76 Management and Administration

99-8070 Management and Administrative Services		$2,600,000
Total Appropriation, Management and Administration		$2,600,000
Personal Services:		
Salaries and Wages	($2,154,000)	
Materials and Supplies	(12,000)	
Services Other Than Personal	(343,000)	
Maintenance and Fixed Charges	(30,000)	

Special Purpose:		
Affirmative Action and Equal Employment Opportunity	(60,000)	
Additions, Improvements and Equipment	(1,000)	
Total Appropriation, Department of Community Affairs		$25,037,000

26 DEPARTMENT OF CORRECTIONS

10 Public Safety and Criminal Justice

16 Detention and Rehabilitation

7025 System-Wide Program Support

07-7025 Institutional Control and Supervision		$1,493,000
13-7025 Institutional Program Support		18,566,000
Total Appropriation, System-Wide Program Support		$20,059,000
Personal Services:		
Salaries and Wages	($9,920,000)	
Materials and Supplies	(4,000)	
Services Other Than Personal	(524,000)	
Special Purpose:		
Central Office Transportation Unit	(264,000)	
Special Operations Group	(75,000)	
Integrated Information Systems Development	(417,000)	
Educational Technologies/Remote Educational Systems	(250,000)	
Augment Medical Care At Institutions	(573,000)	
Social Services Block Grant Support	(83,000)	
Additional Trunk Lines	(406,000)	
Return of Escapees and Absconders	(176,000)	
Emergency Facility Repairs	(100,000)	
Mutual Agreement Program	(2,282,000)	
Recruit Screening Program	(78,000)	
Radio Maintenance	(177,000)	
Maintenance of McCorkle Facility	(623,000)	
DOT/DOC Work Details	(500,000)	
Establishment of "Boot Camp"	(2,738,000)	
Comprehensive Drug Treatment Program	(802,000)	
Additions, Improvements and Equipment	(67,000)	

In addition to the sums hereinabove for Salaries and Wages within the System-Wide Program Support program classification, the Commissioner of the Department of Corrections, with the approval of the Director of the Division of Budget and Accounting, may transfer or credit to these Salaries and Wages accounts, a sum of up to $9,250,000 from other appropriations in the department to reflect savings throughout the department for program efficiencies.

The amount appropriated hereinabove for the Establishment of "Boot Camp" shall be used by the department to establish two boot camp programs, one for juvenile offenders adjudicated delinquent who are 15 years of age or older but under 18 years of age, and one for convicted youthful offenders 18 years of age or older but under 26 years of age.

The unexpended balance as of June 30, 1995 in the Integrated Information Systems Development account, not to exceed $1,500,000, is appropriated to provide funding for the first year 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 expenditure of which shall directly improve the department's ability to collect fines, restitutions, penalties, surcharges or other debts owed by inmates.

7040 New Jersey State Prison

07-7040 Institutional Control and Supervision		$44,160,000
08-7040 Institutional Care Program		13,404,000
09-7040 Institutional Treatment Program....		2,597,000
10-7040 Education Program		856,000
19-7040 Physical Plant and Support Services		5,488,000
99-7040 Management and Administrative Services		1,389,000
Total Appropriation, New Jersey State Prison		$67,894,000
Personal Services:		
Salaries and Wages	($51,401,000)	
Food In Lieu of Cash	(239,000)	
Materials and Supplies	(8,664,000)	
Services Other Than Personal.....	(6,669,000)	
Maintenance and Fixed Charges.....	(806,000)	
Special Purpose:		
Other Special Purpose.....	(3,000)	
Additions, Improvements and Equipment	(112,000)	

7050 East Jersey State Prison

07-7050 Institutional Control and Supervision		$32,630,000
08-7050 Institutional Care Program		11,885,000
09-7050 Institutional Treatment Program....		2,393,000
10-7050 Education Program		562,000
19-7050 Physical Plant and Support Services		4,059,000
22-7050 Northern Regional Pre-Release Center		3,971,000
99-7050 Management and Administrative Services.....		1,537,000
Total Appropriation, East Jersey State Prison		$57,037,000
Personal Services:		
Salaries and Wages	($40,003,000)	
Food In Lieu of Cash	(193,000)	

Materials and Supplies	(8,972,000)	
Services Other Than Personal	(6,765,000)	
Maintenance and Fixed Charges	(991,000)	
Special Purpose:		
Other Special Purpose	(2,000)	
Additions, Improvements and Equipment	(111,000)	

7060 Bayside State Prison

07-7060 Institutional Control and Supervision		$25,504,000
08-7060 Institutional Care Program		11,725,000
09-7060 Institutional Treatment Program		2,073,000
10-7060 Education Program		757,000
19-7060 Physical Plant and Support Services		3,674,000
23-7060 Bayside Reception Unit		2,961,000
99-7060 Management and Administrative Services		1,147,000
Total Appropriation, Bayside State Prison		$47,841,000
Personal Services:		
Salaries and Wages	($32,604,000)	
Food In Lieu of Cash	(163,000)	
Materials and Supplies	(7,361,000)	
Services Other Than Personal	(6,247,000)	
Maintenance and Fixed Charges	(1,355,000)	
Special Purpose:		
Other Special Purpose	(1,000)	
Additions, Improvements and Equipment	(110,000)	

7065 Southern State Correctional Facility

07-7065 Institutional Control and Supervision		$26,702,000
08-7065 Institutional Care Program		7,162,000
09-7065 Institutional Treatment Program		1,807,000
10-7065 Education Program		926,000
19-7065 Physical Plant and Support Services		2,784,000
99-7065 Management and Administrative Services		1,357,000
Total Appropriation, Southern State Correctional Facility		$40,738,000
Personal Services:		
Salaries and Wages	($31,461,000)	
Food In Lieu of Cash	(149,000)	
Materials and Supplies	(4,704,000)	
Services Other Than Personal	(3,284,000)	
Maintenance and Fixed Charges	(1,029,000)	
Special Purpose:		
Other Special Purpose	(1,000)	
Additions, Improvements and Equipment	(110,000)	

7070 Mid-State Correctional Facility

07-7070 Institutional Control and Supervision	$10,838,000
08-7070 Institutional Care Program	4,272,000
09-7070 Institutional Treatment Program	1,177,000
10-7070 Education Program	317,000
19-7070 Physical Plant and Support Services	1,125,000

99-7070 Management and Administrative Services		565,000
Total Appropriation, Mid-State Correctional Facility		$18,294,000
Personal Services:		
Salaries and Wages	($13,954,000)	
Food In Lieu of Cash	(73,000)	
Materials and Supplies	(1,714,000)	
Services Other Than Personal	(2,237,000)	
Maintenance and Fixed Charges	(205,000)	
Additions, Improvements and Equipment	(111,000)	

7075 Riverfront State Prison

07-7075 Institutional Control and Supervision		$16,930,000
08-7075 Institutional Care Program		9,754,000
09-7075 Institutional Treatment Program		1,711,000
10-7075 Education Program		471,000
19-7075 Physical Plant and Support Services		2,237,000
99-7075 Management and Administrative Services		1,043,000
Total Appropriation, Riverfront State Prison		$32,146,000
Personal Services:		
Salaries and Wages	($21,544,000)	
Food In Lieu of Cash	(111,000)	
Materials and Supplies	(4,004,000)	
Services Other Than Personal	(6,086,000)	
Maintenance and Fixed Charges	(291,000)	
Additions, Improvements and Equipment	(110,000)	

7080 Edna Mahan Correctional Facility for Women

07-7080 Institutional Control and Supervision		$16,641,000
08-7080 Institutional Care Program		8,598,000
09-7080 Institutional Treatment Program		1,389,000
10-7080 Education Program		400,000
19-7080 Physical Plant and Support Services		3,117,000
99-7080 Management and Administrative Services		1,133,000
Total Appropriation, Edna Mahan Correctional Facility for Women		$31,278,000
Personal Services:		
Salaries and Wages	($22,249,000)	
Food In Lieu of Cash	(131,000)	
Materials and Supplies	(3,681,000)	
Services Other Than Personal	(4,593,000)	
Maintenance and Fixed Charges	(515,000)	
Additions, Improvements and Equipment	(109,000)	

In addition to the amounts appropriated hereinabove, upon the completion of an independent audit of cogeneration costs and upon the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee, there is appropriated $283,000 for increased utility costs.

7085 Northern State Prison

07-7085 Institutional Control and Supervision		$34,387,000
08-7085 Institutional Care Program		16,017,000
09-7085 Institutional Treatment Program		2,734,000
10-7085 Education Program		692,000
19-7085 Physical Plant and Support Services		4,420,000
99-7085 Management and Administrative Services		1,495,000
Total Appropriation, Northern State Prison		$59,745,000
Personal Services:		
Salaries and Wages	($40,120,000)	
Food In Lieu of Cash	(202,000)	
Materials and Supplies	(9,016,000)	
Services Other Than Personal	(9,663,000)	
Maintenance and Fixed Charges	(635,000)	
Additions, Improvements and Equipment	(109,000)	

7090 Adult Diagnostic and Treatment Center, Avenel

07-7090 Institutional Control and Supervision		$12,163,000
08-7090 Institutional Care Program		4,764,000
09-7090 Institutional Treatment Program		2,472,000
10-7090 Education Program		289,000
11-7090 Outpatient Diagnostic and Treatment Services		234,000
19-7090 Physical Plant and Support Services		1,349,000
99-7090 Management and Administrative Services		889,000
Total Appropriation, Adult Diagnostic and Treatment Center, Avenel		$22,160,000
Personal Services:		
Salaries and Wages	($16,694,000)	
Food In Lieu of Cash	(84,000)	
Materials and Supplies	(2,390,000)	
Services Other Than Personal	(2,328,000)	
Maintenance and Fixed Charges	(320,000)	
Special Purpose:		
Other Special Purpose	(17,000)	
Other Additional Bedspaces	(217,000)	
Additions, Improvements and Equipment	(110,000)	

7110 Garden State Reception and Youth Correctional Facility

07-7110 Institutional Control and Supervision	$22,216,000
08-7110 Institutional Care Program	7,231,000
09-7110 Institutional Treatment Program	2,602,000
10-7110 Education Program	142,000
19-7110 Physical Plant and Support Services	1,749,000
21-7110 Pre-Reception Unit North Jersey	5,158,000
99-7110 Management and Administrative Services	1,182,000
Total Appropriation, Garden State Reception and Youth Correctional Facility	$40,280,000

Personal Services:		
Salaries and Wages	($31,402,000)	
Food In Lieu of Cash	(159,000)	
Materials and Supplies	(4,899,000)	
Services Other Than Personal	(3,147,000)	
Maintenance and Fixed Charges	(580,000)	
Special Purpose:		
Other Special Purpose	(1,000)	
Additions, Improvements and Equipment	(92,000)	

7120 Albert C. Wagner Youth Correctional Facility

07-7120 Institutional Control and Supervision		$20,580,000
08-7120 Institutional Care Program		7,237,000
09-7120 Institutional Treatment Program		2,278,000
10-7120 Education Program		377,000
19-7120 Physical Plant and Support Services		3,333,000
99-7120 Management and Administrative Services		1,225,000
Total Appropriation, Albert C. Wagner Youth Correctional Facility		$35,030,000
Personal Services:		
Salaries and Wages	($26,331,000)	
Food In Lieu of Cash	(135,000)	
Materials and Supplies	(4,973,000)	
Services Other Than Personal	(2,770,000)	
Maintenance and Fixed Charges	(450,000)	
Special Purpose:		
Sewage Hauling and Disposal Costs	(260,000)	
Additions, Improvements and Equipment	(111,000)	

Receipts derived from the Upholstery Program at the Albert C. Wagner Youth Correctional Facility, and any unexpended balances as of June 30, 1995 are appropriated for the operation of the program with surplus funds being credited to the institution's Inmate Welfare Fund, subject to the approval of the Director of the Division of Budget and Accounting.

7130 Mountainview Youth Correctional Facility

07-7130 Institutional Control and Supervision		$21,899,000
08-7130 Institutional Care Program		6,494,000
09-7130 Institutional Treatment Program		2,210,000
10-7130 Education Program		195,000
19-7130 Physical Plant and Support Services		4,750,000
99-7130 Management and Administrative Services		1,239,000
Total Appropriation, Mountainview Youth Correctional Facility		$36,787,000
Personal Services:		
Salaries and Wages	($26,634,000)	
Food In Lieu of Cash	(133,000)	
Materials and Supplies	(4,566,000)	
Services Other Than Personal	(2,769,000)	
Maintenance and Fixed Charges	(733,000)	

Special Purpose:		
Sewage Hauling and Disposal Costs.....	(1,844,000)	
Additions, Improvements and Equipment.....	(108,000)	

17 Parole and Community Programs

7010 Office of Parole and Community Programs

03-7010 Parole.....		$25,620,000
Total Appropriation, Office of Parole and Community Programs		$25,620,000
Personal Services:		
Salaries and Wages	($21,837,000)	
Materials and Supplies.....	(139,000)	
Services Other Than Personal.....	(454,000)	
Maintenance and Fixed Charges.....	(584,000)	
Special Purpose:		
Payments To Inmates Discharged From Facilities.....	(94,000)	
Parolee Electronic Monitoring Program.	(2,492,000)	
Additions, Improvements and Equipment.....	(20,000)	

No State funds shall be utilized for any expense related to a county electronic monitoring program.

7280 State Parole Board

05-7280 State Parole Board		$7,806,000
Total Appropriation, State Parole Board..		$7,806,000
Personal Services:		
Salaries and Wages	($7,048,000)	
Materials and Supplies.....	(157,000)	
Services Other Than Personal.....	(390,000)	
Maintenance and Fixed Charges.....	(116,000)	
Additions, Improvements and Equipment.....	(95,000)	

18 Juvenile Correctional Services

7220 New Jersey Training School For Boys

07-7220 Institutional Control and Supervision		$9,667,000
08-7220 Institutional Care Program.....		2,564,000
09-7220 Institutional Treatment Program....		1,451,000
19-7220 Physical Plant and Support Services		2,744,000
99-7220 Management and Administrative Services		778,000
Total Appropriation, New Jersey Training School For Boys.....		$17,204,000
Personal Services:		
Salaries and Wages	($13,196,000)	
Food In Lieu of Cash	(63,000)	
Materials and Supplies.....	(1,904,000)	
Services Other Than Personal.....	(1,397,000)	
Maintenance and Fixed Charges.....	(548,000)	
Special Purpose:		
Management and Administrative Services	(2,000)	
Additions, Improvements and Equipment.....	(94,000)	

Receipts derived from the Eyeglass Program at the New Jersey Training School for Boys and any unexpended balance as of June 30, 1995 are appropriated for the operation of the program.

7225 Juvenile Medium Security Center

07-7225 Institutional Control and Supervision		$5,159,000
08-7225 Institutional Care Program		851,000
09-7225 Institutional Treatment Program		386,000
19-7225 Physical Plant and Support Services		1,790,000
99-7225 Management and Administrative Services		462,000
Total Appropriation, Juvenile Medium Security Center		$8,648,000
Personal Services:		
Salaries and Wages	($6,113,000)	
Food In Lieu of Cash	(28,000)	
Materials and Supplies	(378,000)	
Services Other Than Personal	(275,000)	
Maintenance and Fixed Charges	(120,000)	
Special Purpose:		
Female Secure Care Program	(825,000)	
Johnstone Facility Maintenance	(801,000)	
Additions, Improvements and Equipment	(108,000)	

10 Public Safety and Criminal Justice

19 Central Planning, Direction and Management

01-7000 Planning, Management and General Support		$1,975,000
02-7000 Program Operations Support		2,901,000
19-7000 Physical Plant and Support Services		1,116,000
99-7000 Management and Administrative Services		9,476,000
Total Appropriation, Central Planning, Direction and Management		$15,468,000
Personal Services:		
Salaries and Wages	($12,723,000)	
Materials and Supplies	(472,000)	
Services Other Than Personal	(1,446,000)	
Maintenance and Fixed Charges	(556,000)	
Special Purpose:		
Affirmative Action and Equal Employment Opportunity	(183,000)	
Additions, Improvements and Equipment	(88,000)	
Total Appropriation, Department of Corrections		$584,035,000

Balances on hand as of June 30, 1995 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.).

Of the amount appropriated hereinabove for the Department of Corrections, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page L-36 in the Governor's Budget Recommendation Document dated January 23, 1995 first shall be charged to the State Lottery Fund.

34 DEPARTMENT OF EDUCATION

30 Educational, Cultural and Intellectual Development

31 Direct Educational Services and Assistance

04-5064 Adult and Continuing Education ...		$249,000
05-5064 Bilingual Education		267,000
06-5064 Programs For At-Risk Pupils.....		10,000
07-5065 Special Education		525,000
Total Appropriation, Direct Educational Services and Assistance.....		$1,051,000
Personal Services:		
Salaries and Wages	($896,000)	
Materials and Supplies.....	(58,000)	
Services Other Than Personal.....	(97,000)	

32 Operation and Support of Educational Institutions

12-5011 Marie H. Katzenbach School for the Deaf		$8,871,000
13-5011 Program For Medically Complex/ Behaviorally Difficult Deaf Pupils.....		$1,074,000
Total Appropriation, State and All Other Funds.....		$9,945,000
Less:		
Marie H. Katzenbach School ForThe Deaf	*($5,936,000)*	
Program For Medically Complex/ Behaviorally Difficult Deaf Pupils	*(1,074,000)*	
Total Deductions		*($7,010,000)*
Total Appropriation, Operation and Support of Educational Institutions		$2,935,000
Personal Services:		
Salaries and Wages	($7,386,000)	
Materials and Supplies.....	(784,000)	
Services Other Than Personal.....	(213,000)	
Maintenance and Fixed Charges.....	(371,000)	
Special Purpose:		
Transportation Expenses For Students	(43,000)	
Program for Medically Complex/ Behaviorally Difficult Deaf Pupils	(1,074,000)	
Additions, Improvements and Equipment.....	(74,000)	
Less:		
All Other Funds.....	*(7,010,000)*	

Notwithstanding the provisions of N.J.S.18A:61-1 and N.J.S.18A:46-13, or any other statute, for the 1995-96 academic year, local boards of education shall reimburse the Marie H.

Katzenbach School for the Deaf at an annual rate and payment schedule adopted by the Commissioner of Education and the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1995, in the receipt account of the Marie H. Katzenbach School for the Deaf is appropriated for expenses of operating the school.

Receipts derived from tuition for medically complex/behaviorally difficult students are appropriated for the operation of the program.

The unexpended balance as of June 30, 1995, of receipts derived from charges at the regional schools for the handicapped is appropriated for the costs associated with the regional schools' facilities.

33 Supplemental Education and Training Programs

20-5062 General Vocational Education		$483,000
20-5064 General Vocational Education		127,000
Total Appropriation, Supplemental Education and Training Programs		$610,000
Personal Services:		
Salaries and Wages	($547,000)	
Materials and Supplies	(21,000)	
Services Other Than Personal	(42,000)	

34 Educational Support Services

30-5063 Academic Programs and Standards		$7,524,000
31-5060 Grants Management and Development		749,000
32-5061 Certification Programs		1,610,000
33-5067 Service to Local Districts		5,936,000
33-5091 Service to Local Districts.		886,000
34-5067 Equal Educational Opportunity		139,000
35-5069 Urban Education		522,000
36-5120 Pupil Transportation		375,000
37-5120 School Nutrition		138,000
38-5120 Facilities Planning and School Building Aid		1,047,000
40-5064 Health, Safety and Community Services		825,000
Total Appropriation, Educational Support Services		$19,751,000
Personal Services:		
Salaries and Wages	($11,986,000)	
Materials and Supplies	(430,000)	
Services Other Than Personal	(877,000)	
Maintenance and Fixed Charges	(73,000)	
Special Purpose:		
Improved Basic Skills/Special Review Assessment	(95,000)	
Statewide Assessment Program (Grades 4, 8, 11)	(6,011,000)	

Core Curriculum Standards	(100,000)
Advisory Council On Holocaust Education	(124,000)
Blueprint For A Drug-Free New Jersey	(30,000)
Additions, Improvements and Equipment	(25,000)

Receipts from the State Board of Examiners' fees in excess of those anticipated and the unexpended balances of such receipts as of June 30, 1995 are appropriated for the operation of the Certification programs.

Receipts derived from fees for school district personnel background checks and the unexpended balances as of June 30, 1995 of such receipts are appropriated for the cost of operation.

Receipts derived from charges at the Academy for Professional Development in excess of those anticipated and the unexpended balance as of June 30, 1995 of such receipts are appropriated for the costs of operation.

The unexpended balance as of June 30, 1995 in the Inspection of school construction account in excess of $400,000, and receipts in excess of the amount anticipated, are appropriated for the operation of the school construction inspection program.

35 Education Administration and Management

42-5120 School Finance		$1,359,000
43-5092 Compliance and Auditing		1,623,000
99-5010 Management and Administrative Services		509,000
99-5090 Management and Administrative Services		2,506,000
99-5093 Management and Administrative Services		2,171,000
99-5095 Management and Administrative Services		2,295,000
Total Appropriation, Education Administration and Management		$10,463,000
Personal Services:		
Salaries and Wages	($7,991,000)	
Materials and Supplies	(393,000)	
Services Other Than Personal	(1,080,000)	
Maintenance and Fixed Charges	(101,000)	
Special Purpose:		
Comprehensive Compliance Audits	(250,000)	
State Board of Education Expenses	(62,000)	
Affirmative Action and Equal Employment Opportunity	(46,000)	
Additions, Improvements and Equipment	(540,000)	

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.

Receipts derived from fees for school district personnel background checks and the unexpended balances as of June 30, 1995 of such receipts are appropriated for the cost of operation.

37 Cultural and Intellectual Development Services

51-5070 Library Services		$2,452,000
54-5010 Support of the Arts		168,000
Total Appropriation, Cultural and Intellectual Development Services		$2,620,000
Personal Services:		
Salaries and Wages	($1,924,000)	
Materials and Supplies	(494,000)	
Services Other Than Personal	(173,000)	
Maintenance and Fixed Charges	(23,000)	
Additions, Improvements and Equipment	(6,000)	

Receipts derived from tuition charges at the New Jersey School of the Arts and the unexpended balance as of June 30, 1995 of such receipts, are appropriated for the cost of operation.

Total Appropriation, Department of Education	$37,430,000

Of the amount appropriated hereinabove for the Department of Education, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page L-36 in the Governor's Budget Recommendation Document dated January 23, 1995 first shall be charged to the State Lottery Fund.

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

42 Natural Resource Management

10-4865 Marina Operations		$694,000
11-4870 Forest Resource Management		5,668,000
12-4875 Parks Management		28,661,000
13-4880 Hunters' and Anglers' License Fund		10,975,000
14-4885 Shellfish and Marine Fisheries Management		1,287,000
20-4880 Wildlife Management		312,000
21-4895 Natural Resources Engineering		2,042,000
Total Appropriation, Natural Resource Management		$49,639,000
Personal Services:		
Salaries and Wages	($34,514,000)	
Materials and Supplies	(3,275,000)	

Services Other Than Personal	(2,086,000)
Maintenance and Fixed Charges	(2,245,000)
Special Purpose:	
Fire Fighting Costs	(1,025,000)
1987 Historic Trust AdministrativeCosts.	(420,000)
Green Acres Administration	(3,848,000)
Liberty State Park Commission	(22,000)
Liberty State Park, Engineering and Planning	(150,000)
Expenses of the Delaware and Raritan Canal Commission	(178,000)
Natural Lands Trust	(90,000)
Natural Areas Council	(5,000)
Historic Trust.	(20,000)
Endangered Species Tax Check-Off Donations	(312,000)
Emergency Flood ControlAdministrative Costs	(242,000)
Dam Repair Administrative Costs	(263,000)
Harbor Cleanup Administrative Costs	(143,000)
Septic Pumper Truck	(22,000)
Acquisition of Vehicles	(200,000)
Removal of Dredged Material from Beaver Dam Creek	(250,000)
Additions, Improvements and Equipment	(329,000)

The amount hereinabove for the Hunters' and Anglers' License Fund is payable out of said Fund and any amount remaining therein, and the unexpended balance as of June 30, 1995 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.

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, 1995, together with receipts in excess of the amount anticipated, are appropriated. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove for the 1987 Historic Trust Administrative Costs account is appropriated from the Cultural Centers and Historic Preservation Fund established pursuant to the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, together with an amount not to exceed $10,000, subject to the approval of the Director of the Division of Budget and Accounting, for costs attributable to planning, administration, organization, and operating expenses related to historic preservation projects.

Receipts in excess of the amount anticipated from fees and permit receipts from the use of State Park and marina facilities are appropriated for Parks Management, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Green Acres Administration account is appropriated from the 1992 New Jersey Green Acres Fund and the 1992 New Jersey Green Trust Fund pursuant to the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, together with an amount not to exceed $120,000 subject to the approval of the Director of the Division of Budget and Accounting, for the administration of the Green Acres program.

An amount not to exceed $230,000 is allocated from the capital construction appropriation for Shore Protection Fund Projects for the operation and maintenance of the Bayshore Flood Control facility.

An amount to not exceed $1,122,000 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.

The amounts hereinabove for the Harbor Cleanup Administrative Costs and the Dam Repair Administrative Costs accounts are appropriated from the Natural Resources Fund created pursuant to P.L.1980, c.70, together with an amount not to exceed $12,000 subject to the approval of the Director of the Division of Budget and Accounting, for administrative costs related to these bond funds.

In addition to the amount appropriated hereinabove for Parks Management, there is appropriated $1,200,000 to provide funding for additional personnel to preserve and enhance security, maintenance and operation of the State's parks.

The amount hereinabove for the Emergency Flood Control Administrative Costs account is appropriated from the Emergency Flood Control Fund created pursuant to P.L.1978, c.78, together with an amount not to exceed $63,000 subject to the approval of the Director of the Division of Budget and Accounting, for administrative costs related to this bond fund.

The amount appropriated hereinabove for Liberty State Park, Engineering and Planning shall be used for engineering studies and design planning to ascertain the proper location of a permanent berth for the U.S.S. New Jersey battleship at Liberty State Park.

4876 Palisades Interstate Park Commission

24-4876 Palisades Parks Management		$1,239,000
25-4876 Patrol Activities and Crime Control		990,000
Total Appropriation, Palisades Interstate Park Commission		$2,229,000
Personal Services:		
Salaries and Wages	($1,616,000)	
Materials and Supplies	(276,000)	
Services Other Than Personal	(122,000)	
Maintenance and Fixed Charges	(215,000)	

Receipts from police court, stands, concessions and self-sustaining activities operated or supervised by this Commission, and the unexpended balance as of June 30, 1995 of such receipts, are appropriated.

43 Science and Technical Programs

01-4820 Radiation Protection		$4,890,000
02-4801 Air Pollution Control, Policy and Planning		3,627,000
02-4825 Air Pollution Control		3,836,000
04-4835 Pesticide Control		3,020,000
05-4810 Water Supply and Watershed Management		8,245,000
07-4850 Water Monitoring and Planning		841,000
17-4900 Solid Waste Resource Management		10,806,000
18-4810 Science and Research		2,300,000
90-4801 Management Policy and Planning		185,000
Total Appropriation, Science and Technical Programs		$37,750,000
Personal Services:		
Salaries and Wages	($12,888,000)	
Materials and Supplies	(717,000)	
Services Other Than Personal	(4,120,000)	
Maintenance and Fixed Charges	(566,000)	
Special Purpose:		
Nuclear Emergency Response	(1,658,000)	
Toxic Catastrophe Prevention	(743,000)	
Worker and Community Right To Know Act	(915,000)	
Oil Spill Prevention	(2,178,000)	
Pesticide Control	(2,124,000)	
Quality Assurance	(896,000)	
Administrative Costs Water Supply Bond Act of 1981 - Administrative Costs	(954,000)	

Administrative Costs Water Supply Bond Act of 1981 - Watershed and Aquifer	(1,213,000)
Administrative Costs Water Supply Bond Act of 1981 - Planning and Standards	(800,000)
Water/Wastewater Operators Licenses	(43,000)
Office of the Rivermaster	(58,000)
Safe Drinking Water Fund	(1,936,000)
Sanitary Landfill Facility Contingency Fund, Non-Site Specific Administration	(418,000)
Solid and Hazardous Waste Disposal-- Disclosure Fund	(1,881,000)
Administration of Resource Recovery and Solid Waste Disposal Facility Fund	(224,000)
Recycling of Solid Waste	(919,000)
Clean Communities-Administration	(291,000)
Medical Waste Management	(1,139,000)
Hazardous Waste Research	(500,000)
Additions, Improvements and Equipment	(569,000)

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, 1995 in the Nuclear Emergency Response account, together with receipts in excess of the amount anticipated not to exceed $600,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove for the Worker and Community Right to Know Act account is payable out of the Worker and Community Right to Know Trust Fund and that receipts in excess of the amount anticipated, not to exceed $250,000, are appropriated. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove for the Oil Spill Prevention program is payable out of the Spill Compensation Fund, and that receipts in excess of those anticipated, not to exceed $550,000, from the 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.

The amount hereinabove for the Safe Drinking Water Fund account is payable out of receipts, and receipts in excess of the amount anticipated, not to exceed $988,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

The amounts hereinabove for the Administrative Costs Water Supply Bond Act of 1981 - Water Supply Management; Watershed and Aquifer; and Planning and Standards accounts are appropriated from the "Water Supply Bond Act of 1981," P.L.1981, c.261, together with an amount, not to exceed $75,000, for costs attributable to administration of water supply programs, including funding for cooperative agreements under the United States Geological Survey (USGS) Program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Sanitary Landfill Facility Contingency Fund-Administration account is appropriated from the Sanitary Landfill Facility Contingency Fund, together with an amount not to exceed $18,000, for administrative costs, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1991, c.269, the repayment of the $5 million advance from the General Fund to the Solid and Hazardous Waste Disposal Disclosure Act (A-901) program shall be appropriated from the Sanitary Landfill Facility Contingency Fund.

The amount hereinabove for the Administration of Resource Recovery and Solid Waste Disposal Facility Fund account is appropriated from the Resource Recovery and Solid Waste Disposal Facility Fund, together with an amount not to exceed $34,000, for administrative costs related to the Resource Recovery and Solid Waste Disposal Facility program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1981, c.278 (C.13:1E-92 et seq.), as amended by P.L.1985, c.533 (C.13:1E-92 et seq.), the amount hereinabove for the Recycling of Solid Waste account is appropriated from the State Recycling Fund, together with an amount, not to exceed $874,000 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.

The amount hereinabove for the Clean Communities-Administration account is appropriated from receipts received pursuant to section 7 of P.L.1985, c.533 (C.13:1E-99.2), together with an amount, not to exceed $160,000, for Clean Communities program administration, 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 State Recycling Fund and the Clean Communities account such sums as may be required to carry out the provisions of the "Clean Communities and Recycling Act," P.L.1981, c.278, as amended by P.L.1985, c.533 (C.13:1E-92 et seq.).

There are appropriated from the Sanitary Landfill Facility Contingency Fund such sums as may be required to carry out the provisions of the "Sanitary Landfill Facility Closure and Contingency Fund Act," P.L.1981, c.306 (C.13:1E-100 et seq.).

Receipts deposited to the Resource Recovery Investment Tax Fund and the Solid Waste Services Tax Fund are appropriated.

The amount hereinabove for the Hazardous Waste Research account is appropriated from interest earned by the New Jersey Spill Compensation Fund for research on the prevention and the effects of discharges of hazardous substances on the environment and organisms, on methods of pollution prevention and recycling of hazardous substances, and on the development of improved cleanup, removal and disposal operations, subject to the approval of the Director of the Division of Budget and Accounting. If the interest earnings are less than anticipated, the appropriation shall be reduced proportionately.

44 Site Remediation

19-4815 Publicly-Funded Site Remediation		$13,027,000
27-4815 Responsible Party Site Remediation		21,337,000
Total Appropriation, Site Remediation		$34,364,000
Personal Services:		
Salaries and Wages	($7,761,000)	
Materials and Supplies	(315,000)	
Services Other Than Personal.....	(2,445,000)	
Maintenance and Fixed Charges.....	(491,000)	
Special Purpose:		
Hazardous Waste Bond Administrative Costs.....	(5,377,000)	
Spill Prevention, Response and Site Cleanup, Non-Site Specific Costs.....	(1,511,000)	

Hazardous Discharge Site Cleanup Fund--Responsible Party	(14,428,000)
Industrial Site Recovery Act	(524,000)
Underground Storage Tanks	(923,000)
Emergency Communication Center	(259,000)
Ground Water Impact Assessment - Roebling Superfund Site, Florence	(30,000)
Additions, Improvements and Equipment	(300,000)

In addition to site specific charges, the amount hereinabove for the Publicly-Funded Site Remediation and the Responsible Party Site Remediation accounts, excluding the Hazardous Waste Bond Administrative Costs, the Hazardous Discharge Site Cleanup Fund-Responsible Party, the Industrial Site Recovery Act, the Underground Storage Tank and the Emergency Communication Center accounts, is 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 $3,658,000, 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 Waste Bond Administrative Costs account is appropriated from the Hazardous Discharge Fund of 1986, created pursuant to section 14 of the "Hazardous Discharge Fund Bond Act of 1986," P.L. 1986, c.113, together with an amount not to exceed $989,000 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 Spill Prevention, Response and Site Cleanup, Non-Site Specific Costs account is appropriated from the New Jersey Spill Compensation Fund, together with receipts in excess of those anticipated, not to exceed $498,000, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated from the New Jersey Spill Compensation Fund such sums as may be required for cleanup operations, adjusters and paying approved claims for damages in accordance with the provisions of P.L.1976, c.141 (C.58:10-23.11 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Hazardous Discharge Site Cleanup Fund- Responsible Party account is appropriated from responsible party cost recoveries deposited in the Hazardous Dis-

charge Site Cleanup Fund, together with an amount not to exceed $8,234,000, 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.

Receipts derived from the sale of salvaged materials are appropriated to offset costs incurred in the cleanup and removal of hazardous substances.

Notwithstanding the provisions of subsection c. of section 17 of P.L.1986, c.102 (C.58:10A-36), monies in the State Underground Storage Tank Improvement Fund shall be available for the purpose of making loans pursuant to that section.

45 Environmental Regulation

02-4892 Air Pollution Control		$5,753,000
08-4891 Water Pollution Control		9,092,000
09-4860 Water Pollution Control		628,000
15-4890 Land Use Regulation		6,181,000
23-4910 Hazardous Waste Management		4,297,000
Total Appropriation, Environmental Regulation		$25,951,000
Personal Services:		
Salaries and Wages	($16,005,000)	
Materials and Supplies	(417,000)	
Services Other Than Personal	(4,546,000)	
Maintenance and Fixed Charges	(193,000)	
Special Purpose:		
Public Waste Water Facilities Bond	(628,000)	
Tidelands Resource Council	(25,000)	
Tidelands Peak Demands	(1,808,000)	
Pollution Prevention.	(1,567,000)	
Major Hazardous Waste Facilities Siting Act--Siting Commission	(225,000)	
Additions, Improvements and Equipment	(537,000)	

Any funds received by the Wastewater Treatment Trust from any State agency to offset the Trust's annual operating expenses are appropriated.

The amount hereinabove for the Public Waste Water Facilities Bond account is appropriated from funds previously appropriated from the Water Conservation Fund, together with an amount not to exceed $74,000 subject to the approval of the Director of the Division of Budget and Accounting, for costs attributable to planning, engineering, developing and constructing regional wastewater treatment facilities.

New Jersey State Library

The unexpended balance as of June 30, 1995 in the Major Hazardous Waste Facilities Siting Act-Siting Commission account is appropriated.

The amount hereinabove for the Pollution Prevention account is appropriated from receipts received pursuant to the "Pollution Prevention Act," P.L.1991, c.235 (C.13:1D-35 et seq.), together with an amount not to exceed $492,000, subject to the approval of the Director of the Division of Budget and Accounting, for administration of the Pollution Prevention program. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

46 Environmental Planning and Administration

26-4805 Regulatory and Governmental Affairs		$2,565,000
99-4800 Management and Administrative Services		15,639,000
Total Appropriation, Environmental Planning and Administration		$18,204,000
Personal Services:		
Salaries and Wages	($14,658,000)	
Materials and Supplies	(483,000)	
Services Other Than Personal	(1,949,000)	
Maintenance and Fixed Charges	(596,000)	
Special Purpose:		
Affirmative Action and Equal Employment Opportunity	(98,000)	
Additions, Improvements and Equipment	(420,000)	

Receipts received pursuant to N.J.S.A.12:8-4, and the unexpended balances in the Board of New Jersey Pilot Commissioners account as of June 30, 1995 are appropriated.

47 Enforcement Policy

02-4855 Air Pollution Control		$2,264,000
08-4855 Water Pollution Control		6,944,000
15-4855 Land Use Regulation		1,191,000
17-4855 Solid Waste Resource Management		2,443,000
23-4855 Hazardous Waste Management		1,220,000
Total Appropriation, Enforcement Policy		$14,062,000
Personal Services:		
Salaries and Wages	($9,614,000)	
Materials and Supplies	(253,000)	
Services Other Than Personal	(2,739,000)	
Maintenance and Fixed Charges	(548,000)	
Special Purpose:		
Tidelands Peak Demands	(673,000)	
Additions, Improvements and Equipment	(235,000)	

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 $400,000 for the cost of providing monitoring, surveillance and enforcement activities of 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 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 $1,200,000 are appropriated to finance emergency shore protection projects and the cleanup of discharges into the ocean.

Total Appropriation, Department of Environmental Protection $182,199,000

The amounts hereinabove for the Tidelands Peak Demands account are appropriated from receipts derived from the sales, grants, leases, licensing, and rentals of State riparian lands, together with an amount not to exceed $1,026,000, 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 and P.L.1991, c.427, all revenues from fees and fines collected by the DEP, unless otherwise dedicated herein, shall be deposited into the General State Fund without regard to their specific dedication.

46 DEPARTMENT OF HEALTH

20 Physical and Mental Health

21 Health Services

01-4215 Vital Statistics	$1,092,000
02-4220 Family Health Services	1,607,000

03-4230 Epidemiology, Environmental and Occupational Health Services		14,276,000
04-4240 Alcoholism, Drug Abuse and Addiction Services		487,000
08-4280 Laboratory Services		4,570,000
12-4245 AIDS Services		3,137,000
Total Appropriation, Health Services		$25,169,000
Personal Services:		
Salaries and Wages	($16,073,000)	
Materials and Supplies	(3,094,000)	
Services Other Than Personal	(1,517,000)	
Maintenance and Fixed Charges	(248,000)	
Special Purpose:		
New Jersey State Commission on Cancer Research	(1,000,000)	
Medical Waste Management	(813,000)	
Rabies Control Program	(453,000)	
Animal Population Control Program	(550,000)	
Worker and Community Right to Know	(1,334,000)	
WIC Farmers Market Program	(87,000)	

Receipts in excess of those anticipated for the HealthStart Program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1995, in the Comprehensive Regulated Medical Waste Management Act account, in excess of $400,000, together with any receipts received by the Department of Health pursuant to the provisions of the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et seq.) are appropriated.

The unexpended balance as of June 30, 1995 in the Rabies Control Program account, together with any receipts in excess of the amount anticipated, are appropriated.

The unexpended balance as of June 30, 1995 in the Animal Population Control Program account, together with any receipts in excess of the amount anticipated, are appropriated.

The amount hereinabove for the Animal Population Control Program account is payable out of the Animal Population Control Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove for the Rabies Control Program account is payable out of the Rabies Control Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

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. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

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, 1995 in the New Jersey State Commission on Cancer Research account is appropriated.

The Division of Alcoholism, Drug Abuse and Addiction Services is authorized to bill a patient, a patient's estate, or the person chargeable for a patient's support, or the county of residence for institutional, residential and out-patient support of patients treated for alcoholism or drug abuse, or both. Receipts derived from billings or fees and unexpended balances as of June 30, 1995 from these billings and fees are appropriated to the Department of Health, Division of Alcoholism, Drug Abuse and Addiction Services, for the support of the alcohol and drug abuse programs.

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.).

The Director of the Division of Budget and Accounting is empowered to transfer or credit appropriations to the Department of Health 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.

The unexpended balance as of June 30, 1995 in the Lead Evaluation and Abatement program account is appropriated.

Receipts from licenses, permits and fees collected by the Department of Health in Health Services, in excess of those anticipated, are appropriated.

22 Health Planning and Evaluation

06-4260 Health Facilities Evaluation.		$5,440,000
07-4270 Health Care Planning, Financing and Information Services		712,000
Total Appropriation, Health Planning and Evaluation		$6,152,000
Personal Services:		
Salaries and Wages	($5,164,000)	

Materials and Supplies	(82,000)
Services Other Than Personal	(467,000)
Maintenance and Fixed Charges	(139,000)
Special Purpose:	
Emergency Medical Services for Children Program	(300,000)

Receipts derived from fees charged for the review of uniform construction code plans for health facilities and the unexpended balances of such receipts as of June 30, 1995, are appropriated for the costs of this program.

Receipts derived from fees charged for processing Certificate of Need applications and the unexpended balances of such receipts as of June 30, 1995 are appropriated for the cost of this program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from fees established by the Commissioner of Health 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.), and the unexpended balance of such fees as of June 30, 1995 are appropriated.

The unexpended balance as of June 30, 1995, in the Health Care Planning account, is appropriated.

The unexpended balance as of June 30, 1995, in the Residential Alcoholism Treatment Facilities Rate Setting account is appropriated.

The unexpended balance as of June 30, 1995, in the Special Hospital Rate Setting account is appropriated.

Available funds are appropriated to the Health Care Facilities Improvement Fund to provide available resources in an emergency situation at a health care facility, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts collected as a result of surcharges pursuant to R.S.39:5-41, and the unexpended balance in excess of $1,600,000, are appropriated.

Notwithstanding any other law to the contrary, the nursing home rate setting function is transferred to the Division of Medical Assistance and Health Services in the Department of Human Services.

The unexpended balance as of June 30, 1995, in the Health Care Facilities Improvement Fund, in excess of $350,000, is appropriated.

Receipts from licenses, permits and fees collected by the Department of Health in Health Planning and Evaluation, in excess of those anticipated, are appropriated.

25 Health Administration

99-4210 Management and Administrative Services		$1,871,000
Total Appropriation, Health Administration		$1,871,000
Personal Services:		
Salaries and Wages	($1,272,000)	
Materials and Supplies	(79,000)	
Services Other Than Personal	(311,000)	
Maintenance and Fixed Charges	(119,000)	
Special Purpose:		
Affirmative Action and Equal Employment Opportunity	(84,000)	
Additions, Improvements and Equipment	(6,000)	
Total Appropriation, Department of Health		$33,192,000

There is appropriated to the Department of Health 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) through the annual .53 percent assessment on New Jersey hospitals established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62). However, available funding shall first provide for the expansion of Medicaid to 185 percent of poverty; the Community Care Program for the Elderly and Disabled; and the Infant Mortality Reduction Program. The remaining available funds may be used to fund programs established by section 25 of P.L.1991, c.187 (C.26:2H-18.47) as determined by the Commissioner of Health, subject to the approval of the Director of the Division of Budget and Accounting. Any unexpended balance as of June 30, 1995 in the Health Care Subsidy Fund received through the .53 percent assessment on New Jersey hospitals made during fiscal year 1995 is hereby appropriated.

Receipts from licenses, permits and fees collected by the Department of Health, in excess of those anticipated, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, amounts in the "Health Care Subsidy Fund," established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58) may be transferred to the unemployment compensation fund established pursuant to R.S.43:21-9, as determined by 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) to the contrary, the first $1,200,000 in per adjusted admission charge assessment revenues, attributable to $5.00 per adjusted admission charge assessments made by the Department of Health on behalf of the New Jersey Essential Health Services Commission shall be anticipated as revenue in the General Fund available for health related purposes. The remaining revenue attributable to this fee shall be available to carry out the provisions of P.L.1992, c.160 (C.26:2H-18.51 et al.) as determined by the Commissioner of Health and subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance in the Essential Health Services Commission account, in excess of $4,200,000 is appropriated.

54 DEPARTMENT OF HUMAN SERVICES

20 Physical and Mental Health

23 Mental Health Services

7700 Division of Mental Health Services

08-7700 Community Services		$3,757,000
99-7700 Management and Administrative Services		3,972,000
Total Appropriation, Division of Mental Health Services		$7,729,000
Personal Services:		
Salaries and Wages	($6,527,000)	
Materials and Supplies	(76,000)	
Services Other Than Personal	(564,000)	
Maintenance and Fixed Charges	(155,000)	
Special Purpose:		
Affirmative Action and Equal Employment Opportunity	(30,000)	
Additions, Improvements and Equipment	(377,000)	

7710 Greystone Park Psychiatric Hospital

10-7710 Patient Care and Health Services		$35,345,000
98-7710 Physical Plant and Support Services		8,585,000
99-7710 Management and Administrative Services		7,336,000
Total Appropriation, Greystone Park Psychiatric Hospital		$51,266,000
Personal Services:		
Salaries and Wages	($43,058,000)	
Materials and Supplies	(4,768,000)	
Services Other Than Personal	(2,160,000)	
Maintenance and Fixed Charges	(892,000)	
Special Purpose:		
Interim Assistance	(54,000)	
Affirmative Action and Equal Employment Opportunity	(18,000)	
Additions, Improvements and Equipment	(316,000)	

7720 Trenton Psychiatric Hospital

10-7720 Patient Care and Health Services...		$27,255,000
98-7720 Physical Plant and Support Services		4,730,000
99-7720 Management and Administrative Services		3,547,000
Total Appropriation, Trenton Psychiatric Hospital		$35,532,000
Personal Services:		
Salaries and Wages	($30,081,000)	
Materials and Supplies	(2,671,000)	
Services Other Than Personal	(1,526,000)	
Maintenance and Fixed Charges	(799,000)	
Special Purpose:		
Interim Assistance	(22,000)	
Affirmative Action and Equal Employment Opportunity	(24,000)	
Additions, Improvements and Equipment	(409,000)	

7725 The Forensic Psychiatric Hospital

10-7725 Patient Care and Health Services .		$10,567,000
98-7725 Physical Plant and Support Services		1,003,000
99-7725 Management and Administrative Services		1,305,000
Total Appropriation, The Forensic Psychiatric Hospital		$12,875,000
Personal Services:		
Salaries and Wages	($11,737,000)	
Materials and Supplies	(701,000)	
Services Other Than Personal	(311,000)	
Maintenance and Fixed Charges	(70,000)	
Additions, Improvements and Equipment	(56,000)	

7730 Marlboro Psychiatric Hospital

10-7730 Patient Care and Health Services ..		$41,371,000
98-7730 Physical Plant and Support Services		8,296,000
99-7730 Management and Administrative Services		6,757,000
Total Appropriation, Marlboro Psychiatric Hospital		$56,424,000
Personal Services:		
Salaries and Wages	($45,835,000)	
Materials and Supplies	(5,834,000)	
Services Other Than Personal	(2,571,000)	
Maintenance and Fixed Charges	(1,360,000)	
Special Purpose:		
Interim Assistance	(183,000)	
Affirmative Action and Equal Employment Opportunity	(23,000)	
Additions, Improvements and Equipment	(618,000)	

Savings realized by the Marlboro closure initiative shall be transferred to other State operated mental health institutions, development centers and community programs in the Divisions of Mental Health Services and Developmental Disabilities, subject to the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight

Committee of an itemized closure and client placement plan for the achievement of such savings, as shall be submitted by the Commissioner of the Department of Human Services.

7740 Ancora Psychiatric Hospital

10-7740 Patient Care and Health Services ..		$35,703,000
98-7740 Physical Plant and Support Services		6,010,000
99-7740 Management and Administrative Services		4,270,000
Total Appropriation, Ancora Psychiatric Hospital		$45,983,000
Personal Services:		
Salaries and Wages	($38,585,000)	
Materials and Supplies	(3,876,000)	
Services Other Than Personal	(1,798,000)	
Maintenance and Fixed Charges	(934,000)	
Special Purpose:		
Interim Assistance	(363,000)	
Affirmative Action and Equal Employment Opportunity	(23,000)	
Additions, Improvements and Equipment	(404,000)	

7750 Arthur Brisbane Child Treatment Center

10-7750 Patient Care and Health Services...		$7,734,000
98-7750 Physical Plant and Support Services		687,000
99-7750 Management and Administrative Services		809,000
Total Appropriation, Arthur Brisbane Child Treatment Center		$9,230,000
Personal Services:		
Salaries and Wages	($7,973,000)	
Materials and Supplies	(520,000)	
Services Other Than Personal	(362,000)	
Maintenance and Fixed Charges	(124,000)	
Additions, Improvements and Equipment	(251,000)	

7760 Senator Garrett W. Hagedorn Gero-Psychiatric Hospital

10-7760 Patient Care and Health Services...		$7,941,000
98-7760 Physical Plant and Support Services		1,668,000
99-7760 Management and Administrative Services		1,257,000
Total Appropriation, Senator Garrett W. Hagedorn Gero-Psychiatric Hospital...		$10,866,000
Personal Services:		
Salaries and Wages	($8,922,000)	
Materials and Supplies	(1,013,000)	
Services Other Than Personal	(580,000)	
Maintenance and Fixed Charges	(244,000)	
Special Purpose:		
Interim Assistance	(8,000)	
Additions, Improvements and Equipment	(99,000)	

Division of 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, 1996 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 is 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

21-7540 Health Services Administration and Management		$17,188,000
24-7540 Pharmaceutical Assistance to the Aged and Disabled		1,948,000
Total Appropriation, Division of Medical Assistance and Health Services		$19,136,000
Personal Services:		
Salaries and Wages	($8,374,000)	
Materials and Supplies	(211,000)	
Services Other Than Personal	(2,885,000)	
Maintenance and Fixed Charges	(150,000)	
Special Purpose:		
Payments to Fiscal Agents	(4,270,000)	
Eligibility Determination	(2,000,000)	
Affirmative Action and Equal Employment Opportunity	(12,000)	
Professional Standards Review Organization-Utilization Review	(304,000)	
Payments to Fiscal Agents (PAA)	(734,000)	
Additions, Improvements and Equipment	(196,000)	

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, or malpractice insurance policies in the State or covering residents of this State, shall permit and assist the Division of Medical Assistance and Health Services to match its Medicaid Eligibility file or files against that third party's file or files utilizing, if necessary, social security numbers as common identifiers.

The unexpended balances as of June 30, 1995 in the Payments to Fiscal Agents account and the Managed Health Care Initiative account are appropriated.

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.

Sufficient funds from the Health Care Subsidy Fund are appropriated to the Division of Medical Assistance and Health Services for payment to disproportionate share hospitals for uncompensated care costs as defined in P.L.1992, c.160 (C.26:2H-18.51 et al.) and P.L.1995, c.133 (C.26:2H-18.59a et al.).

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.

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.

The unexpended balance as of June 30, 1995, recognizing savings generated by the Garden State Health Plan, shall first be used to fund the administrative costs of managed care and other Medicaid planning functions in the Division of Medical Assistance and Health Services and the remainder shall lapse to the General 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, all Medicaid providers utilizing the Medicaid Eligibility Verification System (MEVS) shall be assessed a computer access inquiry fee. All receipts from these inquiry fees are appropriated to the Division of Medical Assistance and Health Services for Health Services Administration and Management.

Payment to the vendor for their efforts in federal maximizing initiatives are appropriated and shall be paid from the Maximization of Federal HCFA Reimbursement or the School Based Medicaid revenues received, subject to the approval of the Director of the Division of Budget and Accounting.

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 is 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.

30 Educational, Cultural and Intellectual Development

32 Operation and Support of Educational Institutions

7600 Division of Developmental Disabilities

99-7600 Management and Administrative Services		$9,949,000
Total State and Federal Appropriation		$9,949,000
Less:		
Federal Funds		
Management and Administrative Services	*($5,393,000)*	
Total Federal Funds		*($5,393,000)*
Total Appropriation, Division of Developmental Disabilities		$4,556,000
Personal Services:		
Salaries and Wages	($7,999,000)	
Materials and Supplies	(33,000)	
Services Other Than Personal	(308,000)	
Maintenance and Fixed Charges	(162,000)	
Special Purpose:		
Foster Grandparents Program	(755,000)	
Developmental Disabilities Council	(306,000)	
Additions, Improvements and Equipment	(386,000)	
Less:		
Federal Funds	*(5,393,000)*	

7601 Community Programs

01-7601 Purchased Residential Care		$898,000
02-7601 Social Supervision and Consultation		13,331,000
03-7601 Adult Activities		9,024,000
04-7601 Education and Day Training		28,094,000
Total State, Federal and All Other Funds Appropriation		$51,347,000
Less:		
Federal Funds		
Purchased Residential Care	*($155,000)*	
Social Supervision and Consultation	*(8,387,000)*	
Adult Activities	*(4,202,000)*	
Education and Day Training	*(385,000)*	
Total Federal Funds		*($13,129,000)*
All Other Funds		
Education and Day Training	*($17,249,000)*	
Total All Other Funds		*($17,249,000)*
Total Appropriation, Community Programs		$20,969,000
Personal Services:		
Salaries and Wages	($42,298,000)	
Materials and Supplies	(2,152,000)	
Services Other Than Personal	(1,502,000)	
Maintenance and Fixed Charges	(4,758,000)	

Special Purpose:	
Guardianship Program	(285,000)
Homemaker Services (State Share)	(133,000)
Social Services	(32,000)
Additions, Improvements and Equipment	(187,000)
Less:	
Federal Funds	*(13,129,000)*
All Other Funds	*(17,249,000)*

Notwithstanding the provisions of any law to the contrary, the unexpended balances as of June 30, 1995 in the tuition receipt accounts established pursuant to P.L.1979, c.207 (C.18A:7B-1 et seq.) in the various departments are appropriated for education-related transportation costs and other day training related costs and program administration costs of the Office of Education in such amounts as the Director of the Division of Budget and Accounting shall determine to be necessary; except that such amounts shall not be in excess of $1,400,000.

Notwithstanding the provisions of any law to the contrary, amounts that become available as the result of contracting of services now directly provided by the Division of Developmental Disabilities at seventeen State-operated adult activity centers may be transferred to the Purchase of Adult Activity Services account, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, as a result of the contracting of the seventeen State-operated adult activity centers, an amount not to exceed $1,031,000 shall be transferred from the Inter-Departmental Employee Benefits program classification to the Purchase of Adult Activity Services account, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, as a result of the contracting of the seventeen State-operated adult activity centers, an amount not to exceed $937,000 shall be transferred from the Inter-Departmental Property Rentals accounts to the Purchase of Adult Activity Services account, subject to the approval of the Director of the Division of Budget and Accounting.

7610 Green Brook Regional Center

05-7610	Residential Care and Habilitation	$3,371,000
06-7610	Health Services	836,000
07-7610	Education and Training.	535,000

98-7610 Physical Plant and Support Services		1,508,000
99-7610 Management and Administrative Services		1,513,000
Total State and Federal Funds Appropriation		$7,763,000
Less:		
Federal Funds		
Residential Care and Habilitation	*($3,057,000)*	
Health Services	*(699,000)*	
Education and Training	*(512,000)*	
Physical Plant and Support Services	*(948,000)*	
Management and Administrative Services	*(651,000)*	
Total Federal Funds		*($5,867,000)*
Total Appropriation, Green Brook Regional Center		$1,896,000
Personal Services:		
Salaries and Wages	($5,867,000)	
Materials and Supplies	(848,000)	
Services Other Than Personal	(347,000)	
Maintenance and Fixed Charges	(229,000)	
Special Purpose:		
Green Brook Mortgage	(393,000)	
Additions, Improvements and Equipment	(79,000)	
Less:		
Federal Funds	*(5,867,000)*	

7620 Vineland Developmental Center

05-7620 Residential Care and Habilitation		$39,592,000
06-7620 Health Services		11,672,000
07-7620 Education and Training		1,103,000
98-7620 Physical Plant and Support Services		6,589,000
99-7620 Management and Administrative Services		5,752,000
Total State and Federal Funds Appropriation		$64,708,000
Less:		
Federal Funds		
Residential Care and Habilitation	*($14,470,000)*	
Health Services	*(3,968,000)*	
Physical Plant and Support Services	*(1,282,000)*	
Management and Administrative Services	*(485,000)*	
Total Federal Funds		*($20,205,000)*
Total Appropriation, Vineland Developmental Center		$44,503,000
Personal Services:		
Salaries and Wages	($55,523,000)	
Materials and Supplies	(5,998,000)	
Services Other Than Personal	(1,812,000)	
Maintenance and Fixed Charges	(826,000)	
Special Purpose:		
Family Care	(6,000)	
Additions, Improvements and Equipment	(543,000)	
Less:		
Federal Funds	*(20,205,000)*	

The unexpended balances as of June 30, 1995 in the Reward for Identification of Person(s) Responsible for the Assault on Client account are appropriated for the same purpose.

7630 North Jersey Developmental Center

05-7630 Residential Care and Habilitation..		$19,626,000
06-7630 Health Services.....		7,546,000
07-7630 Education and Training		1,324,000
98-7630 Physical Plant and Support Services		3,492,000
99-7630 Management and Administrative Services		3,555,000
Total State, Federal and All Other Funds Appropriation		$35,543,000
Less:		
Federal Funds		
Residential Care and Habilitation	*($7,615,000)*	
Health Services	*(3,086,000)*	
Physical Plant and Support Services.....	*(632,000)*	
Management and Administrative Services	*(757,000)*	
Total Federal Funds.....		*($12,090,000)*
All Other Funds		
Education and Training	*($746,000)*	
Total All Other Funds.....		*($746,000)*
Total Appropriation, North Jersey Developmental Center		$22,707,000
Personal Services:		
Salaries and Wages	($29,497,000)	
Materials and Supplies.....	(3,025,000)	
Services Other Than Personal.....	(2,246,000)	
Maintenance and Fixed Charges.....	(587,000)	
Additions, Improvements and Equipment.....	(188,000)	
Less:		
Federal Funds.....	*(12,090,000)*	
All Other Funds.....	*(746,000)*	

7640 Woodbine Developmental Center

05-7640 Residential Care and Habilitation..		$26,287,000
06-7640 Health Services.....		7,255,000
07-7640 Education and Training		492,000
98-7640 Physical Plant and Support Services		4,877,000
99-7640 Management and Administrative Services		5,516,000
Total State and Federal Funds Appropriation		$44,427,000
Less:		
Federal Funds		
Residential Care and Habilitation	*($9,211,000)*	
Health Services	*(2,021,000)*	
Physical Plant and Support Services.....	*(1,524,000)*	
Management and Administrative Services	*(827,000)*	
Total Federal Funds.....		*($13,583,000)*
Total Appropriation, Woodbine Developmental Center		$30,844,000
Personal Services:		
Salaries and Wages	($37,094,000)	
Materials and Supplies.....	(4,618,000)	
Services Other Than Personal.....	(1,697,000)	

Maintenance and Fixed Charges	(576,000)	
Additions, Improvements and Equipment	(442,000)	
Less:		
Federal Funds	*(13,583,000)*	

7650 New Lisbon Developmental Center

05-7650 Residential Care and Habilitation		$28,401,000
06-7650 Health Services		9,121,000
07-7650 Education and Training		1,649,000
98-7650 Physical Plant and Support Services		5,179,000
99-7650 Management and Administrative Services		3,157,000
Total State, Federal and All Other Funds Appropriation		$47,507,000
Less:		
Federal Funds		
Residential Care and Habilitation	*($15,155,000)*	
Health Services	*(6,237,000)*	
Physical Plant and Support Services	*(2,099,000)*	
Management and Administrative Services	*(935,000)*	
Total Federal Funds		*($24,426,000)*
All Other Funds		
Education and Training	*($534,000)*	
Total All Other Funds		*($534,000)*
Total Appropriation, New Lisbon Developmental Center		$22,547,000
Personal Services:		
Salaries and Wages	($42,068,000)	
Materials and Supplies	(3,475,000)	
Services Other Than Personal	(1,105,000)	
Maintenance and Fixed Charges	(539,000)	
Additions, Improvements and Equipment	(320,000)	
Less:		
Federal Funds	*(24,426,000)*	
All Other Funds	*(534,000)*	

7660 Woodbridge Developmental Center

05-7660 Residential Care and Habilitation.		$26,735,000
06-7660 Health Services		5,978,000
07-7660 Education and Training		915,000
98-7660 Physical Plant and Support Services		4,215,000
99-7660 Management and Administrative Services		3,132,000
Total State, Federal and All Other Funds Appropriation		$40,975,000
Less:		
Federal Funds		
Residential Care and Habilitation	*($12,203,000)*	
Health Services	*(724,000)*	
Physical Plant and Support Services	*(458,000)*	
Management and Administrative Services	*(1,247,000)*	
Total Federal Funds		*($14,632,000)*

All Other Funds		
Education and Training	*($700,000)*	
Total All Other Funds		*($700,000)*
Total Appropriation, Woodbridge Developmental Center		$25,643,000
Personal Services:		
Salaries and Wages	($35,199,000)	
Materials and Supplies	(3,827,000)	
Services Other Than Personal	(1,076,000)	
Maintenance and Fixed Charges	(495,000)	
Additions, Improvements and Equipment	(378,000)	
Less:		
Federal Funds	*(14,632,000)*	
All Other Funds	*(700,000)*	

7670 Hunterdon Developmental Center

05-7670 Residential Care and Habilitation		$24,355,000
06-7670 Health Services		7,604,000
07-7670 Education and Training		1,221,000
98-7670 Physical Plant and Support Services		6,076,000
99-7670 Management and Administrative Services		2,571,000
Total State, Federal and All Other Funds Appropriation		$41,827,000
Less:		
Federal Funds		
Residential Care and Habilitation	*($7,292,000)*	
Health Services	*(1,477,000)*	
Physical Plant and Support Services	*(1,597,000)*	
Management and Administrative Services	*(760,000)*	
Total Federal Funds		*($11,126,000)*
All Other Funds		
Education and Training	*($291,000)*	
Total All Other Funds		*($291,000)*
Total Appropriation, Hunterdon Developmental Center		$30,410,000
Personal Services:		
Salaries and Wages	($35,672,000)	
Materials and Supplies	(4,127,000)	
Services Other Than Personal	(1,064,000)	
Maintenance and Fixed Charges	(601,000)	
Additions, Improvements and Equipment	(363,000)	
Less:		
Federal Funds	*(11,126,000)*	
All Other Funds	*(291,000)*	

In addition to the amounts appropriated hereinabove, upon the completion of an independent audit of cogeneration costs and upon the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee, there is appropriated $407,000 for increased utility costs.

7690 North Princeton Developmental Center

05-7690 Residential Care and Habilitation..		$22,492,000
06-7690 Health Services.....		6,536,000
07-7690 Education and Training		178,000
98-7690 Physical Plant and Support Services		6,446,000
99-7690 Management and Administrative Services.....		3,095,000
Total State, Federal and All Other Funds Appropriation.....		$38,747,000
Less:		
Federal Funds		
Residential Care and Habilitation	*($7,087,000)*	
Health Services	*(1,085,000)*	
Physical Plant and Support Services.....	*(993,000)*	
Management and Administrative Services	*(766,000)*	
Total Federal Funds.....		*($9,931,000)*
All Other Funds		
Education and Training	*($47,000)*	
Total All Other Funds		($47,000)
Total Appropriation, North Princeton Developmental Center.....		$28,769,000
Personal Services:		
Salaries and Wages	($32,355,000)	
Materials and Supplies.....	(3,132,000)	
Services Other Than Personal.....	(2,180,000)	
Maintenance and Fixed Charges.....	(707,000)	
Additions, Improvements and Equipment.....	(373,000)	
Less:		
Federal Funds.....	*(9,931,000)*	
All Other Funds.....	*(47,000)*	

Division of Developmental Disabilities

In addition to the amount hereinabove for Operation and Support of Education Institutions of the Division of Developmental Disabilities, such other sums as the Director of the Division of Budget and Accounting shall determine, provided in Inter-departmental accounts for employee benefits, are considered as appropriated on behalf of the Developmental Centers and are available for matching federal funds.

The State appropriation is based on ICF/MR revenues of $181,822,000, provided that if the ICF/MR revenues exceed $181,822,000, 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

11-7560 Habilitation and Rehabilitation		$2,839,000
12-7560 Instruction, Community Programs and Prevention		1,979,000
99-7560 Management and Administrative Services.....		1,617,000
Total Appropriation, Commission for the Blind and Visually Impaired		$6,435,000
Personal Services:		
Salaries and Wages	($5,504,000)	
Materials and Supplies	(136,000)	
Services Other Than Personal.....	(581,000)	
Maintenance and Fixed Charges.....	(196,000)	
Additions, Improvements and Equipment	(18,000)	

Notwithstanding the provisions of N.J.S.18A:61-1 and N.J.S.18A:46-13, or any other law to the contrary, local boards of education shall reimburse the Commission for the Blind and Visually Impaired for the documented costs of providing services to children who are classified as "educationally handicapped"; provided however, that each local board shall pay that portion of cost which the number of children classified "educationally handicapped" bears to the total number of such children served; provided further, however, that payments shall be made by each local board in accordance with a schedule adopted by the Commissioners of Education and Human Services; and further the Director of the Division of Budget and Accounting is authorized to deduct such reimbursements from the State aid payments to the local boards of education.

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, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance of such receipts as of June 30, 1995 is appropriated.

50 Economic Planning, Development and Security
53 Economic Assistance and Security
7550 Division of Family Development

15-7550 Income Maintenance Management	$13,415,000
Total Appropriation, Division of Family Development	$13,415,000

Personal Services:	
Salaries and Wages	($7,909,000)
Materials and Supplies	(162,000)
Services Other Than Personal	(3,995,000)
Maintenance and Fixed Charges	(126,000)
Special Purpose:	
Electronic Benefit Transfer/ Distribution System	(1,206,000)
Affirmative Action and Equal Employment Opportunity	(8,000)
Additions, Improvements and Equipment	(9,000)

Any federal funds received by the Division of Family Development for the direct or indirect costs incurred by the Department of Labor for the operation of the Wage Reporting System shall be deposited in the General Treasury.

Receipts derived from counties and local governments for data processing services and the unexpended balance of such receipts as of June 30, 1995 are appropriated.

The State appropriation shall be based upon a federal financial participation rate of 48%; but if the federal participation rate exceeds this percentage, there will be placed in reserve a portion of the State appropriation equal to the amount of additional federal funds, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1995 in the Electronic Benefit Transfer/Distribution System account is appropriated.

In addition to the anticipated State share of gross child support collections, an amount not to exceed $1,000,000 is appropriated for administrative expenses needed to enhance child support collection efforts within the Division of Family Development, subject to the approval of the Director of the Division of Budget and Accounting.

55 Social Services Programs

7570 Division of Youth and Family Services

16-7570	Initial Response/Case Management		$98,300,000
17-7570	Substitute Care		9,473,000
18-7570	General Social Services		5,434,000
99-7570	Management and Administrative Services		20,946,000
	Total State and Federal Appropriation		$134,153,000
Less:			
Federal Funds			
	Initial Response/Case Management	*($37,306,000)*	
	Substitute Care	*(5,833,000)*	

General Social Services	*(4,434,000)*	
Management and Administrative Services	*(13,969,000)*	
Total Federal Funds		*(<u>$61,542,000</u>)*
Total Appropriation, Division of Youth and Family Services		<u>$72,611,000</u>
Personal Services:		
Salaries and Wages	($111,210,000)	
Materials and Supplies	(2,031,000)	
Services Other Than Personal	(9,197,000)	
Maintenance and Fixed Charges	(10,233,000)	
Special Purpose:		
Affirmative Action and Equal Employment Opportunity	(50,000)	
Additions, Improvements and Equipment	(1,432,000)	
Less:		
Federal Funds	*(61,542,000)*	

Notwithstanding the provisions of any law to the contrary, amounts that become available as a result of the privatization of services at the five remaining State-operated day care centers, the Teaching Family Home Program, and the Cedar Grove Residential Center, that are now directly provided by the Division of Youth and Family Services may be transferred to the appropriate Grants-In-Aid accounts, subject to the approval of the Director of the Division of Budget and Accounting.

7580 Division of the Deaf and Hard of Hearing

23-7580 Services for the Deaf		<u>$365,000</u>
Total Appropriation, Division of the Deaf and Hard of Hearing		<u>$365,000</u>
Personal Services:		
Salaries and Wages	($238,000)	
Materials and Supplies	(44,000)	
Services Other Than Personal	(41,000)	
Maintenance and Fixed Charges	(1,000)	
Special Purpose:		
Services to Deaf Clients	(40,000)	
Additions, Improvements and Equipment	(1,000)	

56 Juvenile Services

7593 Division of Juvenile Services

34-7593 Juvenile Rehabilitation		<u>$15,682,000</u>
Total Appropriation, Division of Juvenile Services		<u>$15,682,000</u>
Personal Services:		
Salaries and Wages	($12,665,000)	
Materials and Supplies	(1,383,000)	
Services Other Than Personal	(900,000)	
Maintenance and Fixed Charges	(637,000)	
Additions, Improvements and Equipment	(97,000)	

70 Government Direction, Management and Control
76 Management and Administration
7500 Division of Management and Budget

87-7500 Research, Policy and Planning		$703,000
96-7500 Institutional Security Services.....		3,703,000
99-7500 Management and Administrative Services.....		6,649,000
Sub-Total Appropriation, Division of Management and Budget		$11,055,000
Less:		
Contracting Institutional Support Services	*($5,000,000)*	
Total Contracting Institutional Support Services		*($5,000,000)*
Total Appropriation, Division of Management and Budget.....		$6,055,000
Personal Services:		
Salaries and Wages	($8,023,000)	
Materials and Supplies	(78,000)	
Services Other Than Personal.....	(1,352,000)	
Maintenance and Fixed Charges.....	(395,000)	
Special Purpose:		
Rehabilitation Services Scholarships	(150,000)	
Affirmative Action and Equal Employment Opportunity.....	(67,000)	
Nursing Scholarship Program	(534,000)	
Transfer to State Police for Fingerprinting/Background Checks of Job Applicants.....	(400,000)	
Additions, Improvements and Equipment	(56,000)	
Less:		
Contracting Institutional Support Services	*(5,000,000)*	

Notwithstanding the provision of any law to the contrary, the Department of Human Services is authorized to identify opportunities for increased recoveries to the General Fund and to the Department. Such funds collected shall be 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.

Additional federal funds available from the Community care waiver program are appropriated for use as a Bridge Fund for community care initiatives, and savings due to institutional depopulation efforts within the department shall be made available for such 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 Commissioner of Human Services.

In addition to the amount hereinabove appropriated, there shall be appropriated a sum not to exceed $5,000,000 from savings realized throughout the department in contracting institutional support services, subject to the approval of the Director of the Division of Budget and Accounting of an itemized plan for the achievement of such savings, as shall be submitted by the Commissioner of Human Services. In addition to the State savings from contracting institutional support services in the Division of Developmental Disabilities, there also shall be achieved a proportional amount in federal ICF-MR savings in developmental center budgets.

Total Appropriation, Department of Human Services $596,448,000

Balances on hand as of June 30, 1995 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.

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 at page L-36 in the Governor's Budget Recommendation Document dated January 23, 1995 first shall be charged to the State Lottery Fund.

A pro-rata share of all 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 to enable these departments to implement programs funded by this block grant.

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.

The unexpended balances as of June 30, 1995 in the Essex I & II Settlement account are appropriated for the same purpose.

58 DEPARTMENT OF INSURANCE

50 Economic Planning, Development and Security

52 Economic Regulation

01-3110	Licensing and Enforcement		$11,260,000
02-3120	Actuarial Services		4,204,000
03-3130	Regulation of the Real Estate Industry		2,322,000
04-3110	Public and Regulatory Services		1,611,000
05-3160	Unsatisfied Claims		1,965,000
06-3110	Insurance Fraud Prevention		9,047,000
99-3150	Management and Administrative Services		3,710,000
	Total Appropriation, Economic Regulation		$34,119,000
	Personal Services:		
	Salaries and Wages	($24,625,000)	
	Materials and Supplies	(387,000)	
	Services Other Than Personal	(7,425,000)	
	Maintenance and Fixed Charges	(842,000)	
	Special Purpose:		
	Affirmative Action and Equal Employment Opportunity	(20,000)	
	Additions, Improvements and Equipment	(820,000)	

Receipts from the investigation of out-of-State land sales are appropriated for the conduct of such investigations.

There are appropriated from the Real Estate Guaranty Fund such sums as may be necessary to pay claims.

The amount hereinabove for unsatisfied claims is appropriated out of the Unsatisfied Claim and Judgment Fund and, in addition, there are appropriated out of that fund additional sums as may be necessary for the payment of claims pursuant to section 7 of P.L.1952, c.174 (C.39:6-67), and for such additional costs as may be required to administer the fund pursuant to P.L.1952, c.174 (C.39:6-61 et seq.).

Receipts 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.

There are appropriated out of the New Jersey Automobile Insurance Guaranty Fund such sums as may be necessary to satisfy the financial obligations of the New Jersey Automobile Full Insurance Underwriting Association, as set forth in the "Fair Automobile Insurance Reform Act of 1990," P.L.1990, c.8 (C.17:33B-1 et al.), subject to the provisions of subsection e. of section 23 of P.L.1990, c.8 (C.17:33B-5).

Notwithstanding the provisions of section 6 of P.L.1983, c.65 (C.17:29A-35), the receipts otherwise remaining prior to October 1, 1991, derived from 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.) are appropriated to the New Jersey Automobile Full Insurance Underwriting Association. Those receipts otherwise remaining on and after October 1, 1991, are appropriated to the New Jersey Automobile Insurance Guaranty Fund.

There are appropriated from assessments as imposed by the New Jersey Individual Health Coverage 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 Excess Insurance 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 these acts, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1995 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.

The unexpended balances in the Fair Automobile Insurance Reform Act accounts established pursuant to P.L.1990, c.8 (C.17:33B-1 et seq.), in an amount not to exceed $9,000,000 are lapsed.

Receipts in excess of those anticipated, with the exception of receipts derived from examinations, billings and assessments are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

All monies deposited in the DMV 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-21.12 et seq.).

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 Department of Insurance with respect to the assessments of the insurance industry.

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 Insurance administrative costs related to its statutory duties, pursuant to P.L.1990, c.8 (C.17:33B-1 et al.).

Total Appropriation, Department of Insurance	$34,119,000

62 DEPARTMENT OF LABOR

50 Economic Planning, Development and Security

51 Economic Planning and Development

18-4570 Planning and Research		$540,000
99-4565 Management and Administrative Services		568,000
Total Appropriation, Economic Planning and Development		$1,108,000
Personal Services:		
Salaries and Wages	($784,000)	
Materials and Supplies	(22,000)	
Services Other Than Personal	(201,000)	
Maintenance and Fixed Charges	(35,000)	
Special Purpose:		
Affirmative Action and Equal Employment Opportunity	(62,000)	
Additions, Improvements and Equipment	(4,000)	

Such sums as may be necessary to collect the contributions pursuant to the "Health Care Reform Act," P.L.1992, c.160 (C.26B:2H-18.51 et al.), are appropriated from the Health Care Subsidy Fund, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Planning and Research program classification is appropriated from the Unemployment Compensation Auxiliary Fund.

The amount necessary to provide administrative costs incurred by the Department of Labor to meet the statutory requirements of the "New Jersey Urban Enterprise Zone Act," P.L.1983, c.303 (C.52:27H-60 et seq.) is appropriated from the Unemployment Compensation Auxiliary Fund, subject to the approval of the Director of the Division of Budget and Accounting.

52 Economic Regulation

12-4550 Workplace Standards	$5,711,000
Total Appropriation, Economic Regulation	$5,711,000

Personal Services:	
Salaries and Wages	($4,969,000)
Materials and Supplies	(86,000)
Services Other Than Personal	(410,000)
Maintenance and Fixed Charges	(142,000)
Special Purpose:	
Worker and Community Right To Know Act	(39,000)
Additions, Improvements and Equipment	(65,000)

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.

Notwithstanding the provisions of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove for the Worker and Community Right to Know Act account is payable out of the Worker and Community Right to Know Trust Fund. 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 Trust 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.

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.

53 Economic Assistance and Security

01-4510 Unemployment Insurance		$25,000
03-4520 State Disability Insurance Plan		22,324,000
04-4520 Private Disability Insurance Plan		3,443,000
05-4525 Workers' Compensation		11,694,000
06-4530 Special Compensation		1,540,000
Total Appropriation, Economic Assistance and Security		$39,026,000
Personal Services:		
Salaries and Wages	($23,811,000)	
Materials and Supplies	(426,000)	
Services Other Than Personal	(4,365,000)	
Maintenance and Fixed Charges	(2,665,000)	
Special Purpose:		
Other Special Purpose	(60,000)	
Set-Off of Individual Liabilities Program	(25,000)	
Reimbursement To Unemployment Insurance For Joint Tax Functions	(6,600,000)	
Additions, Improvements and Equipment	(1,074,000)	

The amounts hereinabove for State Disability Insurance Plan and Private Disability Insurance Plan are payable out of the State Disability Benefit Fund and, in addition to the amounts hereinabove, there are appropriated out of the State Disability Benefit Fund such additional sums as may be required to administer the Disability Insurance Program and such sums as may be necessary to pay disability benefits, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for Special Compensation is 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.

The State Treasurer is directed to transfer to the General Fund the sum of $50,000 from the excess in the Special Compensation Fund over the sum of $1,250,000 accumulated as of June 30, 1995, pursuant to R.S.34:15-94.

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 Employers' Fund for the payment of benefits as determined in accordance with R.S.34:15-120.2. Any amount so transferred shall be included in the next Uninsured Employers' Fund surcharge imposed in accordance with R.S.34:15-120.1 and such amount shall be returned to the Second Injury Fund without interest. Furthermore, any amount so transferred shall be included in "net assets" pursuant to R.S.34:15-94c.(4).

The amount hereinabove for the Unemployment Insurance program classification is appropriated from the Unemployment Compensation Auxiliary Fund.

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.

Amounts to administer the Uninsured Employers' Fund are appropriated from the Uninsured Employers' Fund, subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed $4,000,000 is appropriated to the Department of Labor, no amount of which shall be expended until approval of a plan detailing the staffing and funding

needs of the Unemployment Insurance program by the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee.

54 Manpower and Employment Services

07-4535 Vocational Rehabilitation Services		$2,447,000
09-4545 Employment Services		6,451,000
10-4545 Employment Development Services		150,000
16-4555 Public Sector Labor Relations		2,429,000
16-4556 Public Sector Labor Relations		71,000
17-4560 Private Sector Labor Relations		535,000
Total Appropriation, Manpower and Employment Services		$12,083,000
Personal Services:		
Salaries and Wages	($4,932,000)	
Materials and Supplies	(37,000)	
Services Other Than Personal	(460,000)	
Maintenance and Fixed Charges	(32,000)	
Special Purpose:		
Workforce Development Partnership Program	(4,405,000)	
Workforce Development Partnership - Counselors	(2,046,000)	
State Employment and Training Commission	(150,000)	
Additions, Improvements and Equipment	(21,000)	

The sum 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.

Notwithstanding the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100, as amended by P.L.1968, c.303 (C.34:13A-1 et seq.), the cost of fact-finding shall be borne equally by the public employer and the exclusive employee representative.

Pursuant to the provisions of the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et seq.), funds shall be made available to the Department of Labor and the State Employment and Training Commission, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Private Sector Labor Relations 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 the "New Jersey Employment and Workforce Development Act," P.L.1992, c.44, 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.

Total Appropriation, Department of Labor	$57,928,000

66 DEPARTMENT OF LAW AND PUBLIC SAFETY

10 Public Safety and Criminal Justice

12 Law Enforcement

06-1200 Patrol Activities and Crime Control.		$105,610,000
07-1200 Police Services and Public Order ..		19,586,000
08-1200 Emergency Services		3,772,000
09-1020 Criminal Justice.....		17,990,000
10-1030 Narcotics, Organized Crime and Racketeering		7,842,000
11-1050 State Medical Examiner		2,999,000
23-1200 State Capitol Complex Security.....		5,650,000
24-1200 Marine Police Operations		9,297,000
99-1200 Management and Administrative Services.....		13,218,000
Total Appropriation, Law Enforcement...		$185,964,000
Personal Services:		
Salaries and Wages	($145,002,000)	
Cash In Lieu of Maintenance	(16,057,000)	
Materials and Supplies	(6,080,000)	
Services Other Than Personal.....	(6,658,000)	
Maintenance and Fixed Charges.....	(4,814,000)	
Special Purpose:		
Drunk Driver Fund Program	(962,000)	
State Police 4-Wheel DriveVehicles Purchase	(210,000)	
Noncriminal Record Checks	(1,014,000)	
Nuclear Emergency Response Program...	(1,988,000)	
Expenses of State Grand Jury	(356,000)	
Medicaid Fraud Investigation-- State Match	(375,000)	
Affirmative Action and Equal Employment Opportunity.....	(193,000)	
Additions, Improvements and Equipment	(2,255,000)	

Such additional amounts as may be required to carry out the provisions of the New Jersey Antitrust Act 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.

The unexpended balance as of June 30, 1995, 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.

The unexpended balance as of June 30, 1995, in the Victim Witness Advocacy Fund account, together with receipts derived pursuant to P.L.1985, c.407, is appropriated.

There are appropriated such sums as are collected pursuant to section 19 of P.L.1981, c.279 (C.13:1E-67); section 3 of P.L.1988, c.61 (C.58:10A-49); section 9 of P.L.1970, c.39 (C.13:1E-9); section 2 of P.L.1987, c.158 (C.13:1E-9.2); sections 20 and 24 of P.L.1989, c.34 (C.13:1E-48.20 and 13:1E-48.24); and section 15 of P.L.1987, c.333 (C.13:1E-191) as are required to pay awards authorized by these laws and for public awareness programs, 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, 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 P.L.1993, c.277, are appropriated for law enforcement purposes designated by the Attorney General.

Receipts in excess of the amount anticipated from license fees and/or audits conducted to ensure compliance with the "Private Detective Act of 1939," P.L.1939, c.369 (C.45:19-8 et seq.), are appropriated to defray the cost of this activity.

Notwithstanding any other provision of this act, receipts derived from the sale of helicopters as well as the unexpended balance of such sums as of June 30, 1995, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

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 $2,000,000 are appropriated for the purpose of offsetting additional operational costs of the Alcoholic Beverage Control Enforcement Bureau in the Division of State Police and the Division of Alcoholic Beverage Control, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1995, 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 dedicated fund designated for this purpose and any amount remaining therein. If receipts to the fund are less than anticipated, the appropriation shall be reduced proportionately.

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 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, 1995, 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.

Notwithstanding the provisions of section 3 of P.L.1983, c.392 (C.13:1E-128), receipts derived from fees and penalties pursuant to the solid and hazardous waste industry disclosure law, P.L.1983, c.392 (C.13:1E-126 et seq.), are appropriated for the cost of the administration of that act, and such appropriation shall be allocated to the Department of Law and Public Safety and the Department of Environmental Protection, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Noncriminal Record Checks account 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.

The unexpended balance as of June 30, 1995, in the Noncriminal Record Checks account, together with any receipts in excess of the amount anticipated, is appropriated to defray the costs of this activity and for the purchase and equipping of new or replacement State Police vehicles, 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 bal-

ance as of June 30, 1995, in the Nuclear Emergency Response Program account is appropriated.

Such sums as may be necessary are appropriated from the Special Fund for Civil Defense Volunteers established pursuant to section 15 of P.L.1952, c.12 (C.App. A:9-57.15).

The Division of State Police shall review the use of State Troopers receiving contractual overtime payments on routine DWI and construction site patrols.

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, including the full cost of the 116th State Police Recruit Training class to be paid for by the various authorities which contract for State Police services, 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.

The amount appropriated hereinabove for the training of the 116th State Police Recruit Training class for the Division of State Police shall not be expended unless the class commences training by July 30, 1995.

All registration fees, tuition fees, training fees, all receipts collected through division mess hall operations 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.

Notwithstanding the provisions of P.L.1993, c.220, the amount hereinabove for the Safe and Secure Communities Program shall be used for police officers and other law enforcement personnel salaries.

The unexpended balance as of June 30, 1995 in the Safe and Secure Communities Program account, together with any fines and penalties collected pursuant to section 11 of P.L.1993,

c.220 (C.2C:42-3.2), are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts appropriated hereinabove, there is appropriated $1,500,000 for the costs of establishing and operating a Health Insurance Fraud Unit within the Division of Criminal Justice. The Commissioner of the Department of Human Services, the Commissioner of the Department of Insurance, and the Commissioner of the Department of Health shall cooperate with the Director of the Division of Criminal Justice and shall provide staff and other assistance and services to the Health Insurance Fraud Unit as may be necessary.

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 Department of Transportation-Division of Motor Vehicles in the performance of commercial truck safety and emission inspections, subject to the approval of the Director of the Division of Budget and Accounting.

13 Special Law Enforcement Activities

03-1160 Office of Highway Traffic Safety .		$456,000
17-1420 Election Law Enforcement		1,417,000
20-1450 Review and Enforcement of Ethical Standards		335,000
21-1400 Regulation of Alcoholic Beverages		1,704,000
22-1410 Regulation of Racing Activities		2,690,000
Total Appropriation, Special Law Enforcement Activities		$6,602,000
Personal Services:		
Salaries and Wages	($5,257,000)	
Materials and Supplies	(178,000)	
Services Other Than Personal.....	(545,000)	
Maintenance and Fixed Charges.....	(139,000)	
Special Purpose:		
Federal Highway Safety Program - State Match	(338,000)	
Per Diem Payment to Members of the Election Law Enforcement Commission	(15,000)	
Additions, Improvements and Equipment	(130,000)	

Notwithstanding the provisions of section 14 of P.L.1992, c.188 (C.33:1-4.1), in addition to the amounts hereinabove, all fees and penalties collected by the Director of the Division of Alcoholic Beverage Control in excess of $2,000,000 are appropriated for the purpose of offsetting additional operational costs of the Alcoholic Beverage Control Enforcement

Bureau in the Division of State Police and the Division of Alcoholic Beverage Control, subject to the approval of the Director of the Division of Budget and Accounting.

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.

All fees, fines, and penalties collected pursuant to P.L.1973, c.83 (C.19:44A-1 et al.) and section 3 of P.L.1981, c.150 (C.52:13C-22.2) 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.

In addition to the amount appropriated hereinabove for Regulation of Racing Activities, 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.

Of the receipts derived from the regulation, supervision, and licensing of all State Athletic Control Board activities and functions and the unexpended balance as of June 30, 1995, 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.

The unexpended balance in the Federal Highway Safety Program--State Match account, including the accounts of the several departments, as of June 30, 1995, are appropriated for such highway safety projects.

19 Central Planning, Direction and Management

88-1000 Central Library Services		$586,000
99-1000 Management and Administrative Services		6,606,000
Total Appropriation, Central Planning, Direction and Management		$7,192,000
Personal Services:		
Salaries and Wages	($5,901,000)	
Materials and Supplies	(393,000)	

Services Other Than Personal	(467,000)
Maintenance and Fixed Charges	(129,000)
Special Purpose:	
Affirmative Action and Equal Employment Opportunity	(198,000)
Additions, Improvements and Equipment	(104,000)

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 P.L.1993, c.227, are appropriated for law enforcement purposes designated by the Attorney General.

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, 1995, and February 1, 1996, of the use and disposition by State law enforcement agencies of any interest in property or money seized, or proceeds resulting from seized or forfeited property, and any interest or income earned thereon, arising from any State law enforcement agency involvement in a surveillance, investigation, arrest or prosecution involving offenses under N.J.S.2C:35-1 et seq. and N.J.S.2C:36-1 et seq. leading to such seizure or forfeiture. The reports shall specify for the preceding period of the fiscal year the type, approximate value, and disposition of the property seized and the amount of any proceeds received or expended, whether obtained directly or as contributive share, including but not limited to the use thereof for asset maintenance, forfeiture prosecution costs, costs of extinguishing any perfected security interest in seized property and the contributive share of property and proceeds of other participating local law enforcement agencies.

Penalties, fines, and other fees collected pursuant to N.J.S.2C:35-20 and deposited in the State Forensic Laboratory Fund, together with the unexpended balance as of June 30, 1995, 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.

70 Government Direction, Management and Control

74 General Government Services

12-1010 Legal Services		$43,635,000
Total All Operations		$43,635,000
Less:		
Reimbursements From Other Sources	*($25,395,000)*	
Total Deductions		*($25,395,000)*
Total Appropriation, General Government Services		$18,240,000
Personal Services:		
Salaries and Wages	($16,786,000)	
Materials and Supplies	(153,000)	
Services Other Than Personal	(922,000)	
Maintenance and Fixed Charges	(329,000)	
Additions, Improvements and Equipment	(50,000)	
Expense:		
Reimbursements From Other Sources	(25,395,000)	
Less:		
Reimbursements From Other Sources	*(25,395,000)*	

In addition to the $29,811,024 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 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 section 3 of P.L.1983, c.392 (C.13:1E-128), receipts derived from fees pursuant to the solid and hazardous waste industry disclosure law, P.L.1983, c.392 (C.13:1E-126 et seq.), are appropriated for the cost of the administration of that act, and such appropriation shall be allocated to the Department of Law and Public Safety and the Department of Environmental Protection, 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 amount of the funds appropriated hereinabove shall be expended for the enforcement of any requirement to collect sales tax and use tax on the rent for the occupancy of a room pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.), or collect retail sales tax on the receipt from the hiring of any room in a hotel pursuant to P.L.1947, c.71 (C.40:48-8.15 et seq.), to the extent that the amount of the rent or receipt reflects the inclusion of the fee imposed pursuant to P.L.1991, c.376 (C.40:48-8.45 et seq.).

80 Special Government Services
82 Protection of Citizens' Rights

14-1310 Consumer Affairs	$13,112,000
15-1320 Board of Accountancy	824,000
15-1321 Board of Architects and Certified Landscape Architects	857,000
15-1322 Board of Dentistry	833,000
15-1323 Board of Mortuary Science	268,000
15-1324 Board of Professional Engineers and Land Surveyors	993,000
15-1325 Board of Medical Examiners	4,423,000
15-1326 Board of Nursing	2,150,000
15-1327 Board of Optometrists	232,000
15-1328 Board of Pharmacy	706,000
15-1329 Board of Veterinary Medical Examiners	174,000
15-1330 Board of Shorthand Reporting	63,000
15-1331 Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians	207,000
15-1332 Board of Cosmetology and Hairstyling	1,363,000
15-1333 Board of Professional Planners	243,000
15-1334 Board of Examiners of Electrical Contractors	438,000
15-1335 Board of Psychological Examiners	257,000
15-1336 Board of Examiners of Master Plumbers	325,000
15-1337 Board of Marriage Counselor Examiners	120,000
15-1338 Board of Chiropractic Examiners	309,000
15-1339 Board of Public Movers and Warehousemen	241,000
15-1340 Board of Physical Therapy	274,000
15-1341 Audiology and Speech-Language Pathology Advisory Committee	131,000
15-1342 State Real Estate Appraiser Board.	557,000
15-1343 State Board of Respiratory Care	273,000
15-1344 State Board of Social Work Examiners	542,000
15-1345 Orthotics and Prosthetics Board	50,000
15-1346 Occupational Therapy and Therapy Assistants	101,000
16-1350 Protection of Civil Rights	3,514,000
19-1440 Violent Crimes Compensation	5,129,000
Total Appropriation, Protection of Citizens' Rights	$38,709,000

Personal Services:	
Salaries and Wages	($13,613,000)
Materials and Supplies	(508,000)
Services Other Than Personal	(10,036,000)
Maintenance and Fixed Charges	(797,000)
Special Purpose:	
Consumer Affairs Legalized Games of Chance	(1,390,000)
Securities Enforcement Fund	(5,398,000)
Consumer Affairs Weights and Measures Program	(2,612,000)
Consumer Affairs Charitable Registrations Program	(695,000)
Claims--Victims of Violent Crimes	(3,630,000)
Additions, Improvements and Equipment	(30,000)

Receipts derived from the assessment and recovery of costs, fines, and penalties pursuant to the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), are appropriated for additional operational costs of the Division of Consumer Affairs, subject to the approval of the Director of the Division of Budget and Accounting.

All fees, penalties, and costs collected pursuant to P.L.1988, c.123 (C.56:12-29 et seq.) are appropriated for the purpose of offsetting costs associated with the handling and resolution of consumer automotive complaints.

In addition to the amount appropriated hereinabove for Consumer Affairs, receipts in excess of the amount anticipated, attributable to changes in fee structure or fee increases, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Fees and cost recoveries collected pursuant to P.L.1989, c.331 (C.34:8-43 et al.) are appropriated in an amount not to exceed additional expenses associated with mandated duties, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Securities Enforcement Fund account is payable from receipts from fees and penalties deposited in the Securities Enforcement Fund pursuant to section 15 of P.L.1985, c.405 (C.49:3-66.1). If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Receipts in excess of the amount anticipated are appropriated to the Securities Enforcement Fund program account to offset the cost of operating this program, subject to the approval of the Director of the Division of Budget and Accounting.

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 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, 1995, 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.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, 1995, are appropriated for the purposes of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated derived pursuant to P.L.1994, c.16 (C.45:17A-18 et seq.) from the operations of the Division of Consumer Affairs Charitable Registration and Investigative program and the unexpended balances as of June 30, 1995, 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.

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, 1995 are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the sale of films, pamphlets, and other educational materials developed or produced by the Division on Civil Rights are appropriated to defray production costs.

Receipts derived from the provision of copies of transcripts and other materials related to officially docketed cases are appropriated.

Notwithstanding the provisions of section 2 of P.L.1983, c.412 (C.10:5-14.1a), any receipts derived from the assessment of fines and penalties pursuant to P.L.1945, c.169 (C.10:5-1 et seq.), are appropriated to the Division on Civil Rights for additional operational costs, subject to the approval of the Director of the Division of Budget and Accounting.

The sum hereinabove for Claims--Victims of Violent Crimes is available for payment of awards applicable to claims filed in prior fiscal years.

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, 1995, are appropriated for payment of claims of victims of violent crimes pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and additional board operational costs up to $1,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 1995, 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 section 9 of P.L.1990, c.32 (C.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, 1995, are appropriated for payment of claims for victims of violent crimes 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.

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, 1995, 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.

Total Appropriation, Department of Law and Public Safety $256,707,000

67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS

10 Public Safety and Criminal Justice

14 Military Services

30-3620 Physical Plant and Support Services		$4,826,000
40-3620 New Jersey National Guard Support Services		320,000
60-3600 Joint Training Center Management and Operations		515,000
99-3600 Management and Administration...		4,405,000
Total Appropriation, Military Services....		$10,066,000
Personal Services:		
Salaries and Wages	($6,422,000)	
Materials and Supplies	(1,495,000)	
Services Other Than Personal	(615,000)	
Maintenance and Fixed Charges	(762,000)	
Special Purpose:		
Joint Federal-State Operations and Maintenance Contracts (State Share)...	(658,000)	
Affirmative Action and Equal Employment Opportunity	(5,000)	
Additions, Improvements and Equipment	(109,000)	

Receipts derived from the rental and use of armories and the unexpended balance of such receipts as of June 30, 1995 are appropriated for the operation and maintenance thereof, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1995 in the Joint Federal-State Operations and Maintenance Contracts (State share) account is appropriated for the same purpose.

The unexpended balance as of June 30, 1995 in the National Guard State Active Duty account is appropriated for the same purpose.

80 Special Government Services

83 Services to Veterans

3610 Veterans' Program Support

50-3610 Veterans' Outreach and Assistance		$3,856,000
70-3610 Burial Services		1,218,000
Total Appropriation, Veterans' Program Support		$5,074,000
Personal Services:		
Salaries and Wages	($2,834,000)	
Materials and Supplies	(417,000)	
Services Other Than Personal	(168,000)	
Maintenance and Fixed Charges	(166,000)	
Special Purpose:		
Alternative Long Term Health Care Initiative	(720,000)	
Agent Orange/Desert Storm Commission	(95,000)	
Veterans' Outreach Center - Mercer County	(73,000)	

Governor's Veterans' Service Council.....	(10,000)
Transitional Housing.....	(500,000)
Cemetery Landscaping.....	(20,000)
Additions, Improvements and Equipment.....	(71,000)

The unexpended balance as of June 30, 1995 in the Agent Orange Commission account is appropriated for the expenses of the Commission.

Funds received for plot interment allowances from the federal Department of Veterans' Affairs, burial fees collected, and the unexpended balances as of June 30, 1995 are appropriated for perpetual care and maintenance of burial plots and grounds at the Brigadier General Doyle Veterans' Memorial Cemetery.

Funds received for Veterans' Transitional Housing from the federal Department of Veterans' Affairs and the individual residents are appropriated for the same purpose.

The unexpended balance as of June 30, 1995 in the Transitional Housing account is appropriated for the same purpose.

The unexpended balance as of June 30, 1995 in the Guardianship Program for Veterans account is appropriated for the same purpose.

3630 Menlo Park Veterans' Memorial Home

20-3630 Domiciliary and Treatment Services		$9,321,000
30-3630 Physical Plant and Support Services		2,292,000
99-3630 Management and Administration...		1,559,000
Total Appropriation, Menlo Park Veterans' Memorial Home		$13,172,000
Personal Services:		
Salaries and Wages	($10,557,000)	
Materials and Supplies.....	(1,250,000)	
Services Other Than Personal.....	(1,055,000)	
Maintenance and Fixed Charges.....	(180,000)	
Additions, Improvements and Equipment.....	(130,000)	

3640 Paramus Veterans' Memorial Home

20-3640 Domiciliary and Treatment Services		$10,803,000
30-3640 Physical Plant and Support Services		2,079,000
99-3640 Management and Administration...		1,598,000
Total Appropriation, Paramus Veterans' Memorial Home		$14,480,000
Personal Services:		
Salaries and Wages	($11,726,000)	
Materials and Supplies.....	(1,610,000)	
Services Other Than Personal.....	(883,000)	
Maintenance and Fixed Charges.....	(186,000)	
Additions, Improvements and Equipment.....	(75,000)	

However, such amounts as may be realized from savings in the Employee Benefits and Salary and Other Benefits program classifications in the Inter-Departmental Accounts through efficiency efforts at the Paramus Veterans' Memorial Home are appropriated for the provision of improved services at the Paramus Veterans' Memorial Home, subject to the approval of the Director of the Division of Budget and Accounting.

3650 Vineland Veterans' Memorial Home

20-3650 Domiciliary and Treatment Services		$10,489,000
30-3650 Physical Plant and Support Services		2,429,000
99-3650 Management and Administration...		1,254,000
Total Appropriation, Vineland Veterans' Memorial Home		$14,172,000
Personal Services:		
Salaries and Wages	($11,603,000)	
Materials and Supplies	(1,541,000)	
Services Other Than Personal	(684,000)	
Maintenance and Fixed Charges	(251,000)	
Additions, Improvements and Equipment	(93,000)	
Total Appropriation, Department of Military and Veterans' Affairs		$56,964,000

Balances on hand as of June 30, 1995 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 $35 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, 1996 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.

Unexpended balances as of June 30, 1995 in the Equipment for Alzheimer's Facility Zone account for each veterans' home are appropriated for the same purpose.

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 at page L-36 in the Governor's Budget Recommendation Document dated January 23, 1995, first shall be charged to the State Lottery Fund.

68 DEPARTMENT OF PERSONNEL

70 Government Direction, Management and Control

74 General Government Services

01-2710 Personnel Policy Development and General Administration		$2,539,000
02-2720 Recruitment and Selection		6,235,000
03-2730 Personnel Management Systems		.6,205,000
04-2740 Merit Services		.2,108,000
05-2750 Equal Employment Opportunity and Affirmative Action		1,073,000
06-2760 Local Government Classification and Placement		2,681,000
07-2770 Human Resource Development Institute		7,904,000
Total Appropriation, General Government Services		$28,745,000
Personal Services:		
Merit System Board	($52,000)	
Salaries and Wages	(22,521,000)	
Materials and Supplies	(753,000)	
Services Other Than Personal	(3,862,000)	
Maintenance and Fixed Charges	(279,000)	
Special Purpose:		
Affirmative Action and Equal Employment Opportunity	(93,000)	
Microfilm Service Charges	(29,000)	
Test Validation/Police Testing	(434,000)	
American with Disabilities Act	(60,000)	
Suggestion Award Program	(100,000)	
Additions, Improvements and Equipment	(562,000)	

Receipts derived from fees charged to applicants for open competitive or promotional examinations are appropriated.

Receipts derived from training services are appropriated.

Receipts derived from employee advisory services are appropriated.

Total Appropriation, Department of Personnel	$28,745,000

74 DEPARTMENT OF STATE

30 Educational, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services

05-2530 Support of the Arts		$482,000
06-2535 Museum Services		1,991,000
07-2540 Development of Historical Resources		547,000
Total Appropriation, Cultural and Intellectual Development Services		$3,020,000
Personal Services:		
Salaries and Wages	($2,392,000)	
Materials and Supplies	(143,000)	
Services Other Than Personal	(205,000)	
Maintenance and Fixed Charges	(61,000)	
Special Purpose:		
Council Member Expenses	(3,000)	
Walter Edge Foran New Jersey Studies Institute	(150,000)	
New Jersey Railroad and Transportation Museum Commission	(5,000)	
Additions, Improvements and Equipment	(61,000)	

The unexpended balance as of June 30, 1995, in the Walter Edge Foran New Jersey Studies Institute account is appropriated for the same purpose.

The unexpended balance as of June 30, 1995, in the New Jersey Railroad and Transportation Museum Commission account is appropriated for the same purpose.

Funds derived from the sale of collections and museum materials, which have been approved by the Secretary of State, are appropriated to and shall be used for the benefit of the State Museum.

70 Government Direction, Management and Control

74 General Government Services

2505 Office of the Secretary of State

01-2505 Office of the Secretary of State		$1,266,000
08-2545 Records Management		1,150,000
09-2506 Commercial Recording		2,788,000
Total Appropriation, Office of the Secretary of State		$5,204,000
Personal Services:		
Salaries and Wages	($3,406,000)	
Materials and Supplies	(126,000)	
Services Other Than Personal	(622,000)	
Maintenance and Fixed Charges	(104,000)	

Special Purpose:	
Voter Registration	(275,000)
Voter Declaration	(4,000)
Affirmative Action and Equal Employment Opportunity	(34,000)
Martin Luther King Jr. Commemorative Commission	(215,000)
Business Ombudsman and Regulatory Affairs	(250,000)
Records Storage Center Staffing	(100,000)
Additions, Improvements and Equipment	(68,000)

Receipts derived from the examination of voting machines by the Secretary of State and the unexpended balance as of June 30, 1995, of those receipts are appropriated for the costs of making such examinations.

The unexpended balance as of June 30, 1995, in the Martin Luther King, Jr. Commemorative Commission is appropriated for the same purpose.

Receipts in excess of those anticipated from the over-the-counter service surcharges are appropriated to meet the costs of the Division of Commercial Recording, subject to the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1995, in the National Voter Registration Act-Implementation account is appropriated for the same purpose.

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Microfilm Section from any appropriation made to any department for microfilming costs which had been appropriated or allocated to such department for its share of the costs of the Microfilm Section.

Receipts derived from fees charged for microfilming services provided to local governments are appropriated for the same purpose.

The unexpended balance in the Secretary of State fund as of June 30, 1995, and, notwithstanding the provisions of P.L.1987, c.435, receipts in excess of the amount anticipated from fees are appropriated to meet the costs of information processing and the Office of the Secretary of State.

2515 Office of Administrative Law

03-2515 Adjudication of Administrative Appeals		$8,762,000
Total All Operations		$8,762,000
Less:		
Reimbursements From Other Sources	*($4,737,000)*	

Total Deductions		*(<u>$4,737,000</u>)*
Total Appropriation, Office of Administrative Law		<u>$4,025,000</u>
Personal Services:		
Salaries and Wages	($7,306,000)	
Materials and Supplies	(163,000)	
Services Other Than Personal	(799,000)	
Maintenance and Fixed Charges	(256,000)	
Special Purpose:		
Affirmative Action and Equal Employment Opportunity	(6,000)	
Other Special Purpose	(7,000)	
Additions, Improvements and Equipment	(225,000)	
Less:		
Reimbursements From Other Sources Expense	*(4,737,000)*	

Notwithstanding any law to the contrary, the salary of the Director of the Office of Administrative Law shall be established by the Commissioner of Personnel in the "State Compensation Plan."

In addition to the amount hereinabove, such sums as may be received or receivable from any department or non-State fund source for administrative hearing costs by the Office of Administrative Law and the unexpended balance as of June 30, 1995, 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, 1995, of such receipts are appropriated.

Receipts derived from the royalty payable to the Office of Administrative Law and the unexpended balance as of June 30, 1995, of such receipts are appropriated.

80 Special Government Services

82 Protection of Citizens' Rights

17-2581 Mental Health Screening Services	$1,966,000
19-2583 Dispute Settlement	118,000
20-2584 Trial Services to Indigents and Special Programs	42,939,000

21-2585 Appellate Services to Indigents		5,663,000
22-2586 Public Defender Management and Administrative Services		1,936,000
Total Appropriation, Protection of Citizens' Rights		$52,622,000
Personal Services:		
Salaries and Wages	($40,055,000)	
Materials and Supplies.....	(578,000)	
Services Other Than Personal.....	(11,042,000)	
Maintenance and Fixed Charges.....	(378,000)	
Special Purpose:		
Affirmative Action and Equal Employment Opportunity.....	(64,000)	
Additions, Improvements and Equipment.....	(505,000)	

Receipts from clients including Office of Dispute Settlement fees and the unexpended balance as of June 30, 1995 of such receipts are appropriated.

Sums provided for legal and investigative services are available for payment of obligations applicable to prior fiscal years.

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.

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 provision of section 2 of P.L.1974, c.33 (C.2A:158A-5.1), or any other provision of law, or any other provision of this appropriations act, 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.

30 Educational, Cultural and Intellectual Development

36 Higher Educational Services

2600 Commission on Higher Education

60-2600 Statewide Planning and Coordination for Higher Education	$796,000
61-2600 Educational Opportunity Fund Programs	496,000
Total Appropriation, Commission on Higher Education	$1,292,000

Personal Services:		
Salaries and Wages	($975,000)	
Materials and Supplies	(42,000)	
Services Other Than Personal	(249,000)	
Maintenance and Fixed Charges	(17,000)	
Additions, Improvements and Equipment	(9,000)	

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 at page L-36 in the Governor's Budget Recommendation Document dated January 23, 1995 first shall be charged to the State Lottery Fund.

2610 Rutgers, The State University
Rutgers University Programs

65-2610 Instruction		$212,733,000
66-2610 Sponsored Programs and Research		21,029,000
67-2610 Extension and Public Service		3,948,000
69-2610 Academic Support		24,827,000
70-2610 Student Services		47,310,000
71-2610 Institutional Support		69,020,000
72-2610 Physical Plant and Support Services		76,288,000
Sub-Total General Operations		$455,155,000
Auxiliary Funds Expense		132,200,000
Special Funds Expense		219,440,000
Employee Fringe Benefits Expense		113,340,000
Employee Salary Program Expense		5,697,000
Total All Operations		$925,832,000
Less:		
General Services Income	*($196,409,000)*	
Auxiliary Funds Income	*(132,200,000)*	
Special Services Income	*(219,440,000)*	
Employee Fringe Benefits Subsidy	*(113,340,000)*	
Employee Salary Program Subsidy	*(5,697,000)*	
Total Income Deductions		*($667,086,000)*
Total Appropriation, Rutgers University Programs		$258,746,000
Personal Services:		
Salaries and Wages	($331,155,000)	
Materials and Supplies	(40,717,000)	
Services Other Than Personal	(18,742,000)	
Maintenance and Fixed Charges	(10,663,000)	
Special Purpose:		
Foundational Support for Instruction	(2,422,000)	
Tomato Technology Transfer Program	(100,000)	
Statewide Privatization (Contracting Out) Survey, Newark	(60,000)	
Drug and Alcohol Abuse Information Clearing House	(249,000)	
Forum on Policy Research and Public Service, Rutgers--Camden	(75,000)	

College Work-Study (State Share)	(750,000)	
Affirmative Action and Equal Employment Opportunity	(92,000)	
Retirement Allowances	(525,000)	
Special Projects	(4,529,000)	
Debt Service--High Technology Initiative	(1,800,000)	
In Lieu of Tax Payments to New Brunswick	(700,000)	
Civic Square, New Brunswick	(740,000)	
Student Aid	(23,193,000)	
Rutgers Fund for Distinction Debt Service (State Match)	(12,593,000)	
Additions, Improvements and Equipment	(6,050,000)	
Auxiliary Funds Expense	(132,200,000)	
Special Funds Expense	(219,440,000)	
Employee Fringe Benefits Expense	113,340,000)	
Employee Salary Program Expense	(5,697,000)	
Less:		
General Services Income	*(196,409,000)*	
Auxiliary Funds Income	*(132,200,000)*	
Special Services Income	*(219,440,000)*	
Employee Fringe Benefits Subsidy	*(113,340,000)*	
Employee Salary Program Subsidy	*(5,697,000)*	

2615 Agricultural Experiment Station

66-2615 Sponsored Programs and Research		$14,884,000
67-2615 Extension and Public Service		7,766,000
Sub-Total General Operations		$22,650,000
Federal Research and Extension Funds Expense		6,800,000
Special Funds Expense		17,472,000
Employee Fringe Benefits Expense		5,948,000
Employee Salary Program Expense		448,000
Total All Operations		$53,318,000
Less:		
Federal Research and Extension Funds Income	*($6,800,000)*	
Special Funds Income	*(17,472,000)*	
Employee Fringe Benefits Subsidy	*(5,948,000)*	
Employee Salary Program Subsidy	*(448,000)*	
Total Income Deductions		*($30,668,000)*
Total Appropriation, Agricultural Experiment Station		$22,650,000
Personal Services:		
Salaries and Wages	($17,378,000)	
Materials and Supplies	(171,000)	
Services Other Than Personal	(1,274,000)	
Maintenance and Fixed Charges	(150,000)	
Special Purpose:		
Foundational Support for NJAES Sponsored Programs and Research	(163,000)	
Pinelands Regulations Impact Study	(50,000)	
Fruit Research and Extension	(500,000)	
Program Enhancement and Restoration	(200,000)	

Pari-mutuel Programs	(1,200,000)	
Renovate Laboratories	(350,000)	
Snyder Farm Planning and Operation	(691,000)	
Foundational Support for NJAES Extension and Public Service	(47,000)	
Tomato Testing	(6,000)	
Cooperative Extension Service	(125,000)	
Blueberry and Cranberry Research	(250,000)	
Additions, Improvements and Equipment	(95,000)	
Federal Research and Extension Funds Expense	(6,800,000)	
Special Funds Expense	(17,472,000)	
Employee Fringe Benefits Expense	(5,948,000)	
Employee Salary Program Expense	(448,000)	
Less:		
Federal Research and Extension Funds Income	*(6,800,000)*	
Special Funds Income	*(17,472,000)*	
Employee Fringe Benefits Subsidy	*(5,948,000)*	
Employee Salary Program Subsidy	*(448,000)*	
Total Appropriation, Rutgers, The State University		$281,396,000

2620 University of Medicine and Dentistry of New Jersey

65-2620 Instruction		$108,644,000
67-2620 Extension and Public Service		323,763,000
69-2620 Academic Support		4,330,000
70-2620 Student Services		6,828,000
71-2620 Institutional Support		36,664,000
72-2620 Physical Plant and Support Services		38,987,000
73-2620 Core Affiliates		5,365,000
Subtotal General Operations		$524,581,000
Special Funds Expense.		105,083,000
Auxiliary Funds Expense		6,806,000
Robert Wood Johnson Community Mental Health Center Expense		29,970,000
New Jersey Medical School Community Mental Health Center Expense		12,723,000
Employee Fringe Benefits Expense		114,549,000
Employee Salary Program Expense		5,996,000
Total All Operations		$799,708,000
Less:		
Hospital Services Income	*($285,881,000)*	
Core Affiliates Income	*(5,457,000)*	
General Services Income	*(41,034,000)*	
Special Funds Income	*(105,083,000)*	
Auxiliary Funds Income	*(6,806,000)*	
Robert Wood Johnson Community Mental Health Center Income	*(29,970,000)*	
New Jersey Medical School Community Mental Health Center Income	*(12,723,000)*	
Employee Fringe Benefits Subsidy	*(114,549,000)*	

Employee Salary Program Subsidy	*(5,996,000)*	
Total Income Deductions		*(<u>$607,499,000</u>)*
Total Appropriation, University of Medicine and Dentistry of New Jersey		<u>$192,209,000</u>
Personal Services:		
Salaries and Wages	($344,678,000)	
Materials and Supplies	(56,520,000)	
Services Other Than Personal	(76,646,000)	
Maintenance and Fixed Charges	(10,982,000)	
Special Purpose:		
Dental Residency Program	(750,000)	
Area Health Education Center	(290,000)	
Regional Health Education Center - Educational Units	(525,000)	
Regional Health Education Center - Physical Plant	(975,000)	
Sexual Abuse Diagnostic Center	(300,000)	
Graduate Medical Education	(126,000)	
Emerging Needs and Foundational Support - Educational Units	(1,452,000)	
University Hospital Debt Service--Equipment and Renovations	(2,495,000)	
Emergency Medical Service--Camden	(800,000)	
University Student Aid	(3,874,000)	
Debt Service--High Technology Initiative	(2,089,000)	
Core Affiliate--Robert Wood Johnson Medical School--Piscataway	(2,949,000)	
Core Affiliate--New Jersey School of Osteopathic Medicine	(2,416,000)	
Additions, Improvements and Equipment	(16,714,000)	
Special Funds Expense	(105,083,000)	
Auxiliary Funds Expense	(6,806,000)	
Robert Wood Johnson Community Mental Health Center Expense	(29,970,000)	
New Jersey Medical School Community Mental Health Center Expense	(12,723,000)	
Employee Fringe Benefits Expense	(114,549,000)	
Employee Salary Program Expense	(5,996,000)	
Less:		
Income and Subsidy Deductions	*(607,499,000)*	

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, 1995 in the accounts hereinabove are appropriated for the purposes of the University of Medicine and Dentistry of New Jersey.

The appropriations for the University are made to Support Units, Educational Units, University Hospital, and Community Mental Health Centers.

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.

2630 New Jersey Institute of Technology

65-2630 Instruction		$33,308,000
66-2630 Sponsored Programs and Research		1,234,000
67-2630 Extension and Public Service		1,120,000
69-2630 Academic Support		9,530,000
70-2630 Student Services		7,970,000
71-2630 Institutional Support		13,283,000
72-2630 Physical Plant and Support Services		10,795,000
Sub-Total General Operations		$77,240,000
Auxiliary Funds Expense		4,600,000
Special Funds Expense		28,050,000
Employee Fringe Benefits Expense		11,991,000
Employee Salary Program Expense		1,452,000
Total All Operations		$123,333,000
Less:		
General Services Income	*($32,357,000)*	
Auxiliary Funds Income	*(4,600,000)*	
Special Funds Income	*(28,050,000)*	
Employee Fringe Benefits Subsidy	*(11,991,000)*	
Employee Salary Program Subsidy	*(1,452,000)*	
Total Income Deductions		*($78,450,000)*
Total Appropriation, New Jersey Institute of Technology		$44,883,000
Personal Services:		
Salaries and Wages	($52,508,000)	
Materials and Supplies	(4,831,000)	
Services Other Than Personal	(6,276,000)	
Maintenance and Fixed Charges	(1,725,000)	
Special Purpose:		
Instruction Enhancement	(422,000)	
NJIT/Burlington County College Engineering Program	(100,000)	
Separately Budgeted Research	(586,000)	
Continuing Education	(1,120,000)	
DEP Regulatory Efficiency and Vehicular Pollution Control Study	(100,000)	
Scholarships, Grants, Fellowships	(4,113,000)	
Student Activities	(185,000)	
Affirmative Action and Equal Employment Opportunity	(60,000)	
Board of Trustees	(4,000)	
Fringe Benefits/Retirement Allowances	(2,250,000)	

Additions, Improvements and Equipment.....	(2,960,000)	
Auxiliary Funds Expense.....	(4,600,000)	
Special Funds Expense	(28,050,000)	
Employee Fringe Benefits Expense	(11,991,000)	
Employee Salary Program Expense.....	(1,452,000)	
Less:		
Income and Subsidy Deductions.....	*(78,450,000)*	

The amount hereinabove is made available, subject to the execution of a contract for the purchase of educational services between the Treasurer, State of New Jersey and the Board of Trustees of Schools for Industrial Education of Newark, New Jersey.

2640 Thomas A. Edison State College

71-2640 Institutional Support.....		$10,879,000
Sub-Total General Operations		$10,879,000
Employee Fringe Benefits Expense		1,910,000
Employee Salary Program Expense.....		249,000
Total All Operations		$13,038,000
Less:		
Fee Increase.....	*($248,000)*	
Self Sustaining Income.....	*(938,000)*	
General Services Income.....	*(4,968,000)*	
Employee Fringe Benefits Subsidy.....	*(1,910,000)*	
Employee Salary Program Subsidy.....	*(249,000)*	
Total Income Deductions.....		*($8,313,000)*
Total Appropriation, Thomas A. Edison State College		$4,725,000
Personal Services:		
Salaries and Wages	($6,970,000)	
Materials and Supplies.....	(531,000)	
Services Other Than Personal.....	2,373,000)	
Maintenance and Fixed Charges.....	(324,000)	
Special Purpose:		
Special Requirements - Enrollment and Facility Growth Support.....	(44,000)	
Master/Graduate Programs.....	(100,000)	
Technology Programs	(148,000)	
Affirmative Action and Equal Employment Opportunity	(14,000)	
Additions, Improvements and Equipment.....	(375,000)	
Employee Fringe Benefits Expense	(1,910,000)	
Employee Salary Program Expense.....	(249,000)	
Less:		
Income and Subsidy Deductions.....	*(8,313,000)*	

2645 Rowan College of New Jersey

65-2645 Instruction.....	$24,148,000
66-2645 Sponsored Programs and Research	80,000
69-2645 Academic Support	4,373,000
70-2645 Student Services	5,316,000

71-2645 Institutional Support		9,402,000
72-2645 Physical Plant and Support Services		7,327,000
Sub-Total General Operations		$50,646,000
Auxiliary Funds Expense		17,049,000
Special Funds Expense		3,360,000
Employee Fringe Benefits Expense		12,362,000
Employee Salary Program Expense		743,000
Total All Operations		$84,160,000
Less:		
General Services Income	*($17,869,000)*	
Auxiliary Funds Income	*(17,049,000)*	
Special Funds Income	*(3,360,000)*	
Employee Fringe Benefits Subsidy	*(12,362,000)*	
Employee Salary Program Subsidy	*(743,000)*	
Total Income Deductions		*($51,383,000)*
Total Appropriation, Rowan College of New Jersey		$32,777,000
Personal Services:		
Salaries and Wages	($39,394,000)	
Materials and Supplies	(3,077,000)	
Services Other Than Personal	(3,483,000)	
Maintenance and Fixed Charges	(1,580,000)	
Special Purpose:		
Development of a School of Engineering	(455,000)	
Doctoral Program in Education	(200,000)	
Separately Budgeted Research	(80,000)	
College Work-Study Program (State Share)	(200,000)	
Restoration of College's Original Greenhouse	(50,000)	
Affirmative Action and Equal Employment Opportunity	(65,000)	
Additions, Improvements and Equipment	(2,062,000)	
Auxiliary Funds Expense	(17,049,000)	
Special Funds Expense	(3,360,000)	
Employee Fringe Benefits Expense	(12,362,000)	
Employee Salary Program Expense	(743,000)	
Less:		
Income and Subsidy Deductions	*(51,383,000)*	

2650 Jersey City State College

65-2650 Instruction	$23,050,000
66-2650 Sponsored Programs and Research	70,000
69-2650 Academic Support	2,066,000
70-2650 Student Services	3,025,000
71-2650 Institutional Support	5,867,000
72-2650 Physical Plant and Support Services	6,201,000
Sub-Total General Operations	$40,279,000
Auxiliary Funds Expense	9,725,000
Special Funds Expense	4,125,000
Employee Fringe Benefits Expense	9,995,000
Employee Salary Program Expense	498,000
Total All Operations	$64,622,000

Less:		
General Services Income	*($10,423,000)*	
A. H. Moore Program Receipts	*(1,960,000)*	
Auxiliary Funds Income	*(9,725,000)*	
Special Funds Income	*(4,125,000)*	
Employee Fringe Benefits Subsidy	*(9,995,000)*	
Employee Salary Program Subsidy	*(498,000)*	
Total Income Deductions		*($36,726,000)*
Total Appropriation, Jersey City State College		$27,896,000
Personal Services:		
Salaries and Wages	($30,876,000)	
Materials and Supplies	(2,382,000)	
Services Other Than Personal	(2,218,000)	
Maintenance and Fixed Charges	(1,536,000)	
Special Purpose:		
Stabilizing Foundational Support	(263,000)	
A. Harry Moore Laboratory School	(1,078,000)	
Basic Science and Technological Equipment	(35,000)	
Separately Budgeted Research	(70,000)	
Minority Student Recruitment	(135,000)	
National Direct Student Loan Program (State Share)	(20,000)	
College Work-Study Program (State Share)	(120,000)	
Affirmative Action and Equal Employment Opportunity	(110,000)	
Tidelands Athletic Fields	(145,000)	
Additions, Improvements and Equipment	(1,291,000)	
Auxiliary Funds Expense	(9,725,000)	
Special Funds Expense	(4,125,000)	
Employee Fringe Benefits Expense	(9,995,000)	
Employee Salary Program Expense	(498,000)	
Less:		
Income and Subsidy Deductions	*(36,726,000)*	

2655 Kean College of New Jersey

65-2655 Instruction		$29,997,000
66-2655 Sponsored Programs and Research		75,000
69-2655 Academic Support		2,364,000
70-2655 Student Services		3,377,000
71-2655 Institutional Support		7,926,000
72-2655 Physical Plant and Support Services		7,299,000
Sub-Total General Operations		$51,038,000
Auxiliary Funds Expense		9,036,000
Special Funds Expense		10,691,000
Employee Fringe Benefits Expense		12,536,000
Employee Salary Program Expense		696,000
Total All Operations		$83,997,000
Less:		
General Services Income	*($19,422,000)*	
Auxiliary Funds Income	*(9,036,000)*	

Special Funds Income	*(10,691,000)*	
Employee Fringe Benefits Subsidy	*(12,536,000)*	
Employee Salary Program Subsidy	*(696,000)*	
Total Income Deductions		*($52,381,000)*
Total Appropriation, Kean College of New Jersey		$31,616,000
Personal Services:		
Salaries and Wages	($39,936,000)	
Materials and Supplies	(4,269,000)	
Services Other Than Personal	(3,805,000)	
Maintenance and Fixed Charges	(1,414,000)	
Special Purpose:		
Instructional Program Restoration and Emerging Needs	(298,000)	
Separately Budgeted Research	(75,000)	
College Work-Study Program (State Share)	(70,000)	
Affirmative Action and Equal Employment Opportunity	(54,000)	
Additions, Improvements and Equipment	(1,117,000)	
Auxiliary Funds Expense	(9,036,000)	
Special Funds Expense	(10,691,000)	
Employee Fringe Benefits Expense	(12,536,000)	
Employee Salary Program Expense	(696,000)	
Less:		
Income and Subsidy Deductions	*(52,381,000)*	

2660 William Paterson College of New Jersey

65-2660 Instruction		$22,944,000
66-2660 Sponsored Programs and Research		150,000
69-2660 Academic Support		4,941,000
70-2660 Student Services		5,428,000
71-2660 Institutional Support		10,159,000
72-2660 Physical Plant and Support Services		9,424,000
Sub-Total General Operations		$53,046,000
Auxiliary Funds Expense		14,707,000
Special Funds Expense		2,791,000
Employee Fringe Benefits Expense		12,378,000
Employee Salary Program Expense		717,000
Total All Operations		$83,639,000
Less:		
General Services Income	*($17,878,000)*	
Auxiliary Funds Income	*(14,707,000)*	
Special Funds Income	*(2,791,000)*	
Employee Fringe Benefits Subsidy	*(12,378,000)*	
Employee Salary Program Subsidy	*(717,000)*	
Total Income Deductions		*($48,471,000)*
Total Appropriation, William Paterson College of New Jersey		$35,168,000
Personal Services:		
Salaries and Wages	($41,630,000)	
Materials and Supplies	(3,910,000)	
Services Other Than Personal	(2,888,000)	

Maintenance and Fixed Charges	(1,372,000)	
Special Purpose:		
Stabilization-Instruction	(330,000)	
Academic Development	(170,000)	
Separately Budgeted Research	(150,000)	
College Work-Study Program (State Share)	(85,000)	
Gender Project	(100,000)	
Affirmative Action and Equal Employment Opportunity	(80,000)	
Outcomes Assessment	(65,000)	
Additions, Improvements and Equipment	(2,266,000)	
Auxiliary Funds Expense	(14,707,000)	
Special Funds Expense	(2,791,000)	
Employee Fringe Benefits Expense	(12,378,000)	
Employee Salary Program Expense	(717,000)	
Less:		
Income and Subsidy Deductions	*(48,471,000)*	

2665 Montclair State University

65-2665 Instruction		$29,526,000
66-2665 Sponsored Programs and Research		120,000
67-2665 Extension and Public Service		600,000
69-2665 Academic Support		7,043,000
70-2665 Student Services		5,286,000
71-2665 Institutional Support		11,477,000
72-2665 Physical Plant and Support Services		7,335,000
Sub-Total General Operations		$61,387,000
Auxiliary Funds Expense		15,981,000
Special Funds Expense		2,505,000
Employee Fringe Benefits Expense		15,797,000
Employee Salary Program Expense		966,000
Total All Operations		$96,636,000
Less:		
General Services Income	*($21,012,000)*	
Conservation School Receipts	*(475,000)*	
Auxiliary Funds Income	*(15,981,000)*	
Special Funds Income	*(2,505,000)*	
Employee Fringe Benefits Subsidy	*(15,797,000)*	
Employee Salary Program Subsidy	*(966,000)*	
Total Income Deductions		*($56,736,000)*
Total Appropriation, Montclair State University		$39,900,000
Personal Services:		
Salaries and Wages	($47,790,000)	
Materials and Supplies	(4,566,000)	
Services Other Than Personal	(5,084,000)	
Maintenance and Fixed Charges	(1,529,000)	
Special Purpose:		
Separately Budgeted Research	(120,000)	
New Jersey State School of Conservation	(600,000)	
College Work-Study Program (State Share)	(70,000)	

Affirmative Action and Equal Employment Opportunity	(102,000)
Additions, Improvements and Equipment	(1,526,000)
Auxiliary Funds Expense	(15,981,000)
Special Funds Expense	(2,505,000)
Employee Fringe Benefits Expense	(15,797,000)
Employee Salary Program Expense	(966,000)
Less:	
Income and Subsidy Deductions	*(56,736,000)*

In addition to the sums hereinabove appropriated to Montclair State University, all revenues from lease agreements between Montclair State University and corporations operating satellite relay stations are appropriated.

2670 Trenton State College

65-2670 Instruction		$24,729,000
66-2670 Sponsored Programs and Research		149,000
69-2670 Academic Support		4,554,000
70-2670 Student Services		8,883,000
71-2670 Institutional Support		7,640,000
72-2670 Physical Plant and Support Services		9,670,000
Sub-Total General Operations		$55,625,000
Auxiliary Funds Expense		23,219,000
Special Funds Expense		3,660,000
Employee Fringe Benefits Expense		12,166,000
Employee Salary Program Expense		608,000
Total All Operations		$95,278,000
Less:		
General Services Income	*($22,664,000)*	
Auxiliary Funds Income	*(23,219,000)*	
Special Funds Income	*(3,660,000)*	
Employee Fringe Benefits Subsidy	*(12,166,000)*	
Employee Salary Program Subsidy	*(608,000)*	
Total Income Deductions		*($62,317,000)*
Total Appropriation, Trenton State College		$32,961,000
Personal Services:		
Salaries and Wages	($40,077,000)	
Materials and Supplies	(4,780,000)	
Services Other Than Personal	(4,177,000)	
Maintenance and Fixed Charges	(946,000)	
Special Purpose:		
Separately Budgeted Research	(149,000)	
Minority Students Recruitment and Scholarships	(750,000)	
College Work-Study Program (State Share)	(37,000)	
Trustee Scholarships	(2,305,000)	
Distinguished Scholars Demonstration Program	(350,000)	
Affirmative Action and Equal Employment Opportunity	(43,000)	
Additions, Improvements and Equipment	(2,011,000)	

Auxiliary Funds Expense	(23,219,000)	
Special Funds Expense	(3,660,000)	
Employee Fringe Benefits Expense	(12,166,000)	
Employee Salary Program Expense	(608,000)	
Less:		
Income and Subsidy Deductions	*(62,317,000)*	

2675 Ramapo College of New Jersey

65-2675 Instruction		$10,786,000
66-2675 Sponsored Programs and Research		50,000
69-2675 Academic Support		1,925,000
70-2675 Student Services		3,000,000
71-2675 Institutional Support		5,133,000
72-2675 Physical Plant and Support Services		4,855,000
Sub-Total General Operations		$25,749,000
Auxiliary Funds Expense		9,384,000
Special Funds Expense		2,186,000
Employee Fringe Benefits Expense		6,885,000
Employee Salary Program Expense		184,000
Total All Operations		$44,388,000
Less:		
General Services Income	*($8,477,000)*	
Auxiliary Funds Income	*(9,384,000)*	
Special Funds Income	*(2,186,000)*	
Employee Fringe Benefits Subsidy	*(6,885,000)*	
Employee Salary Program Subsidy	*(184,000)*	
Total Income Deductions		*($27,116,000)*
Total Appropriation, Ramapo College of New Jersey		$17,272,000
Personal Services:		
Salaries and Wages	($19,774,000)	
Materials and Supplies	(2,084,000)	
Services Other Than Personal	(1,727,000)	
Maintenance and Fixed Charges	(492,000)	
Special Purpose:		
Stabilizing Foundational Support	(163,000)	
Separately Budgeted Research	(50,000)	
College Work-Study Program (State Share)	(70,000)	
Student Financial Assistance	(260,000)	
Affirmative Action and Equal Employment Opportunity	(125,000)	
Additions, Improvements and Equipment	(1,004,000)	
Auxiliary Funds Expense	(9,384,000)	
Special Funds Expense	(2,186,000)	
Employee Fringe Benefits Expense	(6,885,000)	
Employee Salary Program Expense	(184,000)	
Less:		
Income and Subsidy Deductions	*(27,116,000)*	

2680 The Richard Stockton College of New Jersey

65-2680 Instruction		$14,102,000
66-2680 Sponsored Programs and Research		70,000
69-2680 Academic Support		2,538,000
70-2680 Student Services		2,756,000
71-2680 Institutional Support		4,852,000
72-2680 Physical Plant and Support Services		5,990,000
Sub-Total General Operations		$30,308,000
Auxiliary Funds Expense		8,929,000
Special Funds Expense		1,943,000
Employee Fringe Benefits Expense		7,698,000
Employee Salary Program Expense		376,000
Total All Operations		$49,254,000
Less:		
General Services Income	*($11,285,000)*	
Auxiliary Funds Income	*(8,929,000)*	
Special Funds Income	*(1,943,000)*	
Employee Fringe Benefits Subsidy	*(7,698,000)*	
Employee Salary Program Subsidy	*(376,000)*	
Total Income Deductions		*($30,231,000)*
Total Appropriation, The Richard Stockton College of New Jersey		$19,023,000
Personal Services:		
Salaries and Wages	($24,258,000)	
Materials and Supplies	(2,416,000)	
Services Other Than Personal	(1,660,000)	
Maintenance and Fixed Charges	(473,000)	
Special Purpose:		
Twelve Faculty Positions	(179,000)	
Debt Service	(243,000)	
Separately Budgeted Research	.(70,000)	
National Direct Student Loan Program (State Share)	(47,000)	
College Work-Study Program (State Share)	(34,000)	
Scholarship and Loan Assistance	(300,000)	
Affirmative Action and Equal Employment Opportunity	(48,000)	
Additions, Improvements and Equipment	(580,000)	
Auxiliary Funds Expense	(8,929,000)	
Special Funds Expense	(1,943,000)	
Employee Fringe Benefits Expense	(7,698,000)	
Employee Salary Program Expense	(376,000)	
Less:		
Income and Subsidy Deductions	*(30,231,000)*	
Total Appropriation, Higher Educational Services		$761,118,000

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 at page L-36 in the Governor's Budget Recommendation Document dated January 23, 1995 first shall be charged to the State Lottery Fund.

Public colleges and universities are authorized to provide for the early retirement of staff and tenured faculty, consistent with State law, upon terms and conditions as set forth in current regulations and approved by the Director of the Division of Budget and Accounting.

Public colleges and universities are authorized to provide a voluntary employee furlough program.

Total Appropriation, Department of State $825,989,000

78 DEPARTMENT OF TRANSPORTATION

10 Public Safety and Criminal Justice

11 Vehicular Safety

01-6400	Revenue and Information Processing Systems		$19,444,000
16-6400	Licensing, Registration and Inspection Services		64,866,000
17-6400	Driver Control and Regulatory Affairs		10,641,000
18-6402	Security Responsibility		6,128,000
19-6400	Revenue Collection Services		9,131,000
99-6400	Management and Administrative Services		4,166,000
99-6401	Management and Administrative Services		3,581,000
	Total All Operations		118,942,000
Less:			
	Savings From Program Consolidation	*($10,000,000)*	
	Total Deductions		*($10,000,000)*
	Total Appropriation, Vehicular Safety		$107,957,000
Personal Services:			
	Salaries and Wages	($69,636,000)	
Materials and Supplies		(5,424,000)	
Services Other Than Personal		(20,216,000)	
Maintenance and Fixed Charges		(1,563,000)	
Special Purpose:			
	Enhanced Inspection and Maintenance Program	(10,880,000)	
	DMV Operations - Extended Hours	(2,495,000)	
	Agency Operations	(7,232,000)	
	Affirmative Action and Equal Employment Opportunity	(76,000)	
Additions, Improvements and Equipment		(435,000)	
Less:			
	Savings From Program Consolidation	*(10,000,000)*	

Receipts derived pursuant to section 2 of P.L.1989, c.202 (C.39:3-33.9) are appropriated for the preparation and issuance of reflectorized license plates, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1995, in the Auto Body Licensing and Enforcement 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 appropriated hereinabove for the Auto Body Licensing and Enforcement program is payable out of receipts from the Auto Body Licensing and Enforcement program pursuant to section 6 of P.L.1983, c.360 (C.39:13-6). If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Receipts in excess of the amount anticipated for photo licensing, derived pursuant to section 2 of P.L. 1979, c.261 (C.39:3-10g), are appropriated to administer the program, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1995, in the Decal Refund - Axle Tax program is appropriated for the payment of claims directed against the State, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Commercial Driver License Program are appropriated to offset the costs of administering the program pursuant to the Commercial Motor Vehicle Safety Act, P.L.1990, c.103 (C.39:3-10.9 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

The sum hereinabove for Agency Operations is available for maintaining services at Public and Privately Operated motor vehicle agencies; provided, however, that the expenditures thereof are subject to the approval of the Director of the Division of Budget and Accounting.

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 Department of Transportation-Division of Motor Vehicles in the performance of commercial truck safety and emission inspections, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts 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 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, 1995 is appropriated to the special capital maintenance reserve account for capital replacement and major maintenance of helicopter equipment, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for the Parking Offenses Adjudication Act program is payable from receipts derived from parking offense adjudication collected pursuant to P.L.1985, c.14 (C.39:4-139.2 et seq.). If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Receipts in excess of the amount anticipated for the Parking Offenses Adjudication Act program, derived pursuant to P.L.1985, c.14 (C.39:4-139.2 et seq.), are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Uninsured Motorists program account is payable from the Uninsured Motorist Prevention Fund. If receipts to the fund are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove for the Security Responsibility program classification shall be payable from receipts received from mutual associations and stock companies writing motor vehicle liability insurance within the State under section 2 of P.L.1952, c.176 (C.39:6-59), and any receipts in excess of the amount hereinabove are appropriated to defray additional costs of administration of the security responsibility law, subject to the approval of the Director of the Division of Budget and Accounting.

Sums required for the processing of credit card transaction fees are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Until such time as the Commissioner of 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, notwithstanding the provisions of section 6 of P.L.1983, c.65 (C.17:29A-35), 20% of the first $100,000,000 of receipts derived from 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, shall be retained in the General Fund.

Until such time as the Commissioner of 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, notwithstanding the provisions of section 6 of P.L.1983, c.65 (C.17:29A-35), 60% of any receipts in excess of $100,000,000 derived from 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, shall be retained in the General Fund.

Until such time as the Commissioner of 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, notwithstanding the provisions of section 6 of P.L.1983, c.65 (C.17:29A-35), 60% of any delinquent surcharge receipts derived from 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, shall be retained in the General Fund.

Funds necessary to defray the cost of collection to implement the provisions of P.L.1994, c.64 (C.17:29A-35 et seq.) are appropriated from fees in lieu of actual cost of collection receipts, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1995 in the Litigation Service Fees - delinquent Surcharge Program, are appropriated for the Implementation and administration of this program subject to the approval of the Director of the Division of Budget and Accounting.

Amounts required for the privatization of motor vehicle agencies in the Division of Motor Vehicles are transferred from the Salary and Other Benefits accounts to the Division of Motor Vehicles, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the sums hereinabove for Salaries and Wages within the Division of Motor Vehicles program classifications, the Commissioner of Transportation, subject to the approval

of the Director of the Division of Budget and Accounting, may transfer to these Salaries and Wages accounts, a sum of up to $10,000,000 from other appropriations in the department to reflect savings throughout the department for management efficiencies due to the consolidation of administrative functions.

Of the amount hereinabove for Licensing Registration and Inspection Services there is appropriated from the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2, an amount not to exceed $21,880,000, as well as such sums from the "Motor Vehicle Inspection Fund" as may be necessary to pay reasonable and necessary expenses of the design, planning and construction, renovation, equipment, establishment, maintenance and operation of the enhanced motor vehicle inspection program, subject to the approval of the Director of the Division of Budget and Accounting.

60 Transportation Programs
61 State Highway Facilities

06-6100 Maintenance and Operations		$62,066,000
08-6120 Physical Plant and Support Services		6,032,000
Total Appropriation, State Highway Facilities		$68,098,000
Personal Services:		
Salaries and Wages	($38,889,000)	
Materials and Supplies.....	(10,436,000)	
Services Other Than Personal.....	(2,438,000)	
Maintenance and Fixed Charges.....	(16,013,000)	
Special Purpose:		
Disposal of Dead Deer	(253,000)	
Microfilm Service Charges	(69,000)	

The unexpended balances as of June 30, 1995 in excess of $1,000,000 in the accounts hereinabove are appropriated.

The department shall be 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.

Receipts in excess of $240,000 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.

Receipts in excess of $600,000 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.

An amount equal to 50% of the receipts in excess of $1,000,000 from 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, is appropriated for the purpose of administering the program subject to the approval of the Director of the Division of Budget and Accounting.

64 Regulation and General Management

05-6070 Access and Use Management		$2,410,000
99-6000 Management and Administrative Services.....		5,830,000
Total Appropriation, Regulation and General Management		$8,240,000
Personal Services:		
Salaries and Wages	($5,187,000)	
Materials and Supplies	(307,000)	
Services Other Than Personal.....	(1,890,000)	
Maintenance and Fixed Charges.....	(78,000)	
Special Purpose:		
Airport Safety Fund	(300,000)	
Affirmative Action and Equal Employment Opportunity Program	(478,000)	

The unexpended balance as of June 30, 1995 in the Airport Safety Fund account together with any receipts in excess of the amount anticipated are appropriated.

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). If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 1995, 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 $145,000 derived from motorbus petition and inspection fees are appropriated for the purpose of administering the Motorbus Regulation program, subject to the approval of the Director of the Division of Budget and Accounting.

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.

Total Appropriation, Department of Transportation		$184,295,000

82 DEPARTMENT OF THE TREASURY

30 Educational, Cultural and Intellectual Development

36 Higher Educational Services

46-2150 Student Assistance Programs		$2,338,000
Total Appropriation, Higher Educational Services		$2,338,000
Personal Services:		
Salaries and Wages	($1,367,000)	
Materials and Supplies	(45,000)	
Services Other Than Personal	(796,000)	
Maintenance and Fixed Charges	(26,000)	
Special Purpose:		
Servicing of Governor's Teachers Scholarship Loans	(83,000)	
Additions, Improvements and Equipment	(21,000)	

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 at page L-36 in the Governor's Budget Recommendation Document dated January 23,1995 first shall be charged to the State Lottery Fund.

50 Economic Planning, Development and Security

52 Economic Regulation

53-2018 Ratepayer Advocacy		$3,517,000
54-2007 Utility Regulation, Gas		1,789,000
54-2008 Utility Regulation, Electric		1,613,000
54-2009 Utility Regulation, Water and Sewer		1,366,000
54-2012 Utility Regulation, Telecommunications		1,050,000
55-2004 Regulation of Cable Television		1,397,000
97-2016 Regulatory and Support Services		3,100,000
99-2003 Management and Administrative Services		5,880,000
Total Appropriation, Economic Regulation		$19,712,000
Personal Services:		
Salaries and Wages	($16,257,000)	
Materials and Supplies	(400,000)	
Services Other Than Personal	(2,257,000)	
Maintenance and Fixed Charges	(454,000)	
Special Purpose:		
Other Special Purpose	(100,000)	
Additions, Improvements and Equipment	(244,000)	

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.

The unexpended balances as of June 30, 1995 in these accounts are appropriated.

Receipts derived from fees, fines, and penalties are appropriated and the unexpended balance as of June 30, 1995 of such receipts is appropriated.

Fees received from the "Electric Facility Need Assessment Act," P.L.1983, c.115 (C.48:7-16 et seq.), are appropriated.

Receipts of the Division of the Ratepayer Advocate in excess of those anticipated are appropriated for the Division of the Ratepayer Advocate to defray the cost 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.

70 Government Direction, Management and Control
72 Governmental Review and Oversight

02-2010 Office of State Planning		$1,255,000
03-2015 Employee Relations		495,000
05-2030 Budget Management and Planning		6,851,000
07-2040 Accounting and Financial Reporting		10,215,000
Total Appropriation, Governmental Review and Oversight		$18,816,000
Personal Services:		
Salaries and Wages	($12,941,000)	
Materials and Supplies	(348,000)	
Services Other Than Personal	(5,206,000)	
Maintenance and Fixed Charges	(102,000)	
Special Purpose:		
General Fixed Asset Account Group, Independent Audit	(45,000)	
Governmental Accounting Standard Board	(29,000)	
Additions, Improvements and Equipment	(145,000)	

The Office of State Planning is authorized to collect reasonable fees for the distribution of its publications, and receipts derived from such fees are appropriated for the Office of State Planning.

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, and the single audit.

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).

There are appropriated out of revenues derived from the collection of fees charged for the issuance of dishonored checks, such sums as are necessary to defray administrative processing costs associated with such checks.

73 Financial Administration

15-2080 Tax Collection Services and Administration		$81,045,000
16-2090 Administration of State Lottery		19,230,000
19-2120 Management of State Investments.		4,097,000
Total Appropriation, Financial Administration		$104,372,000
Personal Services:		
Salaries and wages	($64,240,000)	
Materials and Supplies.....	(2,953,000)	
Services Other Than Personal.....	(35,520,000)	
Maintenance and Fixed Charges.....	(1,659,000)	

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.

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 any other law to the contrary, there are appropriated out of receipts in the Solid Waste Services Tax Fund and the Resource Recovery Investment 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.

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 from the investment earnings of general obligation bond proceeds, such sums as may be necessary for the payment of debt service administrative costs.

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 reimbursements 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.

To the extent that sums appropriated to pay for the Lottery Network Payment Agreement are insufficient, there are appropriated out of the State Lottery Fund such additional sums as may be required to pay debt service on the agreement, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, there are appropriated out of receipts derived from the sale of advertising 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, out of receipts derived from service fees billed to authorities for the handling of investment transactions, such sums as may be necessary to administer the above investment activity.

Notwithstanding the provisions of any other law to the contrary, no amount of the funds appropriated hereinabove shall be expended for the enforcement of any requirement to collect sales tax and use tax on the rent for the occupancy of a room pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.), or collect retail sales tax on the receipt from the hiring of any room in a hotel pursuant to P.L.1947, c.71 (C.40:48-8.15 et seq.), to the extent that the amount of the rent or receipt reflects the inclusion of the fee imposed pursuant to P.L.1991, c.376 (C.40:48-8.45 et seq.).

In addition to the amounts appropriated hereinabove, there is appropriated $1,000,000 which shall be charged to sales and use tax revenue collected on receipts from sales of alcoholic beverages, for the purpose of establishing a sales and use tax reporting and review system for alcoholic beverage wholesalers and retailers.

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 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, 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).

The amount necessary to provide administrative costs incurred by the Division of Taxation to meet the statutory requirements of the "New Jersey Urban Enterprise Zone Act," P.L.1983, c.303 (C.52:27H-60 et seq.) is appropriated from the Unemployment Compensation Auxiliary Fund, subject to the approval of the Director of the Division of Budget and Accounting.

74 General Government Services

09-2050 Purchasing and Inventory Management		$5,069,000
21-2140 Pensions and Benefits		24,922,000
22-2145 Capital City Redevelopment Corporation.		441,000
26-2067 Property Management Services		11,942,000
37-2051 Risk Management		1,834,000
63-2053 Travel Services		151,000
Total Appropriation, General Government Services		$44,359,000
Personal Services:		
Salaries and wages	($27,984,000)	
Materials and Supplies	(1,821,000)	
Services Other Than Personal	(11,449,000)	
Maintenance and Fixed Charges	(2,389,000)	
Special Purpose:		
State Pension System Audit	128,000)	
Capital Marketing Program	(75,000)	
Maintenance--Old Barracks, Trenton (State share)	(375,000)	
Additions, Improvements and Equipment	(138,000)	

The Director of the Division of Budget and Accounting is empowered to transfer or credit to any central data processing center from any appropriation made to any department which had been appropriated or allocated to such department for its share of costs of such data processing center including the replacement of data processing equipment and the purchase of additional data processing equipment.

There are appropriated, out of receipts derived from service fees billed to political subdivisions for the operating costs of the cooperative purchasing program, such sums as may be necessary to administer and operate the above purchasing activity.

Notwithstanding the provision of any other law to the contrary, there are appropriated from receipts derived from vendor registration fees sufficient sums for services and expenses related to the development, letting and administration of commodity or service contracts.

There are appropriated, out of receipts derived from service fees billed to authorities for the handling of insurance procurement and risk management services, such sums as may be necessary to administer the above insurance and risk management activities.

Notwithstanding the provisions of any other law to the contrary, there are appropriated, out of receipts derived from third party subrogation, such sums as may be necessary for the administrative expenses of this program.

Notwithstanding the provisions of P.L.1944, c.112 (C.52:27B-67), there are appropriated out of revenues derived from the sale of surplus State vehicles sufficient sums for the replacement of Central Motor Pool temporary assignment vehicles, 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 Capitol Post Office revolving fund from 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 balance in the State Purchase Fund as of June 30, 1995, and the reimbursements thereto, are appropriated for the purpose of making payments for purchases under R.S.52:25-1 et seq., and for the expenses of handling, storing and transporting purchases so made and for administration of the Distribution Center.

There are appropriated out of the revenues received from the sale of surplus property sufficient sums for the administrative costs of the Distribution Center-Surplus Property Unit.

There are transferred from the savings in property rental accounts derived from warehouse space consolidation and elimination, such sums as may be required to implement and administer the warehouse space utilization program in the Office of Property Management Services, subject to the approval of the Director of the Division of Budget and Accounting.

The savings in the utility accounts derived from energy consumption reduction initiatives are transferred and the revenue re-

ceived from utility companies for such initiatives are appropriated to implement and administer the Energy Conservation Initiatives Program in the Office of Property Management Services, subject to the approval of the Director of the Division of Budget and Accounting.

From the receipts derived from the sale of real property, such sums are appropriated for the costs incurred in the selling of the real property, such as appraisal, survey, advertising, and other costs related to the disposal, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances in the Management of the DEP Properties account as of June 30, 1995 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.

Receipts from employee maintenance charges in excess of $1,100,000 are appropriated for maintenance of employee housing and associated relocation costs; provided, however, that a sum not to exceed $170,000 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 revenues derived from the rental and operation of the War Memorial, such sums as may be necessary to operate and maintain this facility.

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.

The unexpended balances in the State cafeteria accounts as of June 30, 1995, 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 Construction Management Services 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.

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 Building and Construction.

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, the expenses of administration for the various retirement systems and employee benefit programs administered by the Division of Pensions and Benefits and the Division of Investments shall be charged to the pension and health benefits funds established by law to receive employer contributions or payments or to make benefit payments under the programs, as the case may be. In addition to the amounts hereinabove, there are appropriated such sums as may be necessary for administrative costs, which shall include bank service charges, investment services, and any other such costs as are related to the management of the pension and health benefit programs, as the Director of the Division of Budget and Accounting, shall determine. In addition, revenue resulting from such charges to the various pensions and health benefit funds, payable on a schedule to be determined by the Director of the Division of Budget and Accounting, shall be credited to the General Fund as anticipated revenue.

The unexpended balance as of June 30, 1995 in the Pensions and Health Benefits Commission account is appropriated for the same purpose.

There are appropriated sufficient sums as may be required for the expenses of the Pensions and Health Benefits Commission, provided that such appropriation shall be reimbursed to the General Fund from the resources available to the various pensions and health benefits funds.

Notwithstanding the provisions of any law to the contrary, there are appropriated from the Capital City Redevelopment Loan and Grant Fund such sums as may be required to provide for programs and strategies which will enhance the vitality of the 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.

76 Management and Administration

98-2006 Public Contracts Affirmative Action Office		$998,000
99-2000 Management and Administrative Services		9,622,000
Total Appropriation, Management and Administration		$10,620,000
Personal Services:		
Salaries and wages	($4,487,000)	
Materials and Supplies	(27,000)	
Services Other Than Personal	(511,000)	
Maintenance and Fixed Charges	(58,000)	
Special Purpose:		
Federal Liaison Office--Washington, D.C	(23,000)	
Productivity and Efficiency Program	(5,500,000)	
Additions, Improvements and Equipment	(14,000)	

The unexpended balance as of June 30, 1995 in the State Revenue Forecasting Advisory Commission account is appropriated for the same purpose.

The unexpended balances in the Productivity and Efficiency Program are appropriated for the same purpose.

There is appropriated from investment earnings of State funds a sum, not to exceed $640,000, for public finance activities.

Such sums as may be necessary for payment of expenses incurred by issuing officials appointed under the several bond acts of the State are appropriated for the purposes and from the sources defined in those acts.

An amount equivalent to the amount due to be paid in Fiscal Year 1996 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 Public Contracts Affirmative Action Office program and the unexpended balance as of June 30, 1995 of such fees are appropriated for program costs, subject to allotment by the Director of the Division of Budget and Accounting.

Total Appropriation, Department of the Treasury $200,217,000

90 MISCELLANEOUS EXECUTIVE COMMISSIONS

40 Community Development and Environmental Management

43 Science and Technical Programs

9130 Interstate Sanitation Commission

03-9130 Interstate Sanitation Commission .		$315,000
Total Appropriation, Interstate Sanitation Commission		$315,000
Special Purpose:		
Expenses of the Commission	($315,000)	

9140 Delaware River Basin Commission

02-9140 Delaware River Basin Commission		$620,000
Total Appropriation, Delaware River Basin Commission		$620,000
Special Purpose:		
Expenses of the Commission	($620,000)	

70 Government Direction, Management and Control

76 Management and Administration

9147 Governor's Performance Review Initiative

90-9147 Governor's Performance Review Initiative		$975,000
Total Appropriation, Governor's Performance Review Initiative		$975,000
Special Purpose:		
Expenses of the Commission	($975,000)	

The unexpended balance as of June 30, 1995 in this account is appropriated.

Total Appropriation, Miscellaneous Executive Commissions $1,910,000

94 INTER-DEPARTMENTAL ACCOUNTS

70 Government Direction, Management and Control

74 General Government Services

9400 Property Rentals, Insurance and Other Services

01-9400 Property Rentals		$222,909,000
02-9400 Insurance and Other Services		53,140,000
06-9400 Utilities and Other Services.....		19,200,000
Total Appropriation, Property Rentals, Insurance and Other Services		$295,249,000
Materials and Supplies	($16,200,000)	
Services Other Than Personal.....	(3,000,000)	

Maintenance and Fixed Charges	
Rent:	
Existing and Anticipated Leases	(149,523,000)
Mercer County Improvement Authority	(7,298,000)
Economic Development Authority	(14,220,000
New Jersey Sports and Exposition Authority	(35,319,000)
New Jersey Building Authority	(36,436,000)
Other Debt Service Leases and Tax Payments	(17,511,000)
Less:	
Direct Charges and Charges to Non-State Fund Sources	*(37,398,000)*
Insurance Premiums:	
Property Insurance	(3,400,000)
Casualty Insurance	(852,000)
Special Insurance Policies	(188,000)
Special Purpose:	
Tort Claims Liability Fund (C.59:12-1)	(12,000,000)
Workers' Compensation Self-Insurance Fund	(30,000,000)
Vehicle Claims Liability Fund	(5,700,000)
Self-Insurance Deductible Fund	(800,000)
Self-Insurance Fund-Foster Parents	(200,000)

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 Office of Property Management and subject to approval or disapproval by the State Leasing and 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.

An amount not to exceed $3,000,000 shall be appropriated to implement the Facilities Master Plan, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Newark Performing Arts Center account shall be used to pay the State's obligations pursuant to a lease with the New Jersey Economic Development Authority for the lease of real property and infrastructure improvements and the Performing Arts Center structure to be 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 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.

The unexpended balance as of June 30, 1995 in the Master Lease Program Fund is appropriated for the same purpose.

The unexpended balance as of June 30, 1995 in the Tort Claims Liability Fund account created by N.J.S.A.59:12-1 is appropriated for the same purpose.

There are appropriated such additional sums as may be required to pay tort claims under N.J.S.A.59:12-1, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Tort Claims Liability Fund under N.J.S.A.59:12-1 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.

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 hereinabove for the Workers' Compensation Self-Insurance Fund under R.S.34:15-1 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.

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 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 balances as of June 30, 1995 in the Inter-Departmental accounts for automobile insurance are appropriated as a reserve for payment of vehicular claims settlements and judgments, payment of vendored claims, investigative costs, or for the reallocation to departments based on loss experience.

The amount appropriated 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 unexpended balances as of June 30, 1995 in the Self-Insurance Deductible Fund, and in the Workers' Compensation Self-Insurance Fund are appropriated for the same purposes.

The unexpended balance as of June 30, 1995, not to exceed $200,000, in the Self-Insurance Fund-Foster Parents is appropriated for the same purpose.

The sums hereinabove are available for payment of obligations applicable to prior fiscal years.

The unexpended balance as of June 30, 1995 in the Vehicle Claims Liability Fund is appropriated for the same purpose.

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.

There are appropriated such additional sums as may be required to pay all insurance costs incurred by the county courts on and after January 1, 1995, at which time these responsibilities pass to the State pursuant to the "State Judicial Unification Act," P.L. 1993, c.275 (C.2B:10-1 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

9410 Employee Benefits

03-9410 Employee Benefits		$1,179,299,000
Total Appropriation, Employee Benefits.		$1,179,299,000
Special Purpose:		
Heath Act	($20,000)	
Veterans' Act	(240,000)	
Judicial Retirement System	(15,600,000)	
Prison Officers' Pension Fund	(2,800,000)	
Public Employees' Retirement System	(96,646,000)	
Social Security Tax - State	(335,092,000)	
State Police Retirement System	(29,900,000)	
Dental Care Program, Shared Cost	(19,700,000)	
State Employees' Health Benefits	(501,800,000)	
Prescription Drug Program	(64,300,000)	
Pension Adjustment Act	(1,619,000)	
P.E.R.S. Minimum Pension Benefit Act-Pre-1955 Retirees	(40,000)	
Alternate Benefits Program - Employer Contributions	(68,857,000)	
Teachers' Pension and Annuity Fund and Non-Contributory Group Life Insurance Benefits - State	(5,806,000)	
Unemployment Insurance - Employer Liability	(4,037,000)	
Temporary Disability Insurance	(10,824,000)	
Police and Firemen's Retirement System (P.L.1979, c.109)	(20,827,000)	
Police and Firemen's Retirement System, P.L.1944, c.255 (C.43:16A-1 et seq.)	(58,391,000)	
Vision Care	(1,700,000)	

Less:

Savings From State Health Benefits Plan	*(48,900,000)*
Savings From Smarter Procurement.....	*(5,000,000)*
Savings From Reduction In Use of Consultants	*(5,000,000)*

There is appropriated a sufficient amount in order that upon application to the Director of the Division of Budget and Accounting, an annuity of $4,000 shall be paid to the widow 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 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 Unemployment Compensation liability are appropriated as the Director of Budget and Accounting shall determine.

Such additional sums as may be required for Social Security Tax, may be allotted from the various departmental operating appropriations to this account, or may be appropriated 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.

In addition to the sums hereinabove for the Employee Benefits program classification, the Director of the Division of Budget and Accounting shall transfer or credit to these accounts the sum of $5,000,000 from appropriations made to various spending agencies for consultants to reflect savings from reduction in the use of consultants as determined by the director. This additional sum shall be appropriated for the Employee Benefits program classification.

Of the amounts hereinabove for the Pension Adjustment Act, 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.

Notwithstanding the provisions of the Pension Adjustment Act, P.L.1985, 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 sums hereinabove for the Employee Benefits program classification, the Director of the Division of Budget and Accounting shall transfer or credit to these accounts the sum of $5,000,000 from appropriations made to various spending agencies for telephone, motor pool, and other operating accounts to reflect savings as a result of Statewide initiatives for more cost-effective procurement, as determined by the Director. This additional sum shall be appropriated for the Employee Benefits program classification.

9420 State Contingency Fund

04-9420 State Contingency Fund		$40,214,000
Total Appropriation, State Contingency Fund		$40,214,000
Special Purpose:		
To the Governor, for allotment to the various departments or agencies, to meet any condition of emergency or necessity; provided, however, that a sum not in excess of $5,000 shall be available for the expense of officially receiving dignitaries and for incidental expenses, including lunches for non-salaried board members and others for whom official reception shall be beneficial to the State	($2,000,000)	
Contingencies-Food and Services	(1,500,000)	
Interest on Short Term Notes	(25,400,000)	
Less:		
Interest Earned	*(25,000,000)*	
Notes Issuance Expenses - Underwriter's Costs	(600,000)	
Catastrophic Illness in Children Relief fund - Employer Contributions	(110,000)	
Repayment to the Temporary Disability Insurance Fund	(13,000,000)	
Juvenile Justice Reform Initiative	(10,000,000)	
Statewide 911 Emergency Telephone System	(12,604,000)	

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.

The Director of the Division of Budget and Accounting shall transfer to the agency which will house the Juvenile Administration the amount for the Juvenile Justice Reform Initiative.

The unexpended balance in excess of $75,000 as of June 30, 1995 in the Local Exam and Discrimination Adjudication Costs account is appropriated.

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 contingency, as a reward for the capture and return of Joanne Chesimard.

9430 Salary and Other Benefits

05-9430 Salary and Other Benefits.....		$53,974,000
Total Appropriation, Salary and Other Benefits		$53,974,000
Special Purpose:		
Salary and Benefits Increases-Increments	($27,902,000)	
Salary and Benefits Increases-Deferred Cost of Prior Contract (COLA and Increments)	(27,772,000)	
Unused Accumulated Sick Leave Payments	(3,300,000)	
Less:		
Savings From Overtime and Other Initiatives	*(5,000,000)*	

The sums hereinabove appropriated to the various State departments, agencies, commissions, or institutions of higher education for the cost of salaries, wages, or other benefits shall be allotted as the Director of the Division of Budget and Accounting shall determine.

Any sums appropriated for salaries 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 in any educational institution for which appropriations are made to Rutgers, The State University; the University of Medicine and Dentistry of New Jersey, the State Colleges or to the State Treasurer for the New Jersey Institute of Technology; or holding office, position or employment under the Palisades Interstate Park Commission or the Pinelands Commission.

In addition to the amount hereinabove for Unused Accumulated Sick Leave Payments, there are appropriated such additional sums as may be necessary for payments of unused accumulated sick leave.

No salary range or rate of pay shall be increased or paid in any State department, agency, or commission without the approval of the Commissioner of Personnel and the Director of the Division of Budget and Accounting. Nothing herein shall be

construed as applicable to unclassified personnel of the Legislative Branch, or the unclassified personnel of the Judicial Branch.

Notwithstanding the provisions of any other laws, including R.S.34:15-49 and section 1 of P.L.1981, c.353 (C.34:15-49.1), the State Treasurer, the Commissioner of Personnel, and the Director of the Division of Budget and Accounting shall establish directives governing salary ranges and rates of pay, including salary increases. The implementation of such directives shall be made effective at the first full pay period of Fiscal Year 1996 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.

In addition to the sums hereinabove for Salary and Other Benefits, the Director of the Division of Budget and Accounting shall transfer or credit to this classification a sum of up to $5,000,000 from appropriations made to various spending agencies salary accounts to reflect savings from overtime or other initiatives to reduce salary expenditures. This additional sum is appropriated for the Salary and Other Benefits classification.

Total Appropriation, Inter-Departmental Accounts	$1,568,736,000

THE JUDICIARY

10 Public Safety and Criminal Justice

15 Judicial Services

01-9710	Supreme Court	$3,457,000
02-9715	Superior Court--Appellate Division	11,771,000
03-9720	Civil Courts	71,307,000
04-9725	Criminal Courts	62,380,000
05-9730	Family Courts	61,373,000
06-9735	Municipal Courts	854,000
07-9740	Probation Services	89,124,000
08-9745	Court Reporting	5,586,000
09-9750	Legal and Professional Services	1,156,000
10-9755	Information Services	10,905,000

11-9760 Field Operations		30,393,000
12-9765 Management and Administration		5,047,000
Total Appropriation, Judicial Services		$353,353,000
Personal Services:		
Chief Justice	($120,000)	
Associate Justices	(690,000)	
Judges	(40,960,000)	
Salaries and Wages	(228,262,000)	
Materials and Supplies	(11,241,000)	
Services Other Than Personal	(35,448,000)	
Maintenance and Fixed Charges	(2,402,000)	
Special Purpose:		
Rules Development	(155,000)	
Alternative Dispute Resolution	(80,000)	
Speedy Trial Program, Case Processing Improvement	(50,000)	
Child Placement Review Advisory Council	(75,000)	
Child Support and Paternity Program (Title IV-D)	(3,447,000)	
Intensive Supervision Program	(5,847,000)	
Juvenile Intensive Supervision Program	(2,067,000)	
Child Support and Paternity Program (Title IV-D)	(17,833,000)	
Affirmative Action and Equal Employment Opportunity	(183,000)	
Additions, Improvements and Equipment	(4,493,000)	

The unexpended balance as of June 30, 1995 in Special Purpose accounts is appropriated 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 to these funds.

The unexpended balance as of June 30, 1995 in these respective accounts up to $8,100,000 is appropriated subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the sums hereinabove for Salaries and Wages within the Field Operations and Management and Administration program classifications, the Director of the Administrative Office of the Courts, subject to the approval of the Director of the Division of Budget and Accounting, may transfer to these Salary and Wages accounts, a sum of up to $7,239,000 from other appropriations in the Judiciary to reflect the savings throughout the Judiciary for management efficiencies due to consolidation of administrative functions.

Receipts from charges to the Superior Court Trust Fund, Clients' Security Fund, Ethics Financial Committee, Board of Trial Attorney Certification, Bar Admission Financial Committee, Automated Traffic System Fund Comprehensive Enforcement Program, and Courts Computerized Information Systems Fund are appropriated for services provided to these funds.

Notwithstanding the provisions of N.J.S.2B:2-4, the salaries of the Associate Justices of the Supreme Court shall be fixed and established at $115,000 per year.

Total Appropriation, Judiciary		$353,353,000
Total Appropriation, Direct State Services		$5,117,837,000

GRANTS-IN-AID

10 DEPARTMENT OF AGRICULTURE

40 Community Development and Environmental Management

42 Natural Resource Management - Grants-In-Aid

03-3330 Resource Development Services		$5,799,000
Total Appropriation, Natural Resource Management		$5,799,000
Grants:		
Farm Management and Training Initiative	($149,000)	
Production Efficiency and Agricultural Business Development Incentive	(5,650,000)	

An amount not to exceed 5% of the amount appropriated for the Production Efficiency and Agricultural Business Development Incentive grant program shall be available for administration of the program.

The expenditure of funds for Production Efficiency and Agricultural Business Development Incentive grants shall be based upon an expenditure plan subject to the approval of the Director of the Division of Budget and Accounting.

50 Economic Planning, Development and Security

51 Economic Planning and Development - Grants-In-Aid

06-3360 Marketing Services		$415,000
Total Appropriation, Economic Planning and Development		$415,000
Grants:		
Promotion/Market Development	($150,000)	
New Jersey Museum of Agriculture	(265,000)	
Total Appropriation, Department of Agriculture		$6,214,000

20 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

50 Economic Planning, Development and Security

51 Economic Planning and Development

2890 New Jersey Commission on Science and Technology--Grants-In-Aid

24-2890 New Jersey Commission on Science and Technology		$14,684,000
Total Appropriation, New Jersey Commission on Science and Technology		$14,684,000
Grants:		
Center for Advanced Food Technology	($1,357,000)	
Center for Hazardous Substance Management Research	(2,624,000)	
Tex Center for Fisheries Development and Aquaculture	(180,000)	
Business Development	(585,000)	
Center for Advanced Biotechnology and Medicine	(2,718,000)	
Center for Biomolecular Agriculture	(855,000)	
Center for Ceramics Research	(2,420,000)	
TEX Center for Polymer Processing	(319,000)	
Center for Photonics and Opto-Electronic Materials	(495,000)	
Center for Computer Aids to Industrial Productivity	(1,039,000)	
TEX Center for Information Services	(238,000)	
Center for Manufacturing Engineering Sciences	(450,000)	
Enhanced Technology Transfer Program (ETTP)	(1,404,000)	

The unexpended balance as of June 30, 1995, from the Science and Technology Grants accounts is appropriated.

Total Appropriation, Department of Commerce and Economic Development	$14,684,000

22 DEPARTMENT OF COMMUNITY AFFAIRS

40 Community Development and Environmental Management

41 Community Development Management--Grants-In-Aid

01-8010 Housing Code Enforcement		$919,000
02-8020 Housing Services		6,460,000
18-8017 Uniform Fire Code		8,571,000
Total Appropriation, Community Development Management		$15,950,000
Grants:		
Cooperative Housing Inspection	($919,000)	
Shelter Assistance	(2,000,000)	

Prevention of Homelessness P.L.1984, c.180 (C.52:27D-280 et seq.)	(4,460,000)
Uniform Fire Code - Local Enforcement Agency Rebates	(8,425,000)
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, 1995, 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 Commissioner 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, reports on January 1, 1996, and March 1, 1996, containing written statistical and financial information on the expenditure of funds from the Shelter assistance account, specifically including the number, location and costs of beds available for occupancy and occupancy rates.

The unexpended balance as of June 30, 1995, in the Prevention of Homelessness account is appropriated.

The unexpended balance in excess of $475,000 as of June 30, 1995, in the Shelter Assistance account is appropriated.

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.

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, 1995, 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.

Such amounts necessary for the payment of principal and interest on outstanding notes of the Hackensack Meadowlands Development

Commission are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

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 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, if the aggregate balance in the closure and post-closure escrow accounts established by the Hackensack Meadowlands Development Commission for the closure and post-closure monitoring of the sanitary landfill facilities operated by the Hackensack Meadowlands Development Commission is in excess of the amount necessary, as calculated pursuant to the financial plan for the closure and post-closure of the sanitary landfill facilities prepared by the Hackensack Meadowlands Development Commission and approved by the Department of Environmental Protection for the proper closure and post-closure monitoring of the sanitary landfill facilities, an amount equal to the excess amount, or $3,005,000, whichever is less, shall be withdrawn from the escrow accounts by the Hackensack Meadowlands Development Commission and paid to the State Treasurer for deposit in the General Fund and the amount so deposited shall be appropriated to the Hackensack Meadowlands Development Commission 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 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 $4,000,000 of the calendar year 1995 interest earnings on the aggregate balance in the closure and post-closure escrow accounts established by the Hackensack Meadowlands Development Commission for the closure and post-closure monitoring of the sanitary landfill facilities operated by the commission shall be withdrawn from the escrow accounts by the Hackensack Meadowlands Development Commission and paid to the State Treasurer for deposit in the General Fund for general State use.

50 Economic Planning, Development and Security

55 Social Services Programs--Grants-In-Aid

05-8050	Community Resources	$7,464,000
07-8052	Sports and Recreation	255,000

08-8060 Programs for the Aging		740,000
15-8051 Women's Programs		1,836,000
Total Appropriation, Social Services Programs		$10,295,000
Grants:		
State Legal Services Office	($2,500,000)	
Center for Hispanic Policy, Research and Development	(1,125,000)	
Recreation For the Handicapped	(500,000)	
Special Olympics	(375,000)	
Trenton Urban Gardening Program	(50,000)	
Camden Urban Gardening Project	(50,000)	
Grant to ASPIRA	(100,000)	
Garden State Games	(150,000)	
U.S. Bicycling Hall of Fame	(30,000)	
Adult Protective Services	(740,000)	
New Program Initiatives for Women	(21,000)	
Hispanic Women's Resource Centers	(400,000)	
Excel Program For Women	(50,000)	
Women's Referral Central	(25,000)	
Job Training Center for Urban Women Act	(315,000)	
Grants to Women's Shelters	(25,000)	
Grants to Displaced Homemaker Centers	(900,000)	
Grant to Bayshore Senior Day Care Center Renovations	(40,000)	
Shrewsbury Township Water Tower Demolition	(50,000)	
Keansburg Municipal Building Rehabilitation	(250,000)	
Keansburg Police Station Renovation	(50,000)	
Middletown Special Municipal Purposes	(75,000)	
Union County Arts Center	(100,000)	
Sussex County Arts and Heritage Council	(25,000)	
Morris 2000	(20,000)	
Tomorrow's Hope-Handicapped Lift, Jackson Township	(20,000)	
Toolan Kiddie Keep Well Camp, Edison	(100,000)	
Grant to St. Joseph's Seniors' Residence, Woodbridge-renovations and van	(150,000)	
Camp Merry Heart, Hackettstown	(60,000)	
Displaced Homemakers of Passaic County	(100,000)	
Keansburg Special Municipal Purposes	(75,000)	
Morris Museum	(200,000)	
Freedom House	(150,000)	
Newark Boys Chorus School	(25,000)	
Hamilton Township (Mercer County) Special Municipal Purposes	(250,000)	
Spotswood Special Purpose - Public Safety	(65,000)	
Aberdeen Police Equipment	(80,000)	

Union Beach Police Equipment	(54,000)
High Bridge Borough Property Acquisition	(500,000)
Ocean Township (Monmouth County) Property Acquisition	(350,000)
Salem County YMCA, Penns Grove Borough	(25,000)
Scotch Plains Special Municipal Purpose, Recreation	(75,000)
Maple Shade Township-Downtown Restoration	(50,000)

In addition to the amounts appropriated hereinabove, there is appropriated $25,000 for a grant to the Monmouth Boys and Girls Club, $25,000 for a grant to the West Side Community Center (Asbury Park), and $25,000 for a grant to the Bucky James Community Center (Long Branch).

Total Appropriation, Department of Community Affairs $26,245,000

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		$110,602,000
Total Appropriation, System-Wide Program Support		$110,602,000
Grants:		
Purchase of Service For Inmates Incarcerated In County Penal Facilities	($91,416,000)	
Purchase of Service For Inmates Incarcerated In Out-Of-State Facilities	(140,000)	
Purchase of Community Services	(17,546,000)	
AMER-I-CAN Pilot Program	(1,500,000)	

A portion of the total amount appropriated for Purchase of Service For Inmates Incarcerated In County Penal facilities is available for operational costs of additional State facilities for inmates 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, 1995 in the Purchase of Service For Inmates Incarcerated In County Penal Facilities account is appropriated for the same purpose.

Total Appropriation, Department of Corrections $110,602,000

34 DEPARTMENT OF EDUCATION

30 Educational, Cultural and Intellectual Development

31 Direct Educational Services and Assistance--Grants-In-Aid

04-5064 Adult and Continuing Education ...		$3,704,000
Total Appropriation, Direct Educational Services and Assistance		$3,704,000
Grants:		
New Jersey Youth Corps	($3,704,000)	

34 Educational Support Services--Grants-In-Aid

30-5063 Academic Programs and Standards		$6,554,000
40-5064 Health, Safety and Community Services		6,000,000
Total Appropriation, Educational Support Services		$12,554,000
Grants:		
Liberty Science Center-School Visit Subsidy Program	($1,700,000)	
Statewide Systemic Initiative to Reform Mathematics and Science Education ...	($750,000)	
College Bound	(3,000,000)	
Governor's School	(974,000)	
GoodStarts	(6,000,000)	
Focus on Literacy	(30,000)	
New Jersey Business/Industry/Science Education Consortium	(100,000)	

The unexpended balance as of June 30, 1995 in the Statewide Systemic Initiative to Reform Mathematics and Science Education program account is appropriated.

The unexpended balance as of June 30, 1995 in the GoodStarts program account is appropriated.

35 Education Administration and Management--Grants-In-Aid

99-5093 Management and Administrative Services		$800,000
Total Appropriation, Education Administration and Management		$800,000
Grants:		
Educational Technology Initiative	($800,000)	

Of the amount appropriated hereinabove, $300,000 shall be used for two grants of $150,000 each to two consortia each including at least one "special needs district" and at least one district from an "I" or "J" district factor group for Educational Technology Initiatives which shall include joint distance learning projects.

37 Cultural and Intellectual Development Services--Grants-In-Aid

54-5010 Support of the Arts		$100,000
Total Appropriation, Cultural and Intellectual Development Services		$100,000
Grants:		
Arts Program for Teenagers	($100,000)	
Total Appropriation, Department of Education		$17,158,000

Of the amount appropriated hereinabove for the Department of Education, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page L-36 in the Governor's Budget Recommendation Document dated January 23, 1995 first shall be charged to the State Lottery Fund.

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

46 Environmental Planning and Administration

26-4805 Regulatory and Governmental Affairs		$50,000
Total Appropriation, Environmental Planning and Administration		$50,000
Grants:		
Environmental Information Center at West Deptford Public Library	($50,000)	
Total Appropriation, Department of Environmental Protection		$50,000

46 DEPARTMENT OF HEALTH

20 Physical and Mental Health

21 Health Services--Grants-In-Aid

02-4220 Family Health Services		$9,169,000
03-4230 Epidemiology, Environmental and Occupational Health Services		1,426,000
04-4240 Alcoholism,Drug Abuse and Addiction Services		18,576,000
12-4245 AIDS Services		12,000,000
Total Appropriation, Health Services		$41,171,000
Grants:		
Family Planning Services	($2,825,000)	
Hemophilia Services	(621,000)	
Testing For Specific Hereditary Diseases	(115,000)	
Special Health Services for Handicapped Children	(2,000,000)	
Chronic Renal Disease Services	(368,000)	
Pharmaceutical Services for Adults With Cystic Fibrosis	(280,000)	
Birth Defects Registry	(25,000)	
Lead Poisoning Program	(395,000)	
Governor's Council on the Prevention of Mental Retardation Statewide Lead Poisoning Education Initiative	(200,000)	
Alzheimer's Disease Program	(615,000)	
Rape Prevention	(500,000)	
Cleft Palate Programs	(350,000)	
Newborn Screening Follow-Up and Treatment for Hemoglobins	(133,000)	
SIDS Assistance Act	(150,000)	
Services to Victims of Huntington's Disease	(250,000)	
National Burn Victim Foundation	(342,000)	
Tuberculosis Services	(197,000)	

Treatment and Control of Drug Resistant Tuberculosis	(354,000)
AIDS Communicable Disease Control	(609,000)
Worker and Community Right to Know	(266,000)
Chelsea House Outpatient Services	(200,000)
Campus Grant Federal Match	(2,070,000)
Continuation of Substance Abuse Treatment Capacity	(2,601,000)
Community Drug Programs (State Share)	(8,092,000)
Vocational Adjustment Centers	(95,000)
Alcoholism Services	(1,033,000)
Compulsive Gambling	(130,000)
Parolee Rehabilitation Project	(370,000)
Medical Support Services for the Homeless	(75,000)
Inmate Residential Drug Treatment	(250,000)
Comprehensive Drug and Alcohol Treatment System	(1,850,000)
In-State Juvenile Residential Treatment Services	(1,810,000)
AIDS Grants	(12,000,000)

From the Family Planning Services account, $10,000 is transferred to the Department of Human Services, Division of Medical Assistance and Health Services for Family planning services.

There is appropriated from the Alcohol Education, Rehabilitation and Enforcement Fund $570,000 to fund the Fetal Alcohol Syndrome program.

An amount not to exceed $1,830,000 is appropriated to the Department of Health from monies deposited in the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58) to fund the Infant Mortality Reduction Program.

The unexpended balance of appropriations, as of June 30, 1995, made to the Department of Health 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.

An amount not to exceed $130,000, 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). Casino penalties collected in excess of those anticipated, not to exceed $600,000, are appropriated to the Department of Health to provide for compulsive gambling grants. The unexpended balance as of June 30, 1995 in this account is appropriated to the Department of Health to provide funds for compulsive gambling grants.

There is appropriated from the Alcohol Education, Rehabilitation and Enforcement Fund $420,000 to fund the Local Alcoholism Authorities-Expansion account.

The unexpended balance as of June 30, 1995 in the Pharmaceutical Services for Adults with Cystic Fibrosis account is appropriated.

If the combination of grants from the Family Planning Services account and the increase of new federal Medicaid funding available to family planning clinics falls below fiscal year 1995 payments to clinics, such additional sums as may be required are appropriated from the Health Care Planning account, not to exceed $285,000, subject to the approval of the Director of the Division of Budget and Accounting.

22 Health Planning and Evaluation--Grants-In-Aid

06-4260 Health Facilities Evaluation		$2,504,000
Total Appropriation, Health Planning and Evaluation		$2,504,000
Grants:		
Implementation of Statewide Health Information Network.....	($2,000,000)	
Emergency Medical Services.....	(79,000)	
Poison Control Center.....	(425,000)	

There are appropriated from the New Jersey Emergency Medical Service Helicopter Response Program Fund established pursuant to section 2 of P.L.1992, c.87 (C.26:2K-36.1) such sums as are necessary to pay the reasonable and necessary expenses of the operation of the New Jersey Emergency Medical Service Helicopter Response Program created 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.

From the amount appropriated for Implementation of Statewide Health Information Network, $250,000 shall be allocated for a grant to the New Jersey Institute of Technology and $250,000 shall be allocated for a grant to Thomas A. Edison State College.

Total Appropriation, Department of Health	$43,675,000

54 DEPARTMENT OF HUMAN SERVICES

20 Physical and Mental Health

23 Mental Health Services

7700 Division of Mental Health Services--Grants-In-Aid

08-7700 Community Services		$147,132,000
Total Appropriation, Division of Mental Health Services		$147,132,000
Grants:		
Marlboro Closure Initiative.....	($2,400,000)	

Community Care	(120,960,000)
Community Mental Health Center--University of Medicine and Dentistry--Newark	(6,272,000)
Community Mental Health Center--University of Medicine and Dentistry--Piscataway	(12,241,000)
Cost of Living Adjustment--Deferred Cost--Community Services	(2,565,000)
Cost of Living Adjustment--Community Services	(2,694,000)

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.

The amount appropriated hereinabove for the Community Mental Health Centers and the amount appropriated to the Department of State for the University of Medicine and Dentistry of New Jersey, and fringe benefits provided to UMDNJ through the Inter-Departmental accounts, is first charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid Uncompensated Care.

Notwithstanding the provisions of any law to the contrary, as a result of the Marlboro closure initiative, an amount shall be transferred from the Inter-Departmental Employee Benefits program classification to the Marlboro Closure Initiative account, subject to the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee.

24 Special Health Services

7540 Division of Medical Assistance and Health Services -- Grants-In-Aid

22-7540 General Medical Services		$1,788,254,000
24-7540 Pharmaceutical Assistance to the Aged and Disabled		46,383,000
Total Appropriation, Division of Medical Assistance and Health Services		$1,834,637,000
Grants:		
Managed Care Initiative	($183,099,000)	
Hospital Health Care Subsidy	(71,550,000)	
Community Care Programs for Elderly and Disabled	(20,878,000)	

Payments for Medical Assistance Recipients - Nursing Homes	(471,113,000)
Payments for Medical Assistance Recipients - High Medicaid Occupancy Nursing Homes	(9,000,000)
Payments for Medical Assistance Recipients - Inpatient Hospital	(327,660,000)
Payments for Medical Assistance Recipients - Prescription Drugs	(152,822,000)
Payments for Medical Assistance Recipients - Outpatient Hospital	(101,664,000)
Payments for Medical Assistance Recipients - Physician	69,367,000)
Payments for Medical Assistance Recipients - Home Health	(41,494,000)
Payments for Medical Assistance Recipients - Medicare B Payments	(50,425,000)
Payments for Medical Assistance Recipients - Dental	(21,405,000)
Payments for Medical Assistance Recipients -County Psychiatric Hospital	(7,458,000)
Payments for Medical Assistance Recipients - Medical Supplies	(20,549,000)
Payments for Medical Assistance Recipients - Clinic	(44,000,000)
Payments for Medical Assistance Recipients - Transportation	(25,896,000)
Payments for Medical Assistance Recipients - Other Services	(40,931,000)
Unit Dose Contract Services	(5,360,000)
Consulting Pharmacy Services	(1,920,000)
Maternal & Child Health Expansion	(28,302,000)
Medicaid Expansion to Age 19 and 100% of Poverty	(3,549,000)
Medicaid expansion--SOBRA	(161,362,000)
Pharmaceutical Assistance to the Aged--Claims	(46,383,000)
Less:	
Health Care Subsidy Fund Offset	*(71,550,000)*

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, 1996 are appropriated for payments to providers in the same program class from which the recovery originated.

The amounts hereinabove appropriated for Payments for Medical Assistance Recipients are available for the payment of obligations applicable to prior fiscal years.

The unexpended balance, not to exceed $60,000,000, in the General Medical Services accounts, is appropriated for payments, subject to the approval of the Director of the Division of Budget and Accounting.

The State appropriation is based on a federal financial participation rate of 48.81%; provided however, that if the federal financial participation rate exceeds this percentage, there will be placed in reserve a portion of the State appropriation equal to the amount of additional federal funds, subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed $70,000 is 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 P.L.1962, c.222 (C.44:7-76 et seq.), the Medical Assistance to the Aged program is eliminated; provided however, that necessary medical services shall be available to those enrolled in the program as of June 30, 1982, until such time that those persons no longer require medical care or are eligible for alternative programs.

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 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. This provision shall apply to all payments made after June 30, 1990.

For the purposes of account balance maintenance, all object accounts in the General Medical Services 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. This provision shall apply to all payments made after June 30, 1990.

Rebates from pharmaceutical manufacturing companies during the fiscal year ending June 30, 1996, for prescription expenditures made to providers on behalf of Medicaid clients are

appropriated for the program Payments for Medical Assistance - Prescription Drugs.

The funds appropriated hereinabove for Payments for Medical Assistance Recipients - High Medicaid Occupancy Nursing Homes shall be distributed among those nursing homes whose Medicaid patient day occupancy level is at or above 75%. Each such facility shall receive its distribution through a prospective per diem rate adjustment according to the following formula: E = A Medicaid Days/T Medicaid Days x F; where E is the entitlement for a specific nursing home resulting from this allocation; A Medicaid Days is an individual nursing homes' reported Medicaid days of June 30, 1995; 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.

A revolving fund for the operation of the Garden State Health Plan is continued until such time as a sale can be implemented, subject to the approval of the Director of the Division of Budget and Accounting. If continuation is necessary, funds shall be allocated from the Managed Care Initiative account and deposited into the fund. There are appropriated for transitional costs additional funds from Garden State Health Plan revolving fund balances or the General Fund, as determined necessary by the Director of the Division of Budget and Accounting.

The State Treasurer is authorized to sell part or all of the assets of the Garden State Health Plan on such terms and conditions as the Treasurer, in consultation with the Commissioner of Human Services, determines to be in the best interest of the State. In addition, payment to a vendor for their assistance in the sale of the Garden State Health Plan shall be paid from the sale of the Garden State Health Plan revenue, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove appropriated for payments for Pharmaceutical Assistance to the Aged, 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 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 benefits shall be void, and no PAAD payments shall be made as a result of any such provision.

Notwithstanding the provisions of section 3 of P.L.1975, c.194 (C.30:4D-22) to the contrary, the copayment in the "Pharmaceutical Assistance to the Aged and Disabled" program shall be $5.00.

Notwithstanding the provisions of any law to the contrary, rebates from pharmaceutical manufacturing companies for prescriptions purchased by the "Pharmaceutical Assistance to the Aged and Disabled" program shall continue throughout fiscal year 1996. All revenues from such rebates during the fiscal year ending June 30, 1996, are appropriated for the "Pharmaceutical Assistance to the Aged and Disabled" program.

Such sums as may be necessary are appropriated from the amount hereinabove for Payments for Medical Assistance Recipients - Nursing Homes to provide for long-term care alternative services for Medicaid eligible individuals residing in Class C boarding homes or residential health care facilities (or portions thereof), which have converted to comprehensive personal care homes and have been licensed by the Department of Health, when these individuals would have otherwise entered a nursing home, subject to both federal approval and approval of the Director of the Division of Budget and Accounting.

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.

The amount appropriated hereinabove for the Division of Medical Assistance and Health Services includes such sums as are necessary to provide nursing home services to persons formerly covered under the General Assistance Program. In order to maximize federal financial participation, the Department of Human Services is authorized to implement

medically needy coverage for long-term care recipients as provided by Title XIX of the Social Security Act.

The Division of Medical Assistance and Health Services, subject to federal approval, shall implement policies that would limit the ability of persons who have the financial ability to provide for their own long-term care needs to manipulate current Medicaid rules to avoid payment for that care. The division shall require, in the case of a married individual requiring long-term care services, that the portion of the couple's resources which are not protected for the needs of the community spouse be used solely for the purchase of long-term care services.

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 that the funds necessary for the contracted utilization review of these hospital services be 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.

Funding for alternative long-term care initiatives is made available from the Payments for Medical Assistance Recipients - Nursing Homes account, subject to both federal waiver approval and approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, of the amount available for expenditure from the Health Care Subsidy Fund established pursuant to P.L.1992, c.160, (C.26:2H-18.58) $71,550,000 is first to be used to fund the Hospital Health Care Subsidy account.

From the amounts appropriated hereinabove for the Health Care Subsidy account, there is allocated an amount of $4,000,000 for hospitals that: (1) received in 1995 less than 50% of that hospital's 1993 "Charity Care" Subsidy payments, (2) receives less than 33% of that hospital's total uncompensated care in subsidy, (3) does not receive any subsidy payments under the "Other Uncompensated Care" subsidy account in 1995, and (4) treats a substantial amount of problem billed cases measured by otherwise currently receiving at least $4,000,000 from the Hospital Relief Fund.

The Department of Human Services shall implement a Pharmacy Benefits Manager (PBM) to manage pharmacy services covered by the Pharmaceutical Assistance to the Aged and Dis-

abled program (PAAD) or an electronic data interchange system for the PAAD program. This system shall be designed to provide enhanced claims processing by implementing drug utilization review (DUR) and point of sale (POS) on-line adjudication of all prescriptions dispensed. The components to be included in a DUR and POS processing system may include, but are not limited to, the following drug edits: (a) duplicate prescriptions or claims; (b) under and over dosage; (c) drug interactions; (d) duplicate therapy; (e) early refills; and (f) adjustment of generic Maximum Allowable Cost.

30 Educational, Cultural and Intellectual Development
32 Operation and Support of Educational Institutions
7601 Community Programs--Grants-In-Aid

01-7601 Purchased Residential Care		$202,510,000
02-7601 Social Supervision and Consultation		23,167,000
03-7601 Adult Activities		79,165,000
Total State, Federal and All Other Funds Appropriation		$304,842,000
Less:		
Casino Revenue Fund - Grants-in-Aid		
Purchased Residential Care	*($14,905,000)*	
Social Supervision and Consultation	*(2,208,000)*	
Adult Activities	*(7,374,000)*	
Total Casino Revenue Fund - Grants-in-Aid		*($24,487,000)*
Less:		
Federal Funds		
Purchased Residential Care	*($74,353,000)*	
Social Supervision and Consultation	*(3,478,000)*	
Adult Activities	*(52,113,000)*	
Total Federal Funds		*($129,944,000)*
Less:		
All Other Funds		
Purchased Residential Care	*($5,437,000)*	
Adult Activities	*(117,000)*	
Total All Other Funds		*($5,554,000)*
Total Appropriation, Community Programs		$144,857,000
Grants:		
Institutional Closure Initiative	($5,100,000)	
Community Services Waiting List Reduction Initiative	(5,000,000)	
Dental Program for Non-Institutionalized Developmentally Disabled and Handicapped Children	(864,000)	
Private Institutional Care	(45,343,000)	
Skill Development Homes	(7,454,000)	
Group Homes	(137,157,000)	
Family Care	(1,592,000)	
Developmental Disabilities Council	(1,185,000)	

Home Assistance	(18,328,000)
Social Services	(3,045,000)
Community Options	(200,000)
Case Management	(409,000)
Purchase of Adult Activity Services	(70,677,000)
Cost of Living Adjustment--Deferred Cost--Community Programs	(4,224,000)
Cost of Living Adjustment--Community Programs	(4,264,000)
Less:	
Casino Revenue Fund - Grants-in-Aid	*(24,487,000)*
Federal Funds	*(129,944,000)*
All Other Funds	*(5,554,000)*

The Division of Developmental Disabilities is authorized to transfer funds from the Dental Program for Non-Institutionalized Developmentally Disabled and Handicapped Children account to the Division of Medical Assistance, 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 Developmentally Disabled and Handicapped Children are committed for the program's support during the subsequent fiscal year, rather than for expansion.

Group home maintenance recoveries during the fiscal year ending June 30, 1996, not to exceed $3,500,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Skill development homes recoveries during the fiscal year ending June 30, 1996, not to exceed $12,000,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Amounts required to return persons with mental retardation or developmental disabilities presently residing in out-of-State institutions to group homes within the State may be transferred from the Private Institutional Care account to the Group Homes account, subject to the approval of the Director of the Division of Budget and Accounting.

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.

The Division of Developmental Disabilities is authorized to transfer funds from the Community Services Waiting List Reduc-

tion Initiative account to the Community Services Waiting List Reduction - Adult Activities Initiative account, subject to the approval of the Director of the Division of Budget and Accounting of an itemized plan for the reduction of the Community Services Waiting List, as shall be submitted by the Commissioner of Human Services.

33 Supplemental Education and Training Programs

7560 Commission For the Blind and Visually Impaired--Grants-In-Aid

11-7560 Habilitation and Rehabilitation		$2,271,000
12-7560 Instruction, Community Programs and Prevention		2,357,000
Total Appropriation, Commission for the Blind and Visually Impaired.....		$4,628,000
Grants:		
Services to Rehabilitation Clients	($1,843,000)	
Cost of Living Adjustment--Habilitation and Rehabilitation.....	(64,000)	
Deferred Cost of Living Adjustment--Habilitation and Rehabilitation.....	(64,000)	
Psychological Counseling Services.....	(149,000)	
Recording For The Blind, Inc.	(49,000)	
Educational Services For Children.....	(2,159,000)	
Services for Children through Age Three.....	(300,000)	

50 Economic Planning, Development and Security

53 Economic Assistance and Security

7540 Division of Medical Assistance and Health Services

28-7540 Lifeline Programs		$39,338,000
Total Appropriation, Division of Medical Assistance and Health Services		$39,338,000
Grants:		
Payments for Tenants Assistance Rebates	($39,338,000)	

7550 Division of Family Development--Grants-In-Aid

15-7550 Income Maintenance Management		$48,671,000
Total Appropriation, Division of Family Development		$48,671,000
Grants:		
Minority Male Initiative.....	(228,000)	
Community Law Health Project.....	(112,000)	
Food Stamp Employment -Transportation	(105,000)	
Social Services for the Homeless.....	(7,553,000)	
Cost of Living Adjustment.....	(360,000)	
Deferred Cost of Living	(371,000)	
Family Development Initiative.....	(39,635,000)	
Mini Child Care Center Project Grants	(307,000)	

The commissioner 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 Job Opportunities and Basic Skills Training (JOBS) program and the Family Development Initiative (FDI).

From the amount appropriated hereinabove for the Family Development Initiative $240,000 shall be used to establish a program in Gloucester County.

In addition to the amounts hereinabove for the Family Development Initiative account, an amount not to exceed $8,000,000 is appropriated from the New Jersey Workforce Development Partnership Fund, P.L. 1992, c. 44 (C.34:15D-12 et seq.).

55 Social Services Programs

7570 Division of Youth and Family Services--Grants-In-Aid

16-7570 Initial Response/Case Management		$3,735,000
17-7570 Substitute Care		143,209,000
18-7570 General Social Services		155,498,000
99-7570 Management and Administrative Services		1,554,000
Total State and Federal Appropriation		$303,996,000
Less:		
Casino Revenue Fund - Grants-in-Aid		
General Social Services	*($3,643,000)*	
Total Casino Revenue Fund - Grants-in-Aid		*($3,643,000)*
Less:		
Federal Funds		
Initial Response/Case Management	*($3,735,000)*	
Substitute Care	*(34,813,000)*	
General Social Services	*(37,534,000)*	
Management and Administrative Services	*(1,085,000)*	
Total Federal Funds		*($77,167,000)*
Total Appropriation, Division of Youth and Family Services		$223,186,000
Grants:		
Initial Response/Case Management	($1,519,000)	
Restricted Grants	(2,216,000)	
Substitute Care	(1,371,000)	
Aid To Bergen County Domestic Violence Pilot Program	(200,000)	
Other Residential Placements	(11,509,000)	
Medically Fragile/Nursing Services Expansion	(614,000)	
Residential/Group Home Placements	(51,930,000)	
Foster Care	(31,991,000)	
Subsidized Adoption	(28,240,000)	

Special Home Services Providers	(8,279,000)
Cost of Living Adjustment-- Substitute Care	(2,817,000)
Deferred Cost of Living Adjustment-- Substitute Care	(2,622,000)
Domestic Violence Program	(3,636,000)
West Side Community Center, Asbury Park	(80,000)
Child Assault Prevention Project	(1,060,000)
Purchase of Day Care Services	(39,812,000)
Purchase of Social Services	(30,106,000)
Public Awareness for Child Abuse Prevention Programs	(234,000)
Cost of Living Adjustment-- General Social Services	(1,547,000)
Deferred Cost of Living Adjustment-- General Social Services	(1,477,000)
School Based Youth Services Program	(7,281,000)
School Based Mental Health/Child Abuse Outreach	(1,000,000)
Family Growth Program - Catholic Charities, Trenton	(100,000)
Child Care Center Equipment and Renovation Fund	(119,000)
Family Support Services	(41,608,000)
Child Abuse Prevention	(9,740,000)
Regional Child Abuse Treatment Centers	(403,000)
Office of Refugee Resettlement - Social Services	(3,877,000)
County Human Services Advisory Boards--Formula Funding	(9,704,000)
Children's and Families' Initiative	(1,100,000)
Fisherman's Mark for Child Care and Support Services	(134,000)
Personal Attendant Program	(6,116,000)
Family Day Care Provider Registration Act	(469,000)
Children's Justice Act	(350,000)
National Center for Child Abuse and Neglect	(525,000)
Child Abuse and Neglect State Grant - Disabled Infants	(210,000)
Less:	
Casino Revenue Fund - Grants-in-Aid	*(3,643,000)*
Federal Funds	*(77,167,000)*

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 recruit-

ment and training first shall be approved by the Director of the Division of Budget and Accounting.

The sums hereinabove for the Residential/Group Home Placements, Foster Care, Subsidized Adoption, and Family Support Services accounts are available for the payment of obligations applicable to prior fiscal years.

Receipts in the Marriage License Fee Fund in excess of the amount anticipated are appropriated.

Of the amount hereinabove appropriated for the Domestic Violence Program account, $1,409,000 is payable out of the Marriage License Fee Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

The Department of Human Services shall provide a list of the County Human Service Advisory Boards contracts to the Director of the Division of Budget and Accounting on or before September 30, 1995. 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, 1996, 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 Group Home Placements account to the appropriate Substitute Care or General Social Services 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.

The amount appropriated hereinabove for School Based Mental Health/Child Abuse Outreach shall be used for a pilot program for Psychiatric Liaisons to be implemented and operated by St. Clares Riverside Medical Center in Sussex and Morris counties.

Of the amount appropriated hereinabove for Regional Child Abuse Treatment Center, $200,000 shall be allocated for a new Regional Child Abuse and Diagnostic Treatment Center at Hackensack Medical Center.

Notwithstanding the provisions of any law to the contrary, amounts that become available as a result of the privatization of services at the five remaining State-operated day care centers, the Teaching Family Home program, and the Cedar Grove Residential center, that are now directly provided by the Division of Youth and Family Services may be transferred to the appropriate Grants-In-Aid accounts subject to the approval of the Director of the Division of Budget and Accounting.

7580 Division of the Deaf and Hard of Hearing--Grants-In-Aid

23-7580 Services for the Deaf		$54,000
Total Appropriation, Division of the Deaf and Hard of Hearing		$54,000
Grants:		
Telecommunication Devices For The Indigent Deaf	($54,000)	

56 Juvenile Services

7593 Division of Juvenile Services--Grants-In-Aid

34-7593 Juvenile Rehabilitation		$2,225,000
Total Appropriation, Division of Juvenile Services		$2,225,000
Grants:		
Alternatives to Juvenile Incarceration Programs	($2,161,000)	
Cost of Living Adjustment - Juvenile Rehabilitation	(32,000)	
Deferred Cost of Living Adjustment - Juvenile Rehabilitation	(32,000)	

70 Government Direction, Management and Control

76 Management and Administration

7500 Division of Management and Budget--Grants-In-Aid

87-7500 Research, Policy and Planning		$642,000
Total Appropriation, Division of Management and Budget		$642,000
Grants:		
Office of Prevention of Mental Retardation and Developmental Disabilities	($642,000)	
Total Appropriation, Department of Human Services		$2,445,370,000

62 DEPARTMENT OF LABOR

50 Economic Planning, Development and Security

54 Manpower and Employment Services--Grants-In-Aid

07-4535 Vocational Rehabilitation Services		$17,656,000
Total Appropriation, Manpower and Employment Services		$17,656,000
Grants:		
Services to Clients (State Share)	($3,458,000)	
Supported Employment Services	(450,000)	
Sheltered Workshop Support	(11,824,000)	

Sheltered Workshop Employment Placement Incentive Program	(1,250,000)	
Services for Deaf Individuals	(170,000)	
Independent Living Centers	(500,000)	
Training (State share)	(4,000)	

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 $14,364,000 is appropriated from the Unemployment Compensation Auxiliary Fund.

Total Appropriation, Department of Labor		$17,656,000

DEPARTMENT OF LAW AND PUBLIC SAFETY

10 Public Safety and Criminal Justice

12 Law Enforcement--Grants-In-Aid

08-1200 Emergency Services		$265,000
Total Appropriation, Law Enforcement--Grants-In-Aid		$265,000
Grants:		
Nuclear Emergency Response Program ...	($265,000)	
Total Appropriation, Department of Law and Public Safety		$265,000

67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS

10 Public Safety and Criminal Justice

14 Military Services--Grants-In-Aid

40-3620 New Jersey National Guard Support Services		$25,000
Total Appropriation, Military Services		$25,000
Grants:		
Civil Air Patrol	($25,000)	

80 Special Government Services

83 Services to Veterans

3610 Veterans' Program Support--Grants-In-Aid

50-3610 Veterans' Outreach and Assistance		$1,120,000
Total Appropriation, Veterans' Program Support		$1,120,000
Grants:		
Veterans' Tuition Credit Program	($54,000)	
POW/MIA Tuition Assistance	(17,000)	
Vietnam Veterans' Tuition Aid	(32,000)	
Veterans Transportation	(325,000)	
Veterans' Orphan Fund--Education Grants	(9,000)	
Blind Veterans' Allowances	(46,000)	
Paraplegic and Hemiplegic Veterans' Allowance	(237,000)	
Post-Traumatic Stress Disorder	(400,000)	

The sums provided hereinabove and the unexpended balances as of June 30, 1995 in the Veterans' Tuition Credit, MIA-POW Tuition Assistance and the Vietnam Veterans' Tuition Aid accounts are appropriated and available for payment of liabilities applicable to prior fiscal years.

Total Appropriation, Department of Military and Veterans' Affairs	$1,145,000

74 DEPARTMENT OF STATE

30 Educational, Cultural and Intellectual Development

36 Higher Educational Services--Grants-In-Aid

60-2600 Statewide Planning and Coordination for Higher Education		$1,150,000
61-2601 Educational Opportunity Fund Program		31,212,000
Total Appropriation, Higher Educational Services		$32,362,000
Grants:		
Higher Education for Special Needs Students	($750,000)	
Program for the Education of Language Minority Students	(400,000)	
Opportunity Program Grants	(19,410,000)	
Supplementary Education Program Grants	(11,000,000)	
Martin Luther King Physician-Dentist Scholarship Act of 1986	(602,000)	
Ferguson Law Scholarships	(200,000)	

An amount not to exceed 5% of the total of Higher Education for Special Needs Students and Program for the Education of Language Minority Students accounts is available for the administrative expenses of these programs.

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 at page L-36 in the Governor's Budget Recommendation Document dated January 23,1995 first shall be charged to the State Lottery Fund.

Refunds from prior years to the Educational Opportunity Fund program accounts are appropriated to those accounts.

30 Educational, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services--Grants-In-Aid

05-2530 Support of the Arts		$10,175,000
07-2540 Development of Historical Resources		225,000
Total Appropriation, Cultural and Intellectual Development Services		$10,400,000
Grants:		
Cultural Projects	($10,175,000)	

Grants in New Jersey History	(210,000)
Grants in Afro-American History	(15,000)

The State Council on the Arts may require of recipient groups, and in the case of those receiving over $100,000 shall require, that those groups demonstrate a Statewide benefit as a result of the grants.

Of the amount hereinabove for Cultural Projects, 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 hereinabove for Cultural Projects, an amount not to exceed $125,000 may be used for the audit of cultural projects as required under the provisions of 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, funds may be used for the purpose of matching federal grants.

A sum, not to exceed $200,000, 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 the cultural center development of State grants, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount appropriated hereinabove for Support of the Arts, there is appropriated $3,000,000 for a grant to the New Jersey Symphony.

In addition to the amount appropriated hereinabove, there is appropriated $100,000 for a grant to the Humanities Council.

Total Appropriation, Department of State	$42,762,000

78 DEPARTMENT OF TRANSPORTATION

60 Transportation Programs

62 Public Transportation--Grants-In-Aid

04-6050 New Jersey Transit Corporation-Operations		
Bus Operations		$302,500,000
Rail Operations		300,000,000
Corporate Operations		158,400,000
Purchased Transportation		70,000,000
Total All Operations		$830,900,000
Less:		
Federal Operating Assistance	*($23,700,000)*	
Farebox Revenue	*(392,900,000)*	
Other Resources	*(180,100,000)*	
Total Income Deductions		*($596,700,000)*
Total Appropriation, Public Transportation		$234,200,000

Personal Services:	
Salaries and Wages	($507,300,000)
Materials and Supplies	(117,100,000)
Services Other Than Personal	(46,500,000)
Special Purpose:	
Leases and Rentals	(2,200,000)
Purchased Transportation	(70,000,000)
Insurance and Claims	(30,900,000)
Tolls, Taxes and Other Operating Expenses	(54,400,000)
Atlantic City Rail Line, takeover Amtrak Operations	(2,500,000)
Less:	
Federal Operating Assistance	*($23,700,000)*
Farebox Revenue	*(392,900,000)*
Other Resources	*(180,100,000)*

64 Regulation and General Management--Grants-In-Aid

05-6070 Access and Use Management	$550,000
Total Appropriation, Regulation and General Management	$550,000

Grants:	
Airport Safety Fund	($550,000)

The unexpended balance as of June 30, 1995 in the Airport Safety Fund account together with any receipts in excess of the amount anticipated are appropriated.

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). If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

Total Appropriation, Department of Transportation	$234,750,000

82 DEPARTMENT OF THE TREASURY

30 Educational, Cultural and Intellectual Development

36 Higher Educational Services--Grants-In-Aid

46-2150 Student Assistance Programs	$124,790,000
47-2155 Support To Independent Institutions	23,215,000
49-2155 Miscellaneous Higher Education Programs	28,638,000
Total Appropriation, Higher Educational Services	$176,643,000

Grants:	
Veterinary Medicine Education Program.	($1,337,000)
Schools of Professional Nursing	(316,000)
Tuition Aid Grants, P.L.1968, c.429 (C.18A:71-41 et seq.)	(114,560,000)
Garden State Scholarships	(2,662,000)
Public Tuition Benefits Grants	(65,000)
Edward J. Bloustein Distinguished Scholars Program	(3,600,000)
Urban Scholarships	(1,300,000)

Part-Time Tuition Aid Grants-EOF Students	(400,000)	
Minority Academic Careers Program.....	(550,000)	
Aid to Independent Colleges and Universities	(20,190,000)	
Dental School Aid - Fairleigh Dickinson University.....	(1,600,000)	
Einstein Chair For Scholarly Studies at the Institute for Advanced Study.....	(65,000)	
Richard J. Hughes Chair for Constitutional and Public Law and Service at Seton Hall University	(65,000)	
Alfred E. Driscoll Chair in Pharmaceutical/ Chemical Studies, Fairleigh Dickinson University.....	(65,000)	
Laurie Chair in Women's Studies at Douglass College.....	(75,000)	
Will and Ariel Durant Chair in the Humanities at St. Peter's College.....	(65,000)	
Small Business and Entrepreneurship Chair at Rutgers.....	(65,000)	
Raoul Wallenberg Visiting Professorship in Human Rights-Rutgers University	(100,000)	
Millicent Fenwick Research Professorship in Education at Monmouth University.....	(75,000)	
Research Under Contract With The Institute of Medical Research, Camden	(850,000)	
Equipment Leasing Fund - Debt Service .	(19,304,000)	
Higher Education Facilities Trust Fund - Debt Service.....	(8,769,000)	
Marine Sciences Consortium	(565,000)	
Total Appropriation, Higher Educational Services		$176,643,000
Total Appropriation, Department of the Treasury		$176,643,000

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 46,235 for fiscal year 1995.

The sums provided hereinabove for Research under Contract with the Institute of Medical Research, Camden (Coriell Institute) shall be expended on support for research activities, and the Institute shall submit an annual audited financial statement to the Department of the Treasury which shall include a schedule showing the use of these funds.

The sums provided hereinabove and the unexpended balances as of June 30, 1995 in Student Assistance Programs are appropriated and available for payment of liabilities applicable to prior fiscal years except that balances remaining in the Graduate Fellowship program shall lapse.

Amounts from the unexpended balance as of June 30, 1995, including refunds recognized after July 31, 1994, in the Tuition Aid Grants account are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Each public institution participating in the Tuition Aid Grant program shall provide institutional grants to students eligible for the maximum Tuition Aid Grant (TAG) award for that institution in an amount equal to the difference between the maximum TAG award for the institution and the institution-s's actual 1995-96 tuition rate.

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 at page L-36 in the Governor's Budget Recommendation Document dated January 23,1995 first shall be charged to the State Lottery Fund.

Total Appropriation, Grants-In-Aid $3,137,219,000

STATE AID

20 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

50 Economic Planning, Development and Security

51 Economic Planning and Development--State Aid

20-2800 Economic Development..... $3,648,000

Total Appropriation, Economic Planning and Development $3,648,000

State Aid:

Debt Service Reserve Fund Requirements, Section 14 of P.L. 1968, c.60 (C.12:11A-14) ($3,648,000)

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 Reserve Fund" under section 14 of P.L.1968, c.60 (C.12:11A-14) and the "South Jersey Port Corporation Reserve Fund" under section 20 of P.L.1968, c.60 (C.12:11A-20), the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

Total Appropriation, Department of Commerce and Economic Development..... $3,648,000

22 DEPARTMENT OF COMMUNITY AFFAIRS

40 Community Development and Environmental Management

41 Community Development Management--State Aid

02-8020 Housing Services..... $16,675,000

04-8030 Local Government Services 36,600,000

06-8015 Uniform Construction Code		46,000
Total Appropriation, Community Development Management		$53,321,000
State Aid:		
Neighborhood Preservation (P.L.1975, c.248 and c.249)	($2,750,000)	
Neighborhood Preservation - Fair Housing (P.L.1985, c.222)	(13,925,000)	
Aid for GAAP Accounting Implementation	(3,000,000)	
Payment to Urban Centers - Raze Vacant Buildings	(250,000)	
Municipal Memberships in Building Codes Association	(46,000)	
Legislative Initiative Municipal Block Grant Program	(33,000,000)	
Aid to Depressed Rural Centers	(200,000)	
Special Municipal Purposes Beachwood Borough	(150,000)	

Of the sum hereinabove for Neighborhood Preservation, a sum not to exceed $300,000 may be used for administration of the program and technical assistance, and up to $300,000 for matching on a 50/50 basis for the administrative costs of the Federal Small Cities Block Grant.

The unexpended balance as of June 30, 1995 in the Neighborhood Preservation-Fair Housing account is appropriated.

The unexpended balance as of June 30, 1995, in the Relocation Assistance account is appropriated.

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 $1,000,000 may be used to provide technical assistance grants to non-profit organizations for creating affordable housing opportunities.

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.

The unexpended balance as of June 30, 1995 in the Safe and Clean: Expanded Police Services account is appropriated.

The unexpended balance as of June 30, 1995 in the Supplementary Aid for Fire Services account is appropriated.

A portion of the amount hereinabove for Aid for GAAP Accounting Implementation shall be available for State agency implementation and support costs, subject to the approval of the Director of the Division of Budget and Accounting. Any training provided to municipal governments funded from Aid for GAAP Accounting Implementation shall be through purely voluntary local interest and nothing provided in this act shall require any municipality to adopt GAAP accounting or to participate in a program to encourage GAAP accounting.

Notwithstanding any provisions of the Local Budget Law, P.L.1960, c.169 (C.40A:4-1 et seq.), to the contrary, the Director of the Division of Local Government Services may require any municipality which is determined to be experiencing fiscal distress pursuant to the provisions of 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 the provisions of P.L.1977, c.260 (C.52:27D-162 et seq.), the amount hereinabove for Aid to Depressed Rural Centers shall be allocated to Hightstown.

Notwithstanding the provisions of P.L.1985, c.379 and any installment agreement specified by the Local Finance Board pursuant thereto, the Township of North Bergen shall make a payment of $300,000 during calendar year 1996 in repayment of the loan made pursuant to P.L.1985, c.379, in addition to any payments required to be made to discharge the loan pursuant to the provisions of P.L.1989, c.122, P.L.1990, c.43, P.L.1991, c.185, P.L.1992, c.40, P.L.1993, c.155 and P.L.1994, c.67.

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.76 (C.40A:4-45.3).

The amount hereinabove for the Legislative Initiative Municipal Block Grant Program shall be distributed to municipalities on or before September 1, 1995 in proportion to the number of residents of each municipality as determined pursuant to the 1990 federal census. The payment of Legislative Initiative Municipal Block Grant Program aid shall be used solely and exclusively by each municipality for the purpose of reducing the amount the municipality is required to raise by local property tax levy for municipal purposes. If the amount of the payment exceeds the amount required to be raised by local property tax levy for municipal purposes, the balance of the payment shall be used to reduce the amount the municipality is required to raise for county purposes, notwithstanding the provisions of law to the contrary. Notwithstanding any provisions of the "Local Budget Law," N.J.S. 40A:4-1 et seq., each municipality may anticipate the receipt of the amount of the payment as shall be certified to it by the Director of the Division of Local Government Services in the Department of Community Affairs and shall file any amendment or correction in its local budget as may be required to properly reflect that payment. The Director of the Division of Local Government Services in the Department of Community Affairs shall compile a list of the certified payments for all municipalities and shall provide a copy of that list to the Governor, the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee. The Director of the Division of Local Government Services in the Department of Community Affairs shall certify that each municipality has complied with the requirements set forth herein.

50 Economic Planning, Development and Security

55 Social Services Programs - State Aid

08-8060 Programs for the Aging		$2,245,000
Total Appropriation, Social Services Programs		$2,245,000
State Aid:		
County Office On Aging	($840,000)	
Older Americans Act - State Share	(1,405,000)	
Total Appropriation, Department of Community Affairs		$55,566,000

34 DEPARTMENT OF EDUCATION

30 Educational, Cultural and Intellectual Development

31 Direct Educational Services and Assistance--State Aid

01-5120 General Formula Aid	$1,057,428,000
02-5120 Nonpublic School Aid	69,586,000

03-5120 Miscellaneous Grants-in-Aid		9,895,000
04-5064 Adult and Continuing Education		2,448,000
07-5120 Special Education		750,000
Total Appropriation, Direct Educational Services and Assistance		$1,140,107,000
State Aid:		
Foundation Aid - Quality Education Act of 1990	($1,057,428,000)	
Nonpublic Textbook Aid	(8,473,000)	
Nonpublic Nutrition Aid	(439,000)	
Nonpublic Handicapped Aid	(20,153,000)	
Nonpublic Auxiliary Services Aid	(26,535,000)	
Nonpublic Auxiliary/Handicapped Transportation Aid	(2,084,000)	
Nonpublic Nursing Services Aid	(11,902,000)	
Emergency Fund	(100,000)	
County College Urban Education	(450,000)	
Payments for Institutionalized Children - Unknown District of Residence	(6,418,000)	
Minimum Teacher Starting Salary	(100,000)	
Evening School For the Foreign Born	(211,000)	
High School Equivalency	(1,213,000)	
Adult Literacy	(1,024,000)	
Education Excellence Initiative	(1,800,000)	
Somerset County Vo-Tech/High Tech Coordinator	(77,000)	
Educational Information and Resource Center	(450,000)	
Bilingual Education Initiative - Edison	(500,000)	
A. Harry Moore School	(750,000)	

Of the amount hereinabove for Foundation Aid, an amount equal to the total earnings of investments of the School Fund shall first be charged to such fund.

Notwithstanding any other law to the contrary, the Foundation Aid entitlement for each school district shall be the same as the entitlement amount for the district in 1994-1995.

Of the amount appropriated hereinabove for the Education Excellence Initiative account, $700,000 shall be allocated to Cherry Hill, $500,000 shall be allocated to Wildwood, $300,000 shall be allocated to Pompton Lakes, $150,000 shall be allocated to Stanhope and $150,000 shall be allocated to Fairfield Township (Cumberland County).

Notwithstanding any other law to the contrary, Foundation Aid for special needs districts is increased by $100,000,000. This allocation shall be determined in two steps, as follows. Step 1: funds shall be allocated to ensure that the local levy bud-

get per pupil in each such district be at a minimum 78.24 percent of the per pupil average local levy budget of districts in District Factor Groups "I" and "J" for 1995-96. For purposes of estimating the average per pupil local levy budget in District Factor Groups "I" and "J," the average local levy budget per pupil in 1994-95 shall be increased by 2.5 percent. Step 2: Subsequent to the preceding calculation, the remaining funds shall be allocated in proportion to their relative shares of the remaining cumulative parity gap. The remaining cumulative parity gap shall be defined as the difference between the 1994-95 local levy budget of districts in District Factor Groups "I" and "J" increased by 2.5 percent and the 1994-95 local levy budgets of special needs districts adjusted by any increase required to establish the 78.24 percent minimum described above. The minimum required general fund tax levy for each special needs district in 1995-96 shall not be less than its 1994-95 general fund tax levy.

Notwithstanding any other law to the contrary, the Commissioner of Education may direct that a special needs district implement an educational improvement plan that includes up to 100 percent of its foundation aid increase.

Notwithstanding any other law to the contrary, any amount remaining in Foundation Aid is allocated to non-special needs districts that received Foundation Aid in 1994-95 in proportion to the increase in Foundation Aid units as defined in N.J.S.A.18A:7D-6, compared to the total Statewide increase in Foundation Aid units so defined, between the units reported on Application for State School Aid from October 1991 and October 1994, and multiplied by the district's State support ratio for the 1992-93 school year; provided, however, that no district's Foundation Aid entitlement shall increase by more than 7.5 percent compared to the amount of its Foundation Aid entitlement for 1994-95.

Additional sums as necessary for the Department of Education to provide additional State aid to a State-operated district pursuant to N.J.S.A.18A:7A-52 are appropriated subject to the recommendation of the Commissioner of Education and the Director of the Division of Local Government Services and the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 6 of P.L.1990, c.52 (C.18A:7D-6), section 14 of P.L. 1977, c.193 (C.18A:46-19.8), and section 9 of P.L.1977, c.192 (C.18A:46A-9), the

State foundation amount for the 1995-1996 school year for the purpose of computing nonpublic auxiliary services and nonpublic handicapped aid shall equal $7,232.

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 1995-1996 school year for the purpose of computing nonpublic auxiliary services aid shall equal $642.40.

Notwithstanding the provisions of section 8 of P.L.1991, c.226 (C.18A:40-30), 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, 1994.

Notwithstanding any other law, 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 seq.) 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 the provisions of section 6 of P.L. 1977, c.192 (C.18A:7B-2) and section 6 of P.L.1990, c.52 (C.18A:7D-6), the State foundation amounts for the 1995-1996 school year for the purpose of "The State Facilities Education Act of 1979," P.L.1979, c.207 (C.18A:7B-1 et seq.) shall equal $6,742 for foundation support and $7,232 for special education aid.

Notwithstanding any other law to the contrary, special education aid for pupils classified as eligible for day training shall be paid directly to the resident school district; provided, however, that for pupils under contract for service in a day training facility operated by or under contract with the Department of Human Services, or for pupils not otherwise under contract as of May 1, 1995, aid shall be paid to the Department of Human Services under the provisions of P.L 1979, c. 207, "The State Facilities Education Act."

Of the amount hereinabove in the High School Equivalency and the Adult Literacy accounts, such sums as are necessary may be transferred to an applicant State department.

33 Supplemental Education and Training Programs--State Aid

20-5062 General Vocational Education	$6,821,000
Total Appropriation, Supplemental Education and Training Programs	$6,821,000

State Aid:		
District and Regional Vocational Education	($861,000)	
Vocational Education	(5,460,000)	
Work-Study Program	(500,000)	
34 Educational Support Services--State Aid		
37-5120 School Nutrition		$6,565,000
38-5120 Facilities Planning and School Building Aid		12,607,000
39-5095 Teachers' Pension and Annuity Assistance		10,820,000
40-5064 Health, Safety and Community Services		75,000
Total Appropriation, Educational Support Services		$30,067,000
State Aid:		
State School Lunch Aid	($6,565,000)	
School Building Aid Debt Service	(12,607,000)	
Minimum Pension For Pre-1955 Retirees	(20,000)	
Additional Health Aid	(10,800,000)	
Alternative School Program for Disruptive Students	(75,000)	
37 Cultural and Intellectual Development Services--State Aid		
51-5070 Library Services		$13,112,000
Total Appropriation, Cultural and Intellectual Development Services		$13,112,000
State Aid:		
Per Capita Library Aid	($7,665,000)	
Emergency Aid/Incentive Grants	(100,000)	
Library Network	(4,777,000)	
Library Development Aid	(570,000)	
Total Appropriation, Department of Education		$1,190,107,000

The unexpended balances as of June 30, 1995 in the State Aid accounts, not to exceed $650,000 are appropriated.

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.

Of the amount appropriated hereinabove for the Department of Education, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page L-36 in the Governor's Budget Recommendation Document dated January 23, 1995 first shall be charged to the State Lottery Fund.

For the 1995-96 school year, each non-special needs district may increase its maximum permissible net budget from the preceding school year by the prior year's percentage increase less 1.25 without the loss of State aid. Any non-special

needs district which increases its net budget by more than the prior year's percentage increase less 1.25, absent approval obtained consistent with the procedure in subsections e. and f. of section 85 of P.L. 1990, c.52 (C.18A:7D-28), shall lose State aid which is paid to or on behalf of the district equal to the amount by which the district exceeds this percentage increase.

Notwithstanding any other law to the contrary, the Commissioner of Education may withhold from the Garfield City school district and the Bergen County Special Services school district up to 100 percent of the State aid to which they are entitled, until such time as the Department of Education completes an investigation of the finances of those districts.

Notwithstanding any other provision of law to the contrary, the repayment by the Hudson Association for Retarded Citizens to the Department of Education of the unexpended balance of a Special Education Programs grant from federal funds received from a fiscal year 1990 appropriation made pursuant to the early intervention program, Part H, under a grant agreement for an AIDS infant-parent pilot program, and of any other funds remaining to be paid to the department from unexpended balances from fiscal year 1990 State appropriations shall be deferred during fiscal year 1996.

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

46 Environmental Planning and Administration--State Aid

99-4800 Management and Administrative Services		$4,462,000
Total Appropriation, Environmental Planning and Administration		$4,462,000
State Aid:		
Mosquito Control, Research, Administration and Operations	($468,000)	
Payment of In Lieu Taxes	(1,175,000)	
Administration, Planning and Development Activities of the Pinelands Commission	(2,654,000)	
Grants to Local Environmental Commission	(165,000)	

Receipts derived from the rental of property acquired pursuant to P.L.1969, c.138 (C.58:21A-1 et seq.); P.L.1970, c.147 (C.58:21B-1 et seq.); P.L.1971, c.165; P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; and P.L.1989, c.183, and the unexpended balance as of June 30, 1995 of such receipts, not to exceed $400,000, are appropriated for payments in lieu of taxes on properties and for maintenance of properties.

Of the amount appropriated hereinabove for Administration, Planning of the Pinelands Commission, $5,000 shall be used for the preparation and initial printing for a handbook describing application procedures for individual homeowners.

47 Enforcement Policy--State Aid

08-4855 Water Pollution Control		$2,853,000
Total Appropriation, Enforcement Policy		$2,853,000
State Aid:		
County Environmental Health Act	($2,453,000)	
Operation Clean Shores	(400,000)	

The unexpended balance as of June 30, 1995 in the Operation Clean Shores account is appropriated

Total Appropriation, Department of Environmental Protection	$7,315,000

DEPARTMENT OF HEALTH

20 Physical and Mental Health

21 Health Services--State Aid

02-4220 Family Health Services		$18,371,000
Total Appropriation, Health Services		$18,371,000
State Aid:		
Public Health Priority Funding	($3,600,000)	
Projects for Handicapped Infants	(14,771,000)	

The capitation rate is set at 36 cents for the year ending June 30, 1996 for the purpose prescribed in P.L.1966, c.36 (C.26:2F-1 et seq.).

In addition to the amount hereinabove, receipts from the Federal Medicaid (Title XIX) program for handicapped infants are appropriated, subject to the approval of the Director of Budget and Accounting.

Total Appropriation, Department of Health	$18,371,000

54 DEPARTMENT OF HUMAN SERVICES

20 Physical and Mental Health

23 Mental Health Services--State Aid

7700 Division of Mental Health Services

08-7700 Community Services		$78,267,000
Total Appropriation, Division of Mental Health Services		$78,267,000
State Aid:		
Support of Patients in County Psychiatric Hospitals	($78,267,000)	

The unexpended balance as of June 30, 1995, in the Support of Patients in County Psychiatric Hospitals account is appropriated and available for payment of liabilities applicable to prior fiscal years.

With the exception of all past, present, and future revenues representing federal financial participation received by the State from the United States and that is based on payments to hospitals that serve a disproportionate share of low-income patients, the sharing of revenues received to defray the costs of maintaining patients in State and county psychiatric hospitals and facilities for developmentally disabled shall be based on the same percent as costs are shared.

50 Economic Planning, Development and Security
53 Economic Assistance and Security--State Aid
7550 Division of Family Development

15-7550 Income Maintenance Management		$467,608,000
Total Appropriation, Division of Family Development		$467,608,000
State Aid:		
Cost of Living Adjustment	($374,000)	
Deferred Cost Of Living	(1,755,000)	
General Assistance Emergency Assistance Program	(59,923,000)	
Payments to Municipalities for Cost of General Assistance	(115,705,000)	
Payments for Dependent Children Assistance, Regular Segment (C-Segment)	(170,249,000)	
Payments for Emergency Assistance	(24,841,000)	
Payments for Supplemental Security Income	(58,514,000)	
Payments for Dependent Children Assistance, Unemployment of Father (F-Segment).	(9,503,000)	
Payments for Dependent Children Assistance, Insufficient Employment of Parents (N-Segment)	(18,544,000)	
State Supplemental SSI Check Production User Fee	(8,200,000)	

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.), and P.L.1950, c.166 (C.30:4B-1 et seq.), P.L. 1971, c.209 (C.44:13-1 et seq.) during the fiscal year ending June 30, 1996 are appropriated.

Receipts from State administered municipalities during the fiscal year ending June 30, 1996 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.

A portion of the amount hereinabove appropriated for Payments to Municipalities for Cost of General Assistance, not to exceed $1,400,000, is available for transfer to the Department of Labor, Division of Employment Services, for support costs related to the workfare program established pursuant to P.L.1947 c.156 (C.44:8-107 et seq.). Any funds transferred to the Department of Labor shall be used solely to fund employability teams and other costs to implement this General Assistance work program.

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.

Notwithstanding any provision of State law to the contrary, there will be no further payment for benefits previously provided under the General Assistance program for the costs of hospitalization for such expenses incurred on or after July 1, 1991.

The unexpended balances as of June 30, 1995 in the Payments to Municipalities for Cost of General Assistance (GA) and General Assistance Emergency Assistance Program accounts are appropriated for payment of General Assistance nursing home costs incurred prior to July 1, 1995.

Notwithstanding the provisions of section 18 of P.L.1947, c.156 (C.44:8-124) to the contrary, outpatient services, including, but not limited to, emergency room, clinic and diagnostic services rendered on or after July 1, 1992 to recipients of General Assistance by hospitals shall not be reimbursed. Furthermore, municipalities shall not provide reimbursement for inpatient or outpatient medical services provided in prior fiscal years if submitted for reimbursement after July 31, 1992.

Notwithstanding the provisions of P.L.1947, c.156 (C.44:8-107 et seq.) to the contrary, assistance shall not be granted to an illegal alien or to aliens admitted as students or visitors. To be eligible for assistance an individual shall be either a citizen of the United States or otherwise permanently residing in the United States under color of law, including any alien

who is lawfully present in the United States as a result of the application of section 207(c), section 203(a)(7) (prior to April 1, 1980), section 208, and section 212(d)(5) of the "Immigration and Nationality Act," 8 U.S.C. §1157(c), 1153(a)(7), 1158, and 1182(d)(5).

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.

In addition to the provisions of section 5 of P.L.1959, c.86 (C.44:10-5), for payments that are not eligible for federal financial participation, payment of the State share of expenditures by the county welfare agency for Aid to Families with Dependent Children shall be at the rate of 115% during the period July 1 through December 31 of each year and at a rate of 75% during the period January 1 through June 30; provided that, the total payment of the State share of expenditures during the period January 1 through December 31 of each year shall not exceed 95%.

Notwithstanding the provisions of P.L.1959, c.86 (C.44:10-1 et seq.) to the contrary, assistance shall not be granted to an illegal alien or to aliens admitted as students or visitors. To be eligible for assistance an individual shall be either a citizen of the United States or otherwise permanently residing in the United States under color of law, including any alien who is lawfully present in the United States as a result of the application of section 207(c), section 203(a)(7) (prior to April 1, 1980), section 208, and section 212(d)(5) of the "Immigration and Nationality Act," 8 U.S.C. §1157(c), 1153(a)(7), 1158, and 1182(d)(5).

Notwithstanding the provisions of P.L.1947, c.156 (C.44:8-107 et seq.), nursing home services shall no longer be a covered service effective July 1, 1995 under the General Assistance program except for those residing in non-Medicaid certified nursing homes prior to June 30, 1995, and who are unable to qualify for nursing home services through the Medically Needy Program coverage for Long Term Care recipients, pursuant to Title XIX of the Social Security Act.

A portion of the amount hereinabove appropriated for Payments to Municipalities for Cost of General Assistance, is available to fund the cost of contracting with an accounting firm(s) to perform audits of the General Assistance Emergency Assistance program administered by municipal welfare departments, subject to the approval of the Director of the Division of Budget and Accounting.

Subject to the federal approval, all General Assistance recipients that receive interim assistance after July 1, 1995 shall reimburse the division for all goods and services provided directly or indirectly by the division such as emergency assistance and temporary rental assistance that are not otherwise reimbursed by the federal government; provided however, that the amount an individual shall reimburse the division shall not exceed the amount of that individual's retroactive SSI check.

Total Appropriation, Department of Human Services		$545,875,000

66 DEPARTMENT OF LAW AND PUBLIC SAFETY

10 Public Safety and Criminal Justice

12 Law Enforcement--State Aid

09-1020 Criminal Justice		$9,100,000
Total Appropriation, Law Enforcement		$9,100,000
State Aid:		
Safe and Secure Communities Program	($9,000,000)	
Stamler Police Academy, Union County	(100,000)	
Total Appropriation, Department of Law and Public Safety		$9,100,000

74 DEPARTMENT OF STATE

30 Educational, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services--State Aid

06-2535 Museum Services		$2,000,000
Total Appropriation, Cultural and Intellectual Development Services		$2,000,000
State Aid:		
Operational Grant for Newark Museum.	($2,000,000)	
Total Appropriation, Department of State		$2,000,000

82 DEPARTMENT OF THE TREASURY

30 Educational, Cultural and Intellectual Development

36 Higher Educational Services--State Aid

48-2155 Aid to County Colleges		$127,991,000
Total Appropriation, Higher Educational Services		$127,991,000
State Aid:		
Operational Costs	($100,686,000)	

Debt Service	(7,142,000)
Employer Contributions--Alternate Benefit Program	(16,430,000)
Employer Contributions--Teachers' Pension and Annuity Fund	(332,000)
Additional Health Benefits	(650,000)
Employer Contributions--FICA For County College Members of Teachers' Pension and Annuity Fund	(551,000)
Supplementary Aid to Hudson County College	(1,000,000)
Supplementary Aid to Essex County College	(1,200,000)

Such additional 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.

Of the amount appropriated hereinabove for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page L-36 in the Governor's Budget Recommendation Document dated January 23, 1995 first shall be charged to the State Lottery Fund.

Total Appropriation, Higher Educational Services.	$127,991,000

70 Government Direction, Management and Control

75 State Subsidies and Financial Aid--State Aid

28-2078	County Boards of Taxation	$1,019,000
35-2078	Consolidated Police and Firemen's Pension Fund	9,179,000
	Total Appropriation, State Subsidies and Financial Aid	$10,198,000
Personal Services:		
	County Tax Board Members (73)	($1,019,000)
State Aid:		
	State contribution to Consolidated Police and Firemen's Pension Fund	(9,179,000)

Notwithstanding the provisions of section 2 of P.L.1980, c.10 (C.54:30A-24.1), section 4 of P.L.1980, c.11 (C.54:30A-61.1), section 27 of P.L.1991, c.184 (C.54:30A-24.4), and section 28 of P.L.1991, c.184 (C.54:30A-61.4), the payments to municipalities from the proceeds of the public utilities franchise and gross receipts taxes during fiscal year 1996 shall be $685,000,000 and shall be distributed in the same amounts to the same municipalities as received such payments in calendar year 1994 pursuant to the 1995 annual appropriations law, P.L.1994, c.67; provided however, that amounts collected in excess of amounts distributed shall be anticipated as revenue for general State purposes.

Notwithstanding any provision of law to the contrary, the payments to municipalities from the proceeds of the public utilities franchise and gross receipts taxes shall be distributed on the following schedule: July 15, 35% of the total amount due; August 1, 10% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; and December 1, 5% of the total amount due.

Based upon the State's fiscal circumstances in May, 1996, amounts collected in excess of $960,000,000 from Public Utility Gross Receipts and Franchise Taxes (combined) for fiscal year 1996 may be distributed to municipalities; provided that such amounts collected in excess of $960,000,000 shall not be anticipated as municipal revenue for the purposes of the "Local Budget Law," P.L.1960, c.169 (C.40A:4-1 et seq.).

The unexpended balance as of June 30, 1995 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.

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 from the tax on incorporated financial businesses shall not be distributed and shall be anticipated as revenue for general State purposes.

There are appropriated so much of the proceeds of taxes on fire insurance premiums, received or receivable, as may be required for payment to the New Jersey Firemen's Home and the New Jersey State Firemen's Association.

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.

There are 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 $688,387 for payment in lieu of municipal taxes in the following amounts for properties under the jurisdiction of the Palisades Interstate Park Commission: Borough of Alpine, $238,000; Borough of Englewood Cliffs, $259,147; Borough of Fort Lee, $191,240.

There is appropriated $750,000 for payments to certain Pinelands area municipalities with at least 50% of their land areas in one or more land conservation designations, which amount shall be allocated as follows: Estelle Manor City, $93,915; Mullica Township, $101,145; Weymouth Township, $78,930; Bass River Township, $111,330; Washington Township, $131,835; Woodland Township, $127,965; Maurice River Township, $104,880.

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.

Total Appropriation, Department of the Treasury	$138,189,000
Total Appropriation, State Aid	$1,970,171,000

Whenever any county, municipality, or school district entitled to receive State aid from appropriations made herein withholds funds from State agencies entitled to payment for services, the Director of the Division of Budget and Accounting is authorized to withhold State aid payments to such county, municipality, or school district and transfer the same as payment for funds so withheld.

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 unrestricted fund balance in the Property Tax Relief Fund, as determined by the State Treasurer, is sufficient to support the expenditure.

If the sum provided hereinabove for a State aid payment pursuant to formula is insufficient to meet the full requirement of the formula, all recipients of State aid shall have their allocation proportionately reduced.

CAPITAL CONSTRUCTION

01 LEGISLATURE

70 Government Direction, Management and Control

71 Legislative Activities

The unexpended balance as of June 30, 1995 in the Legislature is appropriated.

10 DEPARTMENT OF AGRICULTURE
40 Community Development and Environmental Management
42 Natural Resource Management

50 Economic Planning, Development and Security
51 Economic Planning and Development

70 Government Direction, Management and Control
76 Management and Administration

The unexpended balance as of June 30, 1995 in this department is appropriated.

20 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
30 Educational, Cultural and Intellectual Development
37 Cultural and Intellectual Development Services
2920 New Jersey Public Broadcasting Authority

The unexpended balance as of June 30, 1995 in this department is appropriated.

26 DEPARTMENT OF CORRECTIONS
10 Public Safety and Criminal Justice
16 Detention and Rehabilitation

18 Juvenile Correctional Services
7220 New Jersey Training School for Boys

19 Central Planning, Direction and Management

The unexpended balance as of June 30, 1995 in this department is appropriated.

34 DEPARTMENT OF EDUCATION
30 Educational, Cultural and Intellectual Development
32 Operation and Support of Educational Institutions
5010 Division of Direct Services

5011 Marie H. Katzenbach School for the Deaf

35 Education Administration and Management
5095 Division of Administration

37 Cultural and Intellectual Development Services
5070 Division of State Library

Capital Project:		
Install Fire Suppression System		
on Levels 2, 3, 5 and 6.....	($679,000)	
Total Appropriation, Department of Education		$679,000

The unexpended balance as of June 30, 1995 in this department is appropriated.

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 (11) regional day schools throughout the State of New Jersey and the Marie H. Katzenbach School for the Deaf as authorized in the State Facilities for the Handicapped Bond Act.

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

42 Natural Resource Management

Capital Project;		
Shore Protection Fund Projects.....	($18,300,000)	
Total Appropriation, Natural Resource Management		$18,300,000

There is appropriated from the Fish, Game and Wildlife Recreational Development, and the Fish, Game and Wildlife Renovation and Improvements accounts such sums as are necessary for costs attributable to planning and administration of these programs, 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.), 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.

There are appropriated from the Development and State Land Acquisition accounts such sums as are necessary for costs attributable to planning and administration of these programs, subject to the approval of the Director of the Division of Budget and Accounting.

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.13:19-6.1).

43 Science and Technical Programs
44 Site Remediation
46 Environmental Planning and Administration

Capital Projects:		
Sussex Borough - Restore Dam and Lake	($400,000)	
Lakewood Township - Restore Lake.....	(250,000)	
Third River riverbank restoration, Nutley	(300,000)	
Total Appropriation, Environmental Planning and Administration		$950,000
Total Appropriation, Department of Environmental Protection		$19,250,000

The unexpended balance as of June 30, 1995 in this department is appropriated.

46 DEPARTMENT OF HEALTH
20 Physical and Mental Health
21 Health Services

The unexpended balance as of June 30, 1995 in this department is appropriated.

54 DEPARTMENT OF HUMAN SERVICES
20 Physical and Mental Health
23 Mental Health Services
7700 Division of Mental Health Services

30 Educational, Cultural and Intellectual Development
33 Supplemental Education and Training Programs
7560 Commission for the Blind and Visually Impaired

70 Government Direction, Management and Control
76 Management and Administration

The unexpended balance as of June 30, 1995 in this department is appropriated.

66 DEPARTMENT OF LAW AND PUBLIC SAFETY
10 Public Safety and Criminal Justice
12 Law Enforcement

80 Special Government Services
82 Protection of Citizens' Rights

The unexpended balance as of June 30, 1995 in this department is appropriated.

67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS

10 Public Safety and Criminal Justice

14 Military Services

80 Special Government Services

83 Services To Veterans

3610 Veterans' Program Support

3630 Menlo Park Veterans' Memorial Home

The unexpended balance as of June 30, 1995 in this department is appropriated.

74 DEPARTMENT OF STATE

30 Educational, Cultural and Intellectual Development

36 Higher Educational Services

2610 Rutgers, The State University

2620 University of Medicine and Dentistry of New Jersey

2630 New Jersey Institute of Technology

2645 Rowan College of New Jersey

2650 Jersey City State College

2655 Kean College of New Jersey

2660 William Paterson College of New Jersey

2665 Montclair State University

2670 Trenton State College

2675 Ramapo College of New Jersey

2680 The Richard Stockton College of New Jersey

37 Cultural and Intellectual Development Services

The unexpended balance as of June 30, 1995 in this department is appropriated.

278 DEPARTMENT OF TRANSPORTATION
10 Public Safety and Criminal Justice
11 Vehicular Safety

60 Transportation Programs
61 State Highway Facilities

Capital Project:
Transportation Trust Fund Account ..... ($196,600,000)
Total Appropriation, State Highway Facilities $196,600,000

Receipts representing the State share from the rental or lease of property, and the unexpended balances as of June 30, 1995 of such receipts are appropriated for maintenance or improvement of transportation property, equipment and facilities.

The sum provided hereinabove for the Transportation Trust Fund Account shall first be provided from revenues received from motor fuel taxes pursuant to Article VIII, Section II, paragraph 4 of the State Constitution, and from funds received or receivable from the various transportation-oriented authorities pursuant to contracts between the authorities and the State, 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 1996 debt service, bond reserve requirements, and other fiscal obligations of the New Jersey Transportation Trust Fund Authority.

Notwithstanding any other requirements of law, the department may expend necessary sums for improvements to streets and roads providing access to State facilities within the capital city without local participation.

Total Appropriation, Department of Transportation $196,600,000

The unexpended balance as of June 30, 1995 in this department is appropriated, except that the unexpended balance in the Reserve for Clean Air Act Implementation account shall only be expended for the retrofitting of 59 existing motor vehicle inspection lanes, subject to the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee, provided that this shall not restrict the allocation of $200,000 from that account made pursuant to section 40 of P.L.1995, c.112.

Pursuant to the provisions of P.L.1984, c.73 (C.27:1B-1 et al.), there is appropriated the sum of $700,000,000 from the revenues and other funds of the New Jersey Transportation Trust Fund Authority for the specific projects identified under the 17 general program headings as follows:

Route	Section	Description	County	Amount
1. CONSTRUCTION - State Highway Facilities				
		Atlantic City Corridor development project, partial funding	Atlantic	($8,000,000)
		Avalon Boulevard bridge over Ingrams Thorofare, rehabilitation	Cape May	(900,000)
		North Avenue bridge over NJ Turnpike, widening, partial funding	Union	(3,400,000)
1	1S	Route 1 southbound to New York Avenue	Mercer	(600,000)
9	(22)	Improvements at Garden State Parkway Interchange 80	Ocean	(1,520,000)
23	3S	Vicinity of Cutlass Road to north of Maple Lake Road, widening, and park and ride	Morris	(18,900,000)
27	6K7G	Evergreen Street to Oak Tree Road/Green Street, Metropark interim improvements	Middlesex	(1,500,000)
37		Lake Shenandoah, wetlands mitigation	Ocean	(425,000)
46	(23)	Intersection improvement at Beverwyck Road	Morris	(1,500,000)
70	13C14K	Shorrock Street to vicinity of Cedar Bridge Avenue, system connectivity improvements	Ocean	(1,500,000)
120	(1)	Route 3 to Paterson Plank Road, relocation	Bergen	(8,000,000)
280		Martin Luther King Boulevard to Route 21, ramp revisions	Essex	(3,500,000)
2. DESIGN - State Highway Facilities				
9		Indian Head Road to Central/Hurley Road, operational improvements	Ocean	(1,500,000)
31	6F	Bartles Corner Road to Stanton Station Road, widening	Hunterdon	(1,600,000)
35	(4)	Amboy Avenue to Cheesequake Creek, interim improvements	Middlesex Monmouth	(240,000)
120	(1)	Route 3 to Paterson Plank Road, relocation	Bergen	(4,500,000)
206/ 604		Intersection improvements at Waterloo Road	Sussex	(42,000)
		Final design, regional	Various	(3,000,000)
3. RIGHT-OF-WAY - State Highway Facilities				
120	(1)	Route 3 to Paterson Plank Road, relocation	Bergen	(3,000,000)

	Advance acquisition of right-of-way for transportation corridors and facilities	Various	(4,000,000)
4. PROJECT DEVELOPMENT - State Highway Facilities			
18F	Route 38 to Brielle Circle, proposed highway on new alignment	Monmouth	(1,000,000)
31 (10)	Pennington Circle to Route 202, congestion management study	Mercer Hunterdon	(100,000)
33F	Complete Freehold Bypass, Halls Mill Road to Route 33 at Fairfield Road	Monmouth	(100,000)
70 (17)	Route 38 to Route 73, safety and operational improvements	Camden Burlington	(500,000)
92F 1A	Route 33 to County Route 571, Hightstown Bypass	Mercer	(3,000,000)
287/	Route I-287 and I-80, 80 connecting ramps	Morris	(100,000)
	Project development, bridge projects	Various	(1,000,000)
	Project development, preliminary engineering	Various	(5,000,000)
5. PLANNING - State Highway Facilities			
130	South Jersey Food Distribution Center, transportation master plan	Burlington	(1,000,000)
	Planning, research, and training	Various	(5,950,000)
6. STATEWIDE INVESTMENTS - State Highway Facilities			
	Fifteen bridges (non-timber) over D & R Canal in Hunterdon, Mercer, Middlesex, and Somerset Counties, install guide rails	Various	(1,000,000)
78	Intermodal circulation improvements	Essex	(1,000,000)
	Access management	Various	(1,500,000)
	Adopt-A-Highway program	Various	(100,000)
	Access permit application review	Various	(150,000)
	Betterments	Various	(12,000,000)
	Bridge deck patching	Various	(5,000,000)
	Bridges: movable bridge minor rehabilitation	Various	(2,000,000)
	Bridge painting	Various	(1,000,000)
	Unanticipated right-of-way, design, and construction: State Program	Various	(17,000,000)
	Automated drawbridge gates	Various	(1,000,000)

Drainage management system	Various	(500,000)
Drainage rehabilitation and maintenance	Various	(2,000,000)
Economic Development Program	Various	(5,000,000)
Environmental investigations	Various	(5,000,000)
Certificate of participation lease payments	Various	(3,300,000)
Automated systems, acquisition and development	Various	(4,000,000)
Purchase vehicles to support capital and maintenance programs	Various	(9,000,000)
Emergency response operations	Various	(1,000,000)
Electrical and signal safety engineering program	Various	(1,000,000)
Freight program	Various	(1,000,000)
Inspect construction projects	Various	(1,200,000)
Local aid for Centers of Place	Various	(1,000,000)
Legal costs for right-of-way condemnation and capital project litigation work	Various	(1,320,000)
Park and ride program, HOV program, ridesharing program	Various	(2,000,000)
Physical plant	Various	(15,000,000)
Regional action program	Various	(2,000,000)
Resurfacing program	Various	(35,613,000)
Small contractor training program	Various	(400,000)
Service facilities on interstate highways	Various	(1,000,000)
State Police enforcement and safety services	Various	(500,000)
State road restriping program	Various	(500,000)
Settlement of earned and unbilled capital program costs	Various	(1,000,000)
Solid and hazardous waste cleanup and disposal	Various	(4,000,000)
Transcom membership	Various	(400,000)
Traffic signal replacement	Various	(3,000,000)
Underground exploration for utility facilities	Various	(150,000)
University transportation research technology transfer support	Various	(550,000)
Utility reconnaissance and relocation	Various	(1,000,000)
Vacant building demolition and asbestos removal	Various	(1,000,000)
New Jersey wetlands mitigation bank	Various	(1,500,000)

7. STATE MATCHING FUNDS - State Highway Facilities			
	Unanticipated right-of-way, design, and construction: State match for various federal programs	Various	(3,120,000)
8. CAPITAL PROGRAM IMPLEMENTATION - State Highway Facilities			
	For personal services to support current and previously authorized projects, and indirect capital program support costs	Various	(66,820,000)
9. AVIATION			
	Airport Safety Fund	Various	(10,000,000)
10. STATE AID			
	County aid	Various	(58,500,000)
	Municipal aid	Various	(58,500,000)
	Discretionary aid: county and municipal	Various	(13,000,000)
11. CONSTRUCTION - New Jersey Transit Corporation			
	Bus passenger facilities	Various	(2,000,000)
	Light rail transit maintenance facility	Essex	(10,500,000)
	Newark City subway	Essex	(9,500,000)
	Track rehabilitation	Various	(9,400,000)
	Tunnel and bridge rehabilitation	Various	(2,200,000)
	Signals and communication/ electric traction system	Various	(2,000,000)
	Rail support facilities and equipment	Various	(8,230,000)
	Newark Penn Station	Essex	(1,770,000)
	Rail passenger stations and terminals	Various	(3,200,000)
	Hamilton Transit Complex	Mercer	(1,220,000)
	Northeast Corridor rail equipment modification	Various	(2,500,000)
	Environmental compliance	Various	(4,500,000)
	High level rail platform accessibility for handicapped persons	Various	(3,300,000)
	Immediate action program	Various	(9,210,000)
	Physical plant	Various	(6,000,000)
12. DESIGN/RIGHT-OF-WAY - New Jersey Transit Corporation			
	Hudson/Bergen light rail transit system	Hudson Bergen	(28,820,000)
	Comet II coach overhaul	Various	(500,000)

13. CAPITAL ACQUISITION - New Jersey Transit Corporation

Bus replacement program	Various	(7,440,000)
Rehabilitate Eagle Cruiser buses	Various	(720,000)
Convert bus freon cooling systems	Various	(1,500,000)
Bombardier lease payments on rail coaches	Various	(9,490,000)
Railroad associated capital maintenance	Various	(4,500,000)
Vans for paratransit bus service	Various	(4,700,000)
Private carrier capital improvement program	Various	(6,230,000)

14. STATEWIDE INVESTMENTS - New Jersey Transit Corporation

Building capital leases	Atlantic Essex Hudson	(1,710,000)
Bus support facilities and equipment	Various	(11,100,000)
Information services	Various	(1,800,000)
Communications and revenue systems	Various	(9,900,000)
Geographic information system development	Various	(700,000)
New initiatives	Various	(8,000,000)
Rail scheduling system	Various	(600,000)
Rail station accessibility program for handicapped persons	Various	(10,900,000)
Experimental transit services	Various	(660,000)
Miscellaneous	Various	(3,390,000)

15. PROJECT DEVELOPMENT - New Jersey Transit Corporation

Study and development	Various	(5,110,000)
Market research	Various	(1,000,000)

16. CAPITAL PROGRAM IMPLEMENTATION - New Jersey Transit Corporation

For personal services to support current and previously authorized projects, and indirect capital program support costs	Various	(15,700,000)

17. CAPITALIZED MAINTENANCE - New Jersey Transit Corporation

Bus vehicle and facility maintenance	Various	(18,600,000)
Rail maintenance-of-way, maintenance of equipment	Various	(29,400,000)

The unexpended balances as of June 30, 1995 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 general program headings. If the Director of the Division of Budget and Accounting shall consent thereto, the request to transfer funds among projects within different general 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 is 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 subsection r. of section 3 of P.L. 1984, c.73 (C.27:B-3), sums from the Transportation Trust Fund shall be available, subject to the approval of the Director of the Division of Budget and Accounting, for work necessary for preserving or maintaining the useful life of public transportation projects that ensures the useful life of the project for not less than two years.

82 DEPARTMENT OF THE TREASURY

30 Educational, Cultural and Intellectual Development

36 Higher Educational Services

2155 Higher Education Administration

Capital Projects:		
Sussex County College	($540,000)	
Total Appropriation, Higher Education Administration		$540,000
Total Appropriation, Department of the Treasury		$540,000

Notwithstanding the provisions of section 29 of this act, the unexpended balance not to exceed $5,000,000 in the Municipal and County Infrastructure Program account is appropriated for the Wildwood Convention Center project.

70 Government Direction, Management and Control

74 General Government Services

The unexpended balance as of June 30, 1995 in this department is appropriated.

90 MISCELLANEOUS EXECUTIVE COMMISSIONS
40 Community Development and Environmental Management
43 Science and Technical Programs
9140 Delaware River Basin Commission

Capital Project:		
Amortization Costs of Multipurpose Dams	($2,000)	
Total Appropriation, Delaware River Basin Commission		$2,000
Total Appropriation, Miscellaneous Executive Commissions		$2,000

The unexpended balance as of June 30, 1995 in this commission is appropriated.

Total Appropriation, Capital Construction	$217,071,000

The first $10,000,000 derived from the sale of any lands and buildings or proceeds from the sale of all fill material held by a department is appropriated for Life Safety and Emergency Projects Statewide in the Department of the Treasury and any additional funds 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.

Notwithstanding the provisions of P.L.1962, c.220 (C.52:31-1.3), the head or principal executive of any State department is authorized to sell or convey all or any part of the State's interest in any real property and the improvements thereon, held by a department, having a value of $5,000,000 or less, subject to the approval of the Treasurer and the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 1995 in the Capital Construction accounts for all departments are appropriated.

DEBT SERVICE
20 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
50 Economic Planning, Development and Security
51 Economic Planning and Development

99-2910	Interest on Bonds	$3,433,000
99-2910	Bond Redemption	2,905,000
	Total Appropriation, Department of Commerce and Economic Development	$6,338,000

Special Purpose:
Interest:
Community Development Bonds
(P.L.1981, c.486) ($3,433,000)
Redemption:
Community Development Bonds
(P.L.1981, c.486) (2,905,000)

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

46 Environmental Planning and Administration

99-4800	Interest on Bonds	$41,573,000
99-4800	Bond Redemption	70,871,000
	Total Appropriation, Department of Environmental Protection	$112,444,000

Special Purpose:
Interest:
Water Conservation Bonds
(P.L.1969, c.127) ($1,945,000)
State Recreation and Conservation Land
Acquisition Bonds (P.L.1971, c.165) (138,000)
State Recreation andConservation Land
Acquisition and Development Bonds
(P.L.1974, c.102) (2,501,000)
Clean Waters Bonds (P.L.1976, c.92) . (2,349,000)
Beaches and Harbors Bonds
(P.L.1977, c.208) (339,000)
State Land Acquisition and Development
Bonds (P.L.1978, c.118) (1,681,000)
Emergency Flood Control Bonds
(P.L.1978, c.78) (549,000)
Natural Resources Bonds (P.L.1980, c.70) (1,015,000)
Water Supply Bonds (P.L.1981, c.261) (5,686,000)
Hazardous Discharge Bonds (P.L.1981, c.275) (1,355,000)
1983 New Jersey Green Acres Bonds
(P.L.1983, c.354) (2,496,000)
Shore Protection Bonds (P.L.1983, c.356) (912,000)
Resource Recovery and Solid
Waste Disposal Facility Bonds
(P.L.1985, c.330) (3,925,000)
Pinelands Infrastructure Trust
Bonds (P.L.1985, c.302) (759,000)
Wastewater Treatment Bonds (P.L.1985, c.329) (4,614,000)
Hazardous Discharge Bonds of 1986
(P.L.1986, c.113) (429,000)
1987 Green Acres, Cultural Centers and
Historic Preservation Bonds
(P.L.1987, c.265) (3,014,000)
1989 New Jersey Open Space Preservation
Bonds (P.L.1989, c.183) (6,483,000)

Stormwater Management and Combined Sewer Overflow Abatement Bonds (P.L.1989, c.181)	(525,000)
1992 New Jersey Green Acres, Clean Water, Farmland and Historic Preservation Bonds (P.L.1992, c.88)	(858,000)
Redemption:	
Water Conservation Bonds (P.L.1969, c.127)	(8,225,000)
State Recreation and Conservation Land Acquisition Bonds (P.L.1971, c.165)	(1,000,000)
State Recreation and Conservation Land Acquisition and Development Bonds (P.L.1974, c.102)	(5,910,000)
Clean Waters Bonds (P.L.1976, c.92)	(4,970,000)
Beaches and Harbors Bonds (P.L.1977, c.208)	(550,000)
State Land Acquisition and Development Bonds (P.L.1978, c.118)	(3,850,000)
Emergency Flood Control Bonds (P.L.1978, c.78)	(1,000,000)
Natural Resources Bonds (P.L.1980, c.70)	(2,200,000)
Water Supply Bonds (P.L.1981, c.261)	(10,921,000)
Hazardous Discharge Bonds (P.L.1981, c.275)	(2,150,000)
1983 New Jersey Green Acres Bonds (P.L.1983, c.354)	(5,120,000)
Shore Protection Bonds (P.L.1983, c.356)	(2,200,000)
Resource Recovery and Solid Waste Disposal Facility Bonds (P.L.1985, c.330)	(1,850,000)
Pinelands Infrastructure Trust Bonds (P.L.1985, c.302)	(1,100,000)
Wastewater Treatment Bonds (P.L.1985, c.329)	(9,500,000)
1987 Green Acres, Cultural Centers and Historic Preservation Bonds (P.L.1987, c.265)	(3,825,000)
1989 New Jersey Open Space Preservation Bonds (P.L.1989, c.183)	(5,750,000)
Stormwater Management andCombined Sewer Overflow Abatement Bonds (P.L.1989, c.181)	(750,000)

82 DEPARTMENT OF THE TREASURY

70 Government Direction, Management and Control

76 Management and Administration

99-2000	Interest on Bonds	$177,043,000

99-2000 Bond Redemption.....		170,505,000
Total Appropriation, Department of the Treasury.		$347,548,000
Special Purpose:		
Interest:		
State Housing Assistance Bonds (P.L.1968, c.127).....	($37,000)	
Public Buildings Construction Bonds (P.L.1968, c.128).....	(2,834,000)	
State Transportation Bonds (P.L.1968, c.126).....	(4,296,000)	
Higher Education Construction Bonds (P.L.1971, c.164).....	(762,000)	
State Mortgage Assistance Bonds (P.L.1976, c.94).....	(475,000)	
Institutions Construction Bonds (P.L.1976, c.93).....	(1,503,000)	
Medical Education Facilities Bonds (P.L.1977, c.235).....	(2,780,000)	
Institutional Construction Bonds (P.L.1978, c.79).....	(964,000)	
Transportation Rehabilitation and Improvement Bonds (P.L.1979, c.165)	(4,376,000)	
Energy Conservation Bonds (P.L.1980, c.68).....	(965,000)	
Public Purpose Buildings Construction Bonds (P.L.1980, c.119).....	(1,370,000)	
Farmland Preservation Bonds (P.L.1981, c.276).....	(1,142,000)	
Correctional Facilities Construction Bonds (P.L.1982, c.120).....	(732,000)	
Bridge Rehabilitation and Improvement Bonds (P.L.1983, c.363).....	(2,176,000)	
Jobs, Science and Technology Bonds (P.L.1984, c.99).....	(1,900,000)	
Human Services Facilities Construction Bonds (P.L.1984, c.157).....	(1,554,000)	
Refunding Bonds (P.L.1985, c.74, as amended by P.L.1992, c.182).....	(117,223,000)	
Correctional Facilities Construction Bonds (P.L.1987, c.178).....	(6,611,000)	
Jobs, Education and Competitiveness Bonds (P.L.1988, c.78).....	(9,986,000)	
Public Purpose Buildings and Community-Based Facilities Construction Bonds (P.L.1989, c.184).....	(4,354,000)	
1989 Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Bonds (P.L.1989, c.180).....	(1,503,000)	

For Payment of Interest on Future Bond Sales	(9,500,000)	
Redemption:		
State Housing Assistance Bonds (P.L.1968, c.127)	(500,000)	
Public Buildings Construction Bonds (P.L.1968, c.128)	(11,900,000)	
State Transportation Bonds (P.L.1968, c.126)	(21,800,000)	
Higher Education Construction Bonds (P.L.1971, c.164)	(3,400,000)	
State Mortgage Assistance Bonds (P.L.1976, c.94)	(980,000)	
Institutions Construction Bonds (P.L.1976, c.93)	(2,840,000)	
Medical Education Facilities Bonds (P.L.1977, c.235)	(6,800,000)	
Institutional Construction Bonds (P.L.1978, c.79)	(1,700,000)	
Transportation Rehabilitation and Improvement Bonds (P.L.1979, c.165)	(9,605,000)	
Energy Conservation Bonds (P.L.1980, c.68)	(1,915,000)	
Public Purpose Buildings Construction Bonds (P.L.1980, c.119)	(3,675,000)	
Farmland Preservation Bonds (P.L.1981, c.276)	(2,200,000)	
Correctional Facilities Construction Bonds (P.L.1982, c.120)	(3,545,000)	
Bridge Rehabilitation andImprovement Bonds (P.L.1983, c.363)	(6,215,000)	
Jobs, Science and Technology Bonds (P.L.1984, c.99)	(4,420,000)	
Human Services Facilities Construction Bonds (P.L.1984, c.157)	(2,745,000)	
Refunding Bonds (P.L.1985, c.74, as amended by P.L.1992, c.182)	(58,315,000)	
Correctional Facilities Construction Bonds (P.L.1987, c.178)	(9,900,000)	
Jobs, Education and Competitiveness Bonds (P.L.1988, c.78)	(11,850,000)	
Public Purpose Buildings and Community-Based Facilities Construction Bonds (P.L.1989, c.184)	(4,350,000)	
1989 Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Bonds (P.L.1989, c.180)	(1,850,000)	
Total Appropriation, Debt Service		$466,330,000

Such sums as may be needed for the payment of interest and/or principal due from the issuance of any bonds authorized under the several bond acts of the State are appropriated and shall first be charged to the earnings from the investments of such bond proceeds.

There are appropriated such sums as may be needed for the payment of debt service administrative costs.

Total Appropriation, General Fund..... $10,908,628,000

PROPERTY TAX RELIEF FUND
GRANTS-IN-AID
82 DEPARTMENT OF THE TREASURY
70 Government Direction, Management and Control
75 State Subsidies and Financial Aid--Grants-In-Aid

33-2078 Homestead Rebates $318,900,000
Total Appropriation, State Subsidies and Financial Aid $318,900,000

Grants:
Homestead Property Tax Rebates for Homeowners and Tenants (P.L.1990, c.61)..... ($318,900,000)

A homestead property tax rebate to be paid from the amount appropriated hereinabove during fiscal year 1996 for a tax year 1994 claim for a claimant 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, or who is a joint claimant with such an individual, shall be calculated by the Division of Taxation pursuant to the provisions of the "Homestead Property Tax Rebate Act of 1990," P.L.1990, c.61 (C.54:4-8.57 et seq.).

Notwithstanding the provisions of P.L.1990, c.61 (C.54:4-8.57 et seq.) to the contrary, if the claimant or joint claimant is not 65 years of age or older at the close of the 1994 tax year or 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, a homestead property tax rebate shall be paid from the amount appropriated hereinabove during fiscal year 1996 for a tax year 1994 claim only for a claimant or joint claimants with "gross income," as defined pursuant to section 2 of P.L.1990, c.61 (C.54:4-8.58), not in excess of $40,000 for the tax year, and shall be calculated by the Division of Taxation and paid based upon a maximum rebate of $30 for a claimant whose status is a tenant whose homestead is a unit

of residential rental property and a maximum rebate of $90 for a claimant whose status is an owner of a homestead. Such rebates shall be calculated without regard to the amount of property taxes paid, property taxes paid through rent or rent constituting property taxes paid and without regard to the amount of gross income not in excess of $40,000 and shall be calculated subject to such proportionate reductions in and aggregations of such maximum rebate amounts as relate to the number of days as a tenant of a homestead or as an owner of a homestead during the tax year and the share of property owned or share of rent paid during the tax year.

In addition to the amount hereinabove, there are appropriated from the Property Tax Relief Fund such additional sums as may be required for payments to homeowners and tenants qualifying for homestead property tax rebates, subject to the limitations and conditions provided herein.

Total Appropriation, Department of the Treasury	$318,900,000
Total Appropriation, Grants-In-Aid	$318,900,000

STATE AID

22 DEPARTMENT OF COMMUNITY AFFAIRS

40 Community Development and Environmental Management

41 Community Development Management--State Aid

04-8030 Local Government Services.....		$784,624,000
Total Appropriation, Community Development Management		$784,624,000
State Aid:		
Supplemental Municipal Property Tax Relief Act-Discretionary Aid.....	($30,000,000)	
Consolidated Municipal Property Tax Relief Aid	(857,631,000)	
Less:		
Savings From Pension Funding Changes	*(103,007,000)*	

Notwithstanding any law to the contrary, the amount hereinabove for Consolidated Municipal Property Tax Relief Aid shall be distributed to provide each municipality the sum of all amounts apportioned to it, as determined by the Director of the Division of Budget and Accounting in consultation with the Director of the Division of Local Government Services, pursuant to the 1995 Annual Appropriations Law (P.L.1994, c.67), from the following appropriations: Financial Business Tax Distribution (C.54:10A-38), Insurance Premiums Tax Distribution (C.54:18A-1a), Municipal Aid (C.52:27D-

178), Municipal Revitalization Program, Payments to Municipalities for Services to State-Owned Property, Payments to Municipalities in Lieu of Railroad Property Tax, Payments to Municipalities Pursuant to Municipal Purposes Tax Assistance Program, Payments to Municipalities to Replace Franchise Tax on Telecommunications, Payments to Municipalities to Replace Property Tax on Business Personalty, Safe and Clean Neighborhoods, Safe and Clean: Expanded Police Services, Supplemental Municipal Property Tax Relief Act - Additional Municipal Aid, Supplemental Municipal Property Tax Relief - Formula Aid, Supplemental Municipal Property Tax Relief - Hold - Harmless Formula Aid and Supplementary Aid for Fire Services (P.L.1985, c.295).

Notwithstanding the provisions of any other law to the contrary, the Director of the Division of Budget and Accounting shall reduce the payment to each municipality of Consolidated Municipal Property Tax Relief Aid by the amount of any savings each receives due to reduction of employers' contributions to the Public Employees Retirement System and the Police and Firemen's Retirement System.

The amount hereinabove for Consolidated Municipal Property Tax Relief Aid shall be distributed on the following schedule: on or before July 15, 35% of the total amount due; August 1, 10% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; and December 1, 5% of the total amount due.

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 1995 Annual Appropriations Law (P.L.1994, c.67).

Notwithstanding any law to the contrary, the Director of the Division of Local Government Services is authorized to make such adjustments to any municipality's final appropriations, as calculated pursuant to section 2 of P.L.1976, c.68, as amended (C.40A:4-45.2), as may be necessary to reflect revenues and local matching funds appropriated pursuant to any programs replaced by the Consolidated Municipal Property Tax Relief Aid program.

New Jersey State Library

Notwithstanding any law to the contrary, any funds appropriated as State aid and payable to any municipality in which the provisions of Article 4 of the Local Government Supervision Act, P.L.1947, c.151 (C.52:27BB-54 et seq.), are in effect, may be pledged as a guarantee for payment of principal and interest on any bond anticipation notes issued pursuant to N.J.S.40A:2-8 and any tax anticipation notes issued pursuant to N.J.S.40A:4-64 by such municipality. Such funds, if so pledged, shall be made available by the State Treasurer upon receipt of a written notification by the Director of the Division of Local Government Services that the municipality does not have sufficient funds available for prompt payment of principal and interest on such notes, and shall be paid by the State Treasurer directly to the holders of such notes at such time and in such amounts as specified by the Director, notwithstanding that payment of such funds does not coincide with any date for payment otherwise fixed by law.

From the amount appropriated hereinabove for Consolidated Municipal Property Tax Relief Aid there shall be paid to each municipality an amount, equal to an amount, if any, received in fiscal year 1995 pursuant to the provisions of P.L.1994, c.67 for the purposes of restoring Municipal Aid (C.52:27D-178) and Supplemental Municipal Property Tax Relief Act-Additional Urban Aid to which it was entitled in fiscal year 1993.

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.

Total Appropriation, Department of Community Affairs	$784,624,000

34 DEPARTMENT OF EDUCATION

30 Educational, Cultural and Intellectual Development

31 Direct Educational Services and Assistance--State Aid

01-5120	General Formula Aid	$1,661,380,000
05-5120	Bilingual Education	57,455,000
06-5120	Programs For At-Risk Pupils	292,930,000

07-5120 Special Education		601,039,000
Total Appropriation, Direct Educational Services and Assistance		$2,612,804,000
State Aid:		
Foundation aid - Quality Education Act of 1990	($1,655,720,000)	
Transition aid - Quality Education Act of 1990	(38,203,000)	
Incentive For Comprehensive Districts	(8,670,000)	
Bilingual Education Aid	(57,455,000)	
Aid for At-Risk Pupils	(292,930,000)	
Special Education Aid	(601,039,000)	
Restoration of Penalties for Excessive Administrative Expenditures	(9,666,000)	
Less:		
Savings From Pension Funding Changes	*(41,213,000)*	
Reduction For Excessive Administrative Expenditures	*(9,666,000)*	

Notwithstanding any other law to the contrary, the Foundation Aid entitlement for each school district shall be the same as for the entitlement amount in 1994-95.

The amount appropriated hereinabove for Restoration of Penalties for Excessive Administrative Expenditures shall be used for property tax relief, except that County Special Services School Districts and County Vocational-Technical School Districts may use their allocations from this amount for educational programs.

Notwithstanding any other law to the contrary, Foundation Aid for special needs districts is increased by $100,000,000. This allocation shall be determined in two steps, as follows. Step 1: funds shall be allocated to ensure that the local levy budget per pupil in each such district be at a minimum 78.24 percent of the per pupil average local levy budget of districts in District Factor Groups "I" and "J" for 1995-96. For purposes of estimating the average per pupil local levy budget in District Factor Groups "I" and "J," the average local levy budget per pupil in 1994-95 shall be increased by 2.5 percent. Step 2: subsequent to the preceding calculation, the remaining funds shall be allocated in proportion to their relative shares of the remaining cumulative parity gap. The remaining cumulative parity gap shall be defined as the difference between the 1994-95 local levy budget of districts in District Factor Groups "I" and "J" increased by 2.5 percent and the 1994-95 local levy budgets of special needs districts adjusted by any increase required to establish the 78.24 per-

cent minimum described above. The minimum required general fund tax levy for each special needs district in 1995-96 shall not be less than its 1994-95 general fund tax levy.

Notwithstanding any other law to the contrary, the Commissioner of Education may direct that a special needs district implement an educational improvement plan that includes up to 100 percent of its foundation aid increase.

Notwithstanding any other law to the contrary, any amount remaining in Foundation Aid is allocated to non-special needs districts that received Foundation Aid in 1994-95 in proportion to the increase in Foundation Aid units as defined in N.J.S.A.18A:7D-6, compared to the total Statewide increase in Foundation Aid units so defined, between the units reported on Application for State School Aid from October 1991 and October 1994, and multiplied by the district's State support ratio for the 1992-93 school year; provided, however, that no district's Foundation Aid entitlement shall increase by more than 7.5 percent compared to the amount of its Foundation Aid entitlement for 1994-95.

Notwithstanding any other law to the contrary, for any district, the Transition Aid entitlement in 1995-96 shall be two-thirds of the entitlement amount for the district in 1994-95.

Notwithstanding any other law to the contrary, the State Aid entitlements for each school district receiving Bilingual Education Aid and Aid for Programs for At-Risk Pupils shall be the same as for the entitlement amount in 1994-1995.

Notwithstanding any other law to the contrary, the State aid entitlements for each school district receiving Special Education Aid shall be the same as its entitlement amount in 1994-95 and that each district in which the number of special education aid units as determined according to N.J.S.A. 18A:7D-16a increased between October 15, 1991, and October 15, 1994, shall receive additional aid, subject to the available appropriation. The additional aid shall be apportioned among such districts relative to each district's share of the cumulative increase in special education aid units; provided, however, that no district's Special Education Aid entitlement shall be more than 10 percent higher than its entitlement for such aid in fiscal year 1995.

Notwithstanding any other law to the contrary, the amount of State aid made available to the Department of Human Services pursuant to "The State Facilities Education Act of

1979," P.L.1979, c.207 (C.18A:7B-1 et al.), to defray the costs of educating eligible children in approved private schools under contract with the Department of Human Services shall not exceed the actual costs of the education of those children in such private schools.

Notwithstanding any other law to the contrary, special education aid for pupils classified as eligible for day training shall be paid directly to the resident school district; provided, however, that for pupils under contract for service in a day training facility operated by or under contract with the Department of Human Services, or for pupils not otherwise under contract as of May 1, 1995, aid shall be paid to the Department of Human Services under the provisions of P.L.1979, c.207 (C.18A:7B-1 et al.), "The State Facilities Education Act of 1979."

Revenue received by the State through the Special Education Medicaid Initiative shall be shared with the local education agencies, subject to the approval of the Director of the Division of Budget and Accounting. The administrative costs of this Initiative, including the participation of the 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.

Notwithstanding any other law to the contrary, the Commissioner of Education, based upon a determination that the effort of a district in participating in the Special Education Medicaid Initiative is inadequate, may deduct from the Special Education Aid of the district with a total enrollment of 1,000 or more in which 20% or more of the enrolled pupils are eligible for the federal free lunch program an amount equal to the estimated additional federal revenue of $53,000,000 that all such districts' participation would yield, less that local district's share of such additional federal revenue at the local participation ratio of 15%. Such deduction shall be made in 20 installments consistent with the State school aid payment schedule, equal to the percentage of each applicable district's percentage of enrolled pupils eligible for the federal free lunch program multiplied by its special education enrollments, to the total of such product for all applicable districts at October 15, 1994, multiplied by $2,250,000. Eighty-five percent of any federal Medicaid revenue actually

generated by a district in the second preceding month for current year claims shall be applied against the State aid deductions; and in the event that 85% of such federal revenues exceed a district's monthly installments, such excess amounts shall be applied first against prior deductions and any excess State aid withheld released to the district, and any remainder shall be credited for application against future deductions, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting. However, the Commissioner of Education may discontinue deductions of Special Education aid if, in the Commissioner's judgment, the district has achieved a high rate of parental consent in the Special Education Medicaid Initiative.

Notwithstanding any other law to the contrary, each local school district which participates in the Special Education Medicaid Initiative shall receive a percentage of the federal revenue the district's participation yields for current year claims. The percentage share for local school districts shall be 15% of the first $53,000,000 of federal reimbursements realized. For federal reimbursements realized in excess of $53,000,000, a local school district shall receive a percentage of such revenue based on the level of participation it achieves for the product of its special education enrollment multiplied by the percentage of its enrolled pupils eligible for the federal free lunch program. Districts with a participation rate of 80% or more shall receive 85% of its share of federal revenues in excess of $53,000,000 in recognition of their successful efforts to maximize participation. Each district with a participation rate of 60% to 79% shall receive 50% of its share of federal revenues in excess of $53,000,000. Each district with a participation rate of less than 60% shall receive 15% of its share of federal revenues in excess of $53,000,000.

Notwithstanding any other law to the contrary, each local school district which participates in the Special Education Medicaid Initiative shall receive a percentage of the federal revenue the district's participation yields for prior year claims. The percentage share for local school districts shall be 15% of the first $47,000,000 of federal reimbursements realized. For federal reimbursements realized in excess of

$47,000,000, a local school district shall receive a percentage of such revenue based on the level of participation it achieves for the product of its special education enrollment multiplied by the percentage of its enrolled pupils eligible for the federal free lunch program. Districts with a participation rate of 80% or more shall receive 85% of its share of federal revenues in excess of $47,000,000 in recognition of their successful efforts to maximize participation. Each district with a participation rate of 60% to 79% shall receive 50% of its share of federal revenues in excess of $47,000,000. Each district with a participation rate of less than 60% shall receive 15% of its share of federal revenues in excess of $47,000,000.

33 Supplemental Education and Training Programs--State Aid

20-5120 General Vocational Education.....		$28,690,000
Total Appropriation, Supplemental Education and Training Programs		$28,690,000
State Aid:		
County Vocational Program Aid.....	($28,690,000)	

Notwithstanding any other law to the contrary, the entitlement for each school district receiving County Vocational Program Aid shall be the same as the entitlement amount in 1994-95.

34 Educational Support Services--State Aid

36-5120 Pupil Transportation.....		$249,430,000
38-5120 Facilities Planning and School Building Aid		69,945,000
39-5095 Teachers' Pension and Annuity Assistance		612,933,000
Total Appropriation, Educational Support Services		$932,308,000
State Aid:		
Transportation Aid.....	($249,430,000)	
School Building Aid	(69,945,000)	
Teachers' Pension and Annuity Fund.....	(170,254,000)	
Social Security Tax.....	(442,679,000)	

Notwithstanding any other law to the contrary, for any district, for purposes of calculating each district's Transportation Aid, the constants in formulae A1, A2, and A3 of N.J.S.A.18A:7D-18 shall be increased by 5.34 percent.

Notwithstanding any other law to the contrary, the number of students reported by each district as eligible for transportation pursuant to N.J.S.A.18A:46-23 and as being transported on Type I vehicles shall be reduced by 40 percent and those pupils shall be included as eligible for transportation pursuant to N.J.S.A.18A:39-1.

Notwithstanding any other law to the contrary, for purposes of calculating a district's entitlement for Transportation Aid, equation A3 of N.J.S.A.18A:7D-18 is modified as follows: A3=0.5x(R+RS)x((PxPM)+(ExEM)), where P is the population density in effect for 1992-93.

Notwithstanding the provisions of section 16 of P.L.1990, c.52 (C.18A:7D-18) and section 2 of P.L.1981, c.57 (C.18A:39-1a.), the per-pupil amount for aid in lieu of transportation in the Transportation Aid program shall equal $675.

Each district shall be entitled to debt service aid in the amount provided by section 18 of P.L.1990, c.52 (C.18A:7D-22) by using the district State share percentage for the 1994-1995 school year.

Total Appropriation, Department of Education $3,573,802,000

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.

Any appropriation or part thereof made from the Property Tax Relief Fund may be transferred and recorded as an appropriation from the General 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 unrestricted fund balance in the General Fund, as determined by the State Treasurer, is sufficient to support such appropriation.

Notwithstanding any other law, the Director of the Division of Budget and Accounting shall reduce the payment of State education aid to each school district by the amount of any savings each district received due to reduction of employers' contributions to the Public Employees Retirement System in fiscal year 1995.

Notwithstanding the provisions of any other law to the contrary, any school district whose budgeted administrative costs for fiscal year 1995 are in excess of 130 percent of the median rate of expenditure for districts of the same operating type, the State school aid entitlement shall be reduced by the amount of such excess but by no more than 10 percent of its budgeted administrative costs. For purposes of this provision, "administrative costs" are defined as: Administrative expenditures for attendance and social work services, health

services, other support services-students-regular, and other support services-students-special; Improvement of instruction services/other support services expenditures for instructional staff, educational media services/school library, support services-general administration, and support services-school administration; Business and other support services expenditures for salaries, purchased professional services, purchased technical services, other purchased services, supplies and materials, interest on current loans, and miscellaneous expenditures; less adjustments for residential costs and for judgments against the school district; plus fringe benefits for administration.

Notwithstanding any other law to the contrary, all school districts which operate a program for kindergarten through grade 12 shall receive additional State school aid of $30,000 per district for those whose October 15, 1994 enrollment was less than 2,500 pupils, and $60,000 per district for those whose October 15, 1994 enrollment was 2,500 pupils or more; provided, however, that no district shall receive such additional funds if it is a district whose State school aid entitlement has been reduced as a result of the determination that its budgeted administrative costs are excessive, or if it is not currently fully or conditionally certified by the Commissioner of Education.

For the 1995-96 school year, each non-special needs district may increase its maximum permissible net budget from the preceding school year by the prior year's percentage increase less 1.25 without the loss of State aid. Any non-special needs district which increases its net budget by more than the prior year's percentage increase less 1.25, absent approval obtained consistent with the procedure in subsections e. and f. of section 85 of P.L.1990, c.52 (C.18A:7D-28), shall lose State aid which is paid to or on behalf of the district equal to the amount by which the district exceeds this percentage increase.

The Director of the Division of Budget and Accounting may transfer from one account in the appropriations for the Department of Education in 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 and provided that sufficient funds are available in the appropriations for said Department.

Notwithstanding any other law to the contrary, the Commissioner of Education may withhold from the Garfield City school district and the Bergen County Special Services school district up to 100 percent of the State aid to which they are entitled, until such time as the Department of Education completes an investigation of the finances of those districts.

82 DEPARTMENT OF THE TREASURY

70 Government Direction, Management and Control

75 State Subsidies and Financial Aid--State Aid

29-2078 Locally Provided Services		$17,000,000
34-2078 Reimbursement-Senior Citizens and Veterans		40,704,000
Total Appropriation, State Subsidies and Financial Aid		$57,704,000
State Aid:		
Aid to Densely Populated Municipalities (P.L.1990, c.85).....	($17,000,000)	
Reimbursement to Municipalities - Senior and Disabled Citizens' Property Tax Exemptions	(21,771,000)	
State Reimbursement for Veterans' Property Tax Exemptions	(18,933,000)	

Notwithstanding the provisions of P.L.1990, c.85 (C.52:27D-384 et seq.), the amount hereinabove for aid to densely populated municipalities shall be distributed to the same municipalities which received such aid in fiscal year 1995 pursuant to the provisions of P.L.1994, c.67, in the same proportion as such aid was received in that year.

Notwithstanding any provision of law to the contrary, the payments to municipalities for aid to densely populated municipalities shall be distributed on the following schedule: July 15, 35% of the total amount due; August 1, 10% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; and December 1, 5% of the total amount due.

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.

Total Appropriation, Department of the Treasury	$57,704,000
Total Appropriation, State Aid.....	$4,416,130,000
Total Appropriation, Property Tax Relief Fund	$4,735,030,000

Any appropriation or part thereof made from the Property Tax Relief Fund may be transferred and recorded as an appropriation from the General 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 unrestricted fund balance in the General Fund, as determined by the State Treasurer, is sufficient to support such an appropriation.

CASINO CONTROL FUND
DIRECT STATE SERVICES
66 DEPARTMENT OF LAW AND PUBLIC SAFETY
10 Public Safety and Criminal Justice
12 Law Enforcement

30-1460 Gaming Enforcement		$29,151,000
Total Appropriation, Law Enforcement		$29,151,000
Personal Services:		
Salaries and Wages	($17,605,000)	
Cash in Lieu of Maintenance	(636,000)	
Employee Benefits	(4,704,000)	
Materials and Supplies	(476,000)	
Services Other Than Personal	(1,820,000)	
Maintenance and Fixed Charges	(2,390,000)	
Special Purpose:		
Other Special Purpose	(1,185,000)	
Additions, Improvements and Equipment	(335,000)	

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.

Total Appropriation, Department of Law and Public Safety	$29,151,000

82 DEPARTMENT OF THE TREASURY
70 Government Direction, Management and Control
73 Financial Administration

25-2095 Administration of Casino Gambling		$22,075,000
Total Appropriation, Financial Administration		$22,075,000
Personal Services:		
Chairman and Commissioners	($455,000)	
Salaries and Wages	(14,950,000)	
Employee Benefits	(3,978,000)	
Materials and Supplies	(220,000)	
Services Other Than Personal	(821,000)	
Maintenance and Fixed Charges	(1,304,000)	

Special Purpose:		
Other Special Purpose	(185,000)	
Additions, Improvements and Equipment	(162,000)	

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.

Notwithstanding the provisions of section 53 of P.L.1977, c.110 (C.5:12-53), each member of the Casino Control Commission shall receive compensation of $90,000 per annum. The chairman shall receive $5,000 per annum in addition to his compensation as a member of the commission.

Total Appropriation, Department of the Treasury	$22,075,000
Total Appropriation, Direct State Services--Casino Control Fund	$51,226,000
Total Appropriation, Casino Control Fund	$51,226,000

Notwithstanding any other provision of law to the contrary, expenditures billed to the Casino Control Fund resulting from fiscal year 1995 encumbrances or the carryforward of appropriation balances existing as of June 30, 1995, shall not be considered as operating expenses for the purpose of calculating the amount due and payable to the Atlantic City Fund for fiscal year 1996 pursuant to subsection a. of section 45 of P.L.1995, c.18 (C.5:12-161.2).

CASINO REVENUE FUND
DIRECT STATE SERVICES
22 DEPARTMENT OF COMMUNITY AFFAIRS
50 Economic Planning, Development and Security
55 Social Services Programs

08-8060 Programs for the Aging		$365,000
Total Appropriation, Social Services Programs		$365,000
Personal Services:		
Salaries and Wages	($274,000)	
Employee Benefits	(80,000)	
Materials and Supplies	(5,000)	
Services Other Than Personal	(6,000)	
Total Appropriation, Department of Community Affairs		$365,000

46 DEPARTMENT OF HEALTH

20 Physical and Mental Health

21 Health Services

02-4220 Family Health Services		$233,000
Total Appropriation, Health Services		$233,000
Personal Services:		
Salaries and Wages	($185,000)	
Employee Benefits	(29,000)	
Materials and Supplies	(5,000)	
Services Other Than Personal	(14,000)	
Total Appropriation, Department of Health		$233,000

54 DEPARTMENT OF HUMAN SERVICES

20 Physical and Mental Health

24 Special Health Services

7540 Division of Medical Assistance and Health Services

21-7540 Health Services Administration and Management		$2,350,000
24-7540 Pharmaceutical Assistance to the Aged and Disabled		4,979,000
Total Appropriation, Division of Medical Assistance and Health Services		$7,329,000
Personal Services:		
Salaries and Wages	($3,032,000)	
Compensation Awards	(1,000)	
Materials and Supplies	(104,000)	
Services Other Than Personal	(976,000)	
Maintenance and Fixed Charges	(836,000)	
Special Purpose:		
Payments to Fiscal Agents	(503,000)	
Eligibility Determination	(150,000)	
Payments to Fiscal Agents (PAA)	(1,400,000)	
Other Special Purpose	(135,000)	
Additions, Improvements and Equipment	(192,000)	

30 Educational, Cultural and Intellectual Development

32 Operation and Support of Educational Institutions

7601 Community Programs

02-7601 Social Supervision and Consultation		$34,000
Total Appropriation, Community Programs		$34,000
Special Purpose:		
Homemaker Services (State share)	($34,000)	

50 Economic Planning, Development and Security

53 Economic Assistance and Security

7540 Division of Medical Assistance and Health Services

28-7540 Lifeline Programs		$2,779,000
Total Appropriation, Division of Medical Assistance and Health Services		$2,779,000

Personal Services:		
Salaries and Wages	($1,745,000)	
Compensation Awards	(5,000)	
Materials and Supplies	(43,000)	
Services Other Than Personal	(379,000)	
Maintenance and Fixed Charges	(286,000)	
Special Purpose:		
Other Special Purpose	(270,000)	
Additions, Improvements and Equipment	(51,000)	
Total Appropriation, Department of Human Services		$10,142,000

66 DEPARTMENT OF LAW AND PUBLIC SAFETY

80 Special Government Services

82 Protection of Citizens' Rights

15-1326 Operation of State Professional Boards		$92,000
Total Appropriation, Protection of Citizens' Rights		$92,000
Personal Services:		
Salaries and Wages	($60,000)	
Employee Benefits	(19,000)	
Materials and Supplies	(2,000)	
Services Other Than Personal	(10,000)	
Additions, Improvements and Equipment	(1,000)	

The amount hereinabove is appropriated from the Casino Revenue Fund.

Total Appropriation, Department of Law and Public Safety	$92,000
Total Appropriation, Direct State Services--Casino Revenue Fund	$10,832,000

GRANTS - IN - AID

22 DEPARTMENT OF COMMUNITY AFFAIRS

50 Economic Planning, Development and Security

55 Social Services Programs--Grants-In-Aid

08-8060 Programs for the Aging		$6,713,000
Total Appropriation, Social Services Programs		$6,713,000
Grants:		
Adult Protective Services	($1,718,000)	
Senior Citizen Housing-Safe Housing and Transportation	(2,143,000)	
Congregate Housing Support Services	(1,902,000)	
Home Delivered Meals Expansion	(950,000)	
Total Appropriation, Department of Community Affairs		$6,713,000

46 DEPARTMENT OF HEALTH
20 Physical and Mental Health
21 Health Services--Grants-In-Aid

02-4220 Family Health Services		$1,447,000
Total Appropriation, Health Services		$1,447,000
Grants:		
Statewide Birth Defects Registry	($500,000)	
Demonstration Adult Day Care Center Program-Alzheimer's Disease	(947,000)	
Total Appropriation, Department of Health		$1,447,000

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		$50,747,000
24-7540 Pharmaceutical Assistance to the Aged and Disabled		121,204,000
Total Appropriation, Division of Medical Assistance and Health Services		$171,951,000
Grants:		
Community Care Programs for the Elderly and Disabled	($37,709,000)	
Respite Care for the Elderly	(4,000,000)	
Long Term Care Alternatives	(788,000)	
Home Care Expansion	(8,000,000)	
Hearing Aid Assistance for the Aged and Disabled	(250,000)	
Pharmaceutical Assistance to the Aged and Disabled - Claims P.L.1975, c.194 (C.30:4D-20 et seq.)	(121,204,000)	

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, 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, 1996, 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 General Medical 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. This provision shall apply to all payments made after June 30, 1990.

For the purposes of account balance maintenance all object accounts in the General Medical Services 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. This provision shall apply to all payments made after June 30, 1990.

An amount not to exceed $1,500,000 is appropriated to the Department of Human Services, Division of Medical Assistance and Health Services from the "Health Care Subsidy Fund" established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58) to expand the Community Care Program for the Elderly and Disabled.

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 null and void, and no PAAD payments shall be made as a result of any such provision.

An amount not to exceed $114,000 of the unexpended balances as of June 30, 1995, in the Respite Care for the Elderly Program shall be used to grant a three percent cost of current services adjustment to respite care providers in conformity with all other third party providers under contract with the Department of Human Services.

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 law to the contrary, rebates from pharmaceutical manufacturing companies for prescriptions purchased by the "Pharmaceutical Assistance to the Aged and Disabled" program shall continue throughout fiscal

year 1996. All revenues from such rebates during the fiscal year ending June 30, 1996 shall be appropriated for the cost of the "Pharmaceutical Assistance to the Aged and Disabled" program.

30 Educational, Cultural and Intellectual Development
32 Operation and Support of Educational Institutions
7601 Community Programs--Grants-In-Aid

01-7601 Purchased Residential Care		$14,905,000
02-7601 Social Supervision and Consultation		2,208,000
03-7601 Adult Activities		7,374,000
Total Appropriation, Community Programs		$24,487,000
Grants:		
Private Institutional Care	($1,311,000)	
Skill Development Homes	(1,141,000)	
Group Homes	(12,325,000)	
Family Care	(128,000)	
Home Assistance	(2,208,000)	
Purchase of Adult Activity Services	(7,374,000)	

Group home maintenance recoveries during the fiscal year ending June 30, 1996, not to exceed $3,500,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Skill development homes recoveries during the fiscal year ending June 30, 1996, not to exceed $12,000,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Amounts required to return persons with mental retardation or developmental disabilities presently residing in out-of-State institutions to group homes within the State may be transferred from the Private Institutional Care account to the Group Homes account, subject to the approval of the Director of the Division of Budget and Accounting.

50 Economic Planning, Development and Security
53 Economic Assistance and Security
7540 Division of Medical Assistance and Health Services
Grants-In-Aid

28-7540 Lifeline Programs		$41,850,000
Total Appropriation, Division of Medical Assistance and Health Services		$41,850,000
Grants:		
Payments for Lifeline Credits	($41,850,000)	

In addition to the amount hereinabove, there are appropriated from the Casino Revenue Fund such additional funds as may be required for payments to persons qualifying for Lifeline Programs.

50 Economic Planning, Development and Security
55 Social Services Programs
7570 Division of Youth and Family Services--Grants-In-Aid

18-7570 General Social Services		$3,643,000
Total Appropriation, Division of Youth and Family Services		$3,643,000
Grants:		
Personal Attendant Program.....	($3,643,000)	
Total Appropriation, Department of Human Services		$241,931,000

62 DEPARTMENT OF LABOR

50 Economic Planning, Development and Security
54 Manpower and Employment Services--Grants-In-Aid

07-4535 Vocational Rehabilitation Services		$1,740,000
Total Appropriation, Manpower and Employment Services		$1,740,000
Grants:		
Sheltered Workshop Transportation.....	($1,740,000)	
Total Appropriation, Department of Labor		$1,740,000
Total Appropriation, Grants-In-Aid-- Casino Revenue Fund.....		$251,831,000

STATE AID
78 DEPARTMENT OF TRANSPORTATION

60 Transportation Programs
62 Public Transportation--State Aid

04-6050 Railroad and Bus Operations.....		$19,865,000
Total Appropriation, Public Transportation		$19,865,000
State Aid:		
Transportation Assistance for Senior Citizens and Disabled Residents.....	($19,865,000)	

The unexpended balance as of June 30, 1995 in this account is appropriated.

Total Appropriation, Department of Transportation		$19,865,000

82 DEPARTMENT OF THE TREASURY

70 Government Direction, Management and Control
75 State Subsidies and Financial Aid--State Aid

34-2078 Reimbursement--Senior Citizens and Veterans		$17,180,000
Total Appropriation, State Subsidies and Financial Aid		$17,180,000
State Aid:		
Reimbursements to Municipalities -Senior and Disabled Citizens' Property Tax Exemptions	($17,180,000)	

In addition to the amount hereinabove, there are appropriated from the Casino Revenue Fund such additional sums as may be required for reimbursements to municipalities qualifying for such payments or reimbursements.

Total Appropriation, Department of the Treasury	$17,180,000
Total Appropriation, State Aid--Casino Revenue Fund	$37,045,000
Total Appropriation, Casino Revenue Fund	$299,708,000

Any appropriation or part thereof made from the Casino Revenue Fund may be transferred and recorded as an appropriation from the General 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 unrestricted balance in the General Fund, as determined by the State Treasurer, is sufficient to support such appropriation.

GUBERNATORIAL ELECTIONS FUND

66 DEPARTMENT OF LAW AND PUBLIC SAFETY

10 Public Safety and Criminal Justice

13 Special Law Enforcement Activities

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.

Total Appropriation, All State Funds.....	$15,994,592,000

FEDERAL FUNDS

10 DEPARTMENT OF AGRICULTURE

40 Community Development and Environmental Management

42 Natural Resource Management

01-3310 Animal Disease Control		$18,000
02-3320 Plant Pest and Disease Control.....		155,000
Total Appropriation, Natural Resource Management		$173,000
Personal Services:		
Salaries and Wages	($83,000)	
Employee Benefits.....	(24,000)	
Materials and Supplies	(2,000)	
Services Other Than Personal.....	(13,000)	
Maintenance and Fixed Charges.....	(16,000)	

Special Purpose:		
Other Special Purpose	(35,000)	

50 Economic Planning, Development and Security

51 Economic Planning and Development

06-3360 Marketing Services		$8,000
07-3360 Commodity Distribution		1,060,000
Total Appropriation, Economic Planning and Development		$1,068,000
Personal Services:		
Salaries and Wages	($202,000)	
Employee Benefits	(56,000)	
Materials and Supplies	(9,000)	
Services Other Than Personal	(12,000)	
Maintenance and Fixed Charges	(117,000)	
Special Purpose:		
Jobs Bill	(39,000)	
State Aid and Grants:		
Jobs Bill	(630,000)	
Additions, Improvements and Equipment	(3,000)	

52 Economic Regulation

05-3350 Other Commodity Regulation		$139,000
Total Appropriation, Economic Regulation		$139,000
Personal Services:		
Salaries and Wages	($72,000)	
Employee Benefits	(31,000)	
Services Other Than Personal	(21,000)	
Maintenance and Fixed Charges	(15,000)	
Total Appropriation, Department of Agriculture		$1,380,000

20 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

30 Educational, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services

10-2920 Public Broadcasting Services		$125,000
Total Appropriation, Cultural and Intellectual Development Services		$125,000
Special Purpose:		
Public Broadcasting Services	($125,000)	
Total Appropriation, Department of Commerce and Economic Development		$125,000

22 DEPARTMENT OF COMMUNITY AFFAIRS

40 Community Development and Environmental Management

41 Community Development Management

02-8020 Housing Services		$157,821,000
Total Appropriation, Community Development Management		$157,821,000

Personal Services:	
Salaries and Wages	($10,290,000)
Employee Benefits	(2,528,000)
Materials and Supplies	(366,000)
Services Other Than Personal	(1,605,000)
Maintenance and Fixed Charges	(710,000)
Special Purpose:	
Transitional Housing - Homeless	(200,000)
Intermediary Technical Assistance Grant	(37,000)
Other Special Purpose	(957,000)
State Aid and Grants:	
Public Housing Drug Elimination Technical Assistance Grant	(10,000)
Rural Rental Rehabilitation Demonstration Program	(100,000)
Youthbuild Planning Grant	(100,000)
Small Cities Block Grant Program	(10,884,000)
Emergency Shelter Grants Program	(1,500,000)
Intermediary Technical Assistance Grant	(713,000)
Housing Opportunities For Persons With AIDS	(1,140,000)
Supplemental Assistance for Facilities To Assist the Homeless	(650,000)
Moderate Rehabilitation Housing Assistance	(9,624,000)
Rental Rehabilitation Assistance Program	(500,000)
Section 8 Existing Housing Rental Assistance	(59,937,000)
Section 8 Housing Voucher Program	(35,038,000)
Transitional Housing - Homeless	(1,900,000)
Permanent Housing for the Handicapped Homeless	(3,000,000)
Lead Based Paint Abatement In Low and Moderate Income Housing	(3,080,000)
National Affordable Housing - HOME Investment Partnerships	(10,081,000)
HOPE For Elderly Independence Demonstration Program	(1,300,000)
HOPE 3 Implementation Grant	(1,500,000)
Additions, Improvements and Equipment	(71,000)

50 Economic Planning, Development and Security

55 Social Services Programs

05-8050	Community Resources	$22,388,000
08-8060	Programs for the Aging	35,493,000
14-8061	Ombudsman's Office	320,000
15-8051	Women's Programs	43,000
	Total Appropriation, Social Services Programs	$58,244,000
Personal Services:		
	Salaries and Wages	($4,653,000)
	Employee Benefits	(752,000)
Materials and Supplies		(44,000)
Services Other Than Personal		(221,000)

Maintenance and Fixed Charges	(29,000)	
Special Purpose:		
Low Income Energy Assistance Program Training and Technical Assistance	(12,000)	
Older Americans' Act Title III	(17,000)	
Ombudsman for the Institutionalized Elderly	(320,000)	
Other Special Purpose	(210,000)	
State Aid and Grants:		
Community Food and Nutrition Program.	(102,000)	
Community Services Block Grant - HHS.	(10,919,000)	
Emergency Homeless Program	(572,000)	
Frail Elderly Tenants	(100,000)	
Home Energy Assistance Program	(3,246,000)	
Purchase of Legal Services	(1,382,000)	
USDA Older Americans' Act Title III	(3,900,000)	
Older Americans' Act Title III	(26,313,000)	
Older Americans' Act Title III	(201,000)	
Older Americans' Act Title VII	(430,000)	
Counseling on Health Insurance for Medicare Enrollees	(134,000)	
Child Development Associate Scholarship Assistance Grant	(43,000)	
CSBG Discretionary Grant	(250,000)	
Weatherization Assistance Program	(4,370,000)	
Additions, Improvements and Equipment	(24,000)	
Total Appropriation, Department of Community Affairs		$216,065,000

26 DEPARTMENT OF CORRECTIONS

10 Public Safety and Criminal Justice

16 Detention and Rehabilitation

7080 Edna Mahan Correctional Facility For Women

10-7080 Education Program		$75,000
Total Appropriation, Edna Mahan Correctional Facility For Women		$75,000
Personal Services:		
Salaries and Wages	($56,000)	
Special Purpose:		
Other Special Purpose	(19,000)	

7110 Garden State Reception and Youth Correctional Facility

10-7110 Education Program		$100,000
Total Appropriation, Garden State Reception and Youth Correctional Facility		$100,000
Personal Services:		
Salaries and Wages	($51,000)	
Employee Benefits	(15,000)	
Special Purpose:		
Other Special Purpose	(34,000)	

7130 Mountainview Youth Correctional Facility

08-7130 Institutional Care Program		$68,000
Total Appropriation, Mountainview Youth Correctional Facility		$68,000
Personal Services:		
Salaries and Wages	($50,000)	
Employee Benefits	(18,000)	

19 Central Planning, Direction and Management

7000 Division of Management and General Support

01-7000 Planning, Management and General Support		$228,000
02-7000 Program Operations Support		1,768,000
Total Appropriation, Division of Management and General Support		$1,996,000
Personal Services:		
Salaries and Wages	($955,000)	
Special Purpose:		
Title 1, Part D, Neglected, Delinquent	(705,000)	
Adult Basic Education Grant	(12,000)	
IDEA, (State Institutions) Corrections	(150,000)	
Other Special Purpose	(23,000)	
Additions, Improvements and Equipment	(151,000)	
Total Appropriation, Department of Corrections		$2,239,000

34 DEPARTMENT OF EDUCATION

30 Educational, Cultural and Intellectual Development

31 Direct Educational Services and Assistance

03-5120 Miscellaneous Grants-In-Aid		$8,247,000
04-5064 Adult and Continuing Education ...		6,075,000
05-5064 Bilingual Education		124,000
05-5060 Bilingual Education		1,516,000
06-5064 Programs For At-Risk Pupils		1,159,000
06-5060 Programs For At-Risk Pupils		156,632,000
07-5060 Special Education		85,945,000
07-5065 Special Education		11,235,000
Total Appropriation, Direct Educational Services and Assistance		$270,933,000
Personal Services:		
Salaries and Wages	($4,309,000)	
Employee Benefits	(1,171,000)	
Materials and Supplies	(545,000)	
Services Other Than Personal	(1,377,000)	
Maintenance and Fixed Charges	(626,000)	
Special Purpose:		
Comprehensive System of Personnel Development	(2,000)	
Adult Basic Education-Admin./Discretionary	(56,000)	
Adult Basic Education-Evaluation and Training	(2,000)	
Even Start Family Literacy Grant	(14,000)	

ESEA Title 1 Administration	(5,000)
IDEA Part B - Handicapped, Admin./Discretionary	(123,000)
Bilingual Education, SEA Project - Coordinating and Technical Assistance	(1,000)
Bilingual and Compensatory Education - Homeless Children and Youth	(1,000)
Emergency Immigrants' Education Assistance	(1,000)
Migrant Educational Program - Admin./Discretionary	(2,000)
Preschool Regional T.A. Project LRC North	(3,000)
Preschool Regional T.A. Project LRC Central	(3,000)
IDEA Part B - LRC Central	(9,000)
IDEA Part B - LRC North	(113,000)
IDEA Part B - LRC North Satellite	(9,000)
IDEA Part B - LRC South	(1,000)
Preschool Incentive Grant- Administration	(26,000)
Deaf/Blind Children - Services, Admin./Discretionary	(1,000)
Early Intervention	(2,000)
Early Intervention - Child Find Outreach.	(10,000)
New Jersey Partnership for Transition	(1,000)
Other Special Purpose	(513,000)
State Aid and Grants:	
Title VI - Innovative Education Strategies	(8,247,000)
Title 1 - LEA, Disadvantaged	(150,000,000)
Title 1 - State Program Improvement Grants	(580,000)
Adult Basic Education-Admin./Discretionary	(4,271,000)
Adult Education - 353 Program Discretionary	(1,000,000)
Bilingual and Compensatory Education - Homeless Children and Youth	(566,000)
Emergency Immigrants' Education Assistance - Program	(1,516,000)
IDEA - State Institutions Handicapped	(1,400,000)
Title 1 - Capital Expenses for Private School Children	(2,686,000)
Even Start Family Literacy Grant	(1,900,000)
Migrant Educational Program- Admin./Discretionary	(900,000)
New Jersey Partnership for Transition	(384,000)
Preschool Incentive Grant- Admin./Discretionary	(883,000)
Preschool Incentive Grant Programmatic.	(10,500,000)
Preschool Regional T.A. Project LRC South	(212,000)
IDEA Part B - Handicapped, Admin./ Discretionary	(1,361,000)
IDEA Part B - Handicapped, Programmatic	(75,445,000)
Additions, Improvements and Equipment	(156,000)

32 Operation and Support of Educational Institutions

12-5011 Marie H. Katzenbach School for the Deaf		$599,000
Total Appropriation, Operation and Support of Educational Institutions		$599,000
Personal Services:		
Salaries and Wages	($353,000)	
Employee Benefits	(93,000)	
Materials and Supplies	(49,000)	
Services Other Than Personal	(60,000)	
Maintenance and Fixed Charges	(7,000)	
Special Purpose:		
Drug-Free Schools - Substance Awareness	(2,000)	
Other Special Purpose	(29,000)	
Additions, Improvements and Equipment	(6,000)	

33 Supplemental Education and Training Programs

20-5060 General Vocational Education		$16,600,000
20-5062 General Vocational Education		27,796,000
Total Appropriation, Supplemental Education and Training Programs		$44,396,000
Personal Services:		
Salaries and Wages	($2,339,000)	
Employee Benefits	(629,000)	
Materials and Supplies	(125,000)	
Services Other Than Personal	(270,000)	
Maintenance and Fixed Charges	(114,000)	
Special Purpose:		
Career Education--Research and Development Project Grant	(73,000)	
Vocational Education - Title IIB Leadership Activities	(3,000)	
Vocational Education - Basic Grants Admin./Discretionary	(10,000)	
Vocational Student Organization Administration	(1,000)	
Vocational Curriculum Library Administration	(2,000)	
Vocational Education - Occupational Competencies	(3,000)	
Vocational Education Technical Preparation Title III-E	(300,000)	
Job Training Partnership Act Title II - Youth	(1,000)	
School To Work Opportunities	(23,000)	
Other Special Purpose	(225,000)	
State Aid and Grants:		
Consumer and Useful Homemaking-Discretionary	(750,000)	
School to Work Opportunities	(14,665,000)	
Vocational Education - Secondary Programmatic	(11,000,000)	

Vocational Education - Post Secondary & Adult - Programmatic	(5,600,000)	
Vocational Education - Community Based Organizations - Administration	(260,000)	
Vocational Education - Single Parent Homemaker, Discretionary	(1,600,000)	
Vocational Education - Sex Bias, Stereotyping-Discretionary	(700,000)	
Vocational Education Technical Preparation Title III-E	(2,089,000)	
REACH/Jobs	(150,000)	
Job Training Partnership Act Title II-A - Adult	(3,400,000)	
Additions, Improvements and Equipment	(64,000)	

34 Educational Support Services

30-5060 Academic Programs and Standards		$5,900,000
30-5063 Academic Programs and Standards		26,784,000
31-5060 Grants Management and Developmen		2,165,000
33-5067 Service to Local Districts		2,549,000
33-5091 Service to Local Districts		1,349,000
34-5064 Equal Educational Opportunity		580,000
37-5120 School Nutrition		167,201,000
40-5060 Health, Safety, and Community Services		9,084,000
40-5064 Health, Safety, and Community Services		4,824,000
Total Appropriation, Educational Support Services		$220,436,000
Personal Services:		
Salaries and Wages	($8,156,000)	
Employee Benefits	(2,156,000)	
Materials and Supplies	(436,000)	
Services Other Than Personal	(2,023,000)	
Maintenance and Fixed Charges	(26,000)	
Special Purpose:		
AIDS Prevention Education- Administration	(147,000)	
Title VI - Innovative Program Strategies	(9,000)	
EESE, Title II - Math Science Training, Administration	(3,000)	
EESA, Title II - Math Science Training, Exemplary	(3,000)	
GOALS 2000	(20,000)	
GOALS 2000.- Administration	(2,000)	
Eisenhower Math/Science Grant - Critical Skills	(1,000)	
Learn and Serve America (K-12)	(2,000)	
Title VI - Innovative Ed. Program Strategies	(2,000)	
National Community Service - Americorp	(19,000)	
Adult Basic Education - Evaluation and Training	(115,000)	
Civil rights - Technical Assistance and Training	(2,000)	
Drug-Free Schools and Communities - Administration	(5,000)	

Drug-Free Schools and Communities - Governor's Portion	(1,000)
Drug-Free Schools and Communities - Governor's Portion - Program Expenses	(3,000)
Other Special Purpose	(782,000)
State Aid and Grants:	
Title VI - Innovative Program Strategies	(200,000)
Statewide Systemic Initiative - Administration/Discretionary	(2,000,000)
National Community Service - Americorp	(10,130,000)
GOALS 2000	(8,100,000)
Drug Free Schools And Communities - Discretionary	(230,000)
SDFSCA - Law Enforcement Educ. Partnership	(500,000)
Eisenhower Math/Science Grant - Critical Skills	(1,730,000)
EESA, Title II - Math Science Training, Programmatic	(5,900,000)
EESA, Title II - Math Science Training, Administration	(20,000)
Drug-Free Schools and Communities - Governor's Portion	(1,344,000)
Drug-Free Schools and Communities - Programmatic	(7,740,000)
Learn and Serve America (K-12)	(472,000)
Child Nutrition Programmatic	(107,200,000)
Child Nutrition Special Milk	(1,400,000)
Child Nutrition School Breakfast, Programmatic	(15,640,000)
School Breakfast - Administration	(130,000)
Child Care Food	(27,900,000)
Child Care Sponsor Administration	(1,285,000)
Child Care - Cash for Commodities	(1,180,000)
Summer Food	(10,100,000)
Summer Sponsor-Administration	(630,000)
Goodstarts	(2,355,000)
Additions, Improvements and Equipment	(337,000)

35 Education Administration and Management

42-5120 School Finance		$175,000
43-5092 Compliance and Auditing		467,000
99-5010 Management and Administrative Services		872,000
99-5093 Management and Administrative Services		470,000
Total Appropriation, Education Administration and Management		$1,984,000
Personal Services:		
Salaries and Wages	($797,000)	
Employee Benefits	(209,000)	
Materials and Supplies	(11,000)	
Services Other Than Personal	(28,000)	

Special Purpose:		
IDEA Part B - Handicapped, Finance	(2,000)	
IDEA Part B - Handicapped, Compliance	(2,000)	
Other Special Purpose.....	(65,000)	
State Aid and Grants:		
Byrd Scholarship Program	(800,000)	
Christa McAuliff Fellowship Program.....	(70,000)	

37 Cultural and Intellectual Development Services

51-5070 Library Services.....		$4,028,000
Total Appropriation, Cultural and Intellectual Development Services		$4,028,000
Personal Services:		
Salaries and Wages	($1,450,000)	
Employee Benefits	(353,000)	
Materials and Supplies.....	(3,000)	
Services Other Than Personal.....	(206,000)	
Special Purpose:		
LSCA Title I-Administration	(4,000)	
LSCA Title III Interlibrary Cooperation ..	(3,000)	
Other Special Purpose.....	(248,000)	
State Aid and Grants:		
LSCA Title III Interlibrary Cooperation ..	(261,000)	
LSCA Title I-Administration	(720,000)	
LSCA Title II Programmatic.....	(750,000)	
Additions, Improvements and Equipment.....	(30,000)	
Total Appropriation, Department of Education		$542,376,000

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

42 Natural Resource Management

11-4870 Forest Resource Management.....		$2,130,000
12-4875 Parks Management		8,685,000
13-4880 Hunters' and Anglers' License Fund		8,210,000
14-4885 Shellfish and Marine Fisheries Management		6,090,000
21-4895 Natural Resources Engineering		200,000
Total Appropriation, Natural Resource Management		$25,315,000
Personal Services:		
Salaries and Wages	($2,439,000)	
Employee Benefits	(576,000)	
Materials and Supplies.....	(197,000)	
Services Other Than Personal.....	(818,000)	
Maintenance and Fixed Charges.....	(77,000)	
Special Purpose:		
Forest Resource Management - Cooperative Forest Fire Control.....	(160,000)	
Gypsy Moth Suppression	(19,000)	
Consolidated Forest Management.....	(263,000)	
Conservation Education	(17,000)	

NY/NJ Harbor Estuary - Perm. Lib./Trav. Exhib.	(5,000)
Survey and Planning - Operational / State Administration	(825,000)
Endangered Plant Species Supplemental Funding	(35,000)
Pitch Pine Protection	(200,000)
Hunters' and Anglers' License Fund/ N.J. Statewide Fisheries Development Project	(750,000)
Hunter's and Anglers' License Fund/Fish Disease and Parasite Investigations	(40,000)
Fish and Wildlife Input to Activities - Projects of Others	(275,000)
Cooperative Banding Program	(10,000)
Study of New Jersey Deer Herd	(350,000)
Wetlands Ecology	(150,000)
NJ Fish, Wildlife and Anadromous Fishery Coordination	(110,000)
Research in Freshwater Fisheries Management	(100,000)
Wildlife Health Project	(80,000)
Upland Wildlife and Furbearing Research	(140,000)
Fish Culture and Stocking Project	(280,000)
Aquatic Recreational Resource Awareness	(120,000)
Development of a Computerized Fish and Wildlife Information System	(55,000)
Landscape Model For Rare Species Protection	(40,000)
Wild Turkey Research	(30,000)
Hunter Safety Training	(196,000)
Endangered Species E-1-6	(35,000)
Partnership for Wildlife	(50,000)
Atlantic Sturgeon Investment and Management	(2,000)
Marine Fisheries Investigation and Management.	(568,000)
Stock Assessment of New Jersey Offshore Fisheries	(124,000)
Marine Fisheries Field Office Improvements	(3,000)
Clean Vessels	(3,300,000)
Approach For Rare Species	(40,000)
Approval of Drugs For Public Fish Production	(15,000)
Atlantic Coast Fisheries	(170,000)
Artificial Reef Program	(10,000)
Commercial Fisheries Statistics	(17,000)
Community Assistance Program	(87,000)
Other Special Purpose	(756,000)
State Aid and Grants:	
Consolidated Forest Management	(344,000)
Small Business Administration - Tree planting	(600,000)
Rural Community Fire Protection	(39,000)
Survey and Planning - Operational / State Administration	(85,000)
Historic Preservation - Acquisition and Development	(500,000)
Additions, Improvements and Equipment	(10,213,000)

43 Science and Technical Programs

01-4820 Radiation Protection		$1,400,000
02-4801 Air Pollution Control		2,435,000
04-4835 Pesticide Control		553,000
05-4840 Water Supply and Watershed Management		13,760,000
07-4850 Water Monitoring and Planning		4,200,000
17-4900 Solid Waste Resource Management		1,575,000
18-4810 Science and Research		4,746,000
22-4861 Water Quality Management		350,000
Total Appropriation, Science and Technical Programs		$29,019,000
Personal Services:		
Salaries and Wages	($5,518,000)	
Employee Benefits	(1,352,000)	
Materials and Supplies	(134,000)	
Services Other Than Personal	(12,751,000)	
Maintenance and Fixed Charges	(5,000)	
Special Purpose:		
Health Care Financing - Screening Mammography Services - DEP/DOH	(11,000)	
NESHAPS - Radionuclides	(31,000)	
NGA - Federal Facilities Compliance Act	(31,000)	
Radon Program	(286,000)	
Air Pollution Maintenance Program	(443,000)	
Cooperative Pesticide Enforcement	(50,000)	
Safe Drinking Water Act	(545,000)	
Water Pollution Control Program	(884,000)	
Clean Lakes Program	(1,500,000)	
Delaware Bay Estuary Program	(125,000)	
NY/NJ Harbor Estuary Program	(310,000)	
Communication of Fish Advisories	(19,000)	
Coastal Oceans Program	(50,000)	
Inventory of Greenhouse Gas	(75,000)	
Environmental Technology Initiative	(1,812,000)	
OER/95 Reducing Uncertainty	(400,000)	
OER/Reducing Uncertainty in Risk Assessment and Improving Risk Reduction	(150,000)	
Education Outreach to Urban Anglers	(35,000)	
Comparative Risk Project	(100,000)	
State Partnership Initiative	(120,000)	
Barnegat Bay Estuary Nomination	(500,000)	
National Geologic Mapping Program	(139,000)	
Earthquake Hazard Reduction	(50,000)	
Other Special Purpose	(1,184,000)	
Additions, Improvements and Equipment	(409,000)	

44 Site Remediation

19-4815 Publicly-Funded Site Remediation	$100,000,000
23-4815 Hazardous Waste Management	360,000
27-4815 Responsible Party Site Remediation	7,300,000
Total Appropriation, Site Remediation	$107,660,000

Personal Services:		
Salaries and Wages	($2,526,000)	
Employee Benefits	(612,000)	
Materials and Supplies	(4,000)	
Services Other Than Personal	(24,595,000)	
Special Purpose:		
Super Fund Grants	(75,000,000)	
Hazardous Waste - Resource Conservation	(28,000)	
Preliminary Assessments/Site Inspections	(1,463,000)	
CERCLA Grants	(750,000)	
Underground Storage Tanks	(1,451,000)	
Underground Storage Tanks	(104,000)	
Other Special Purpose	(959,000)	
Additions, Improvements and Equipment	(168,000)	

45 Environmental Regulation

02-4892 Air Pollution Control		$1,285,000
09-4860 Public Wastewater Facilities		86,200,000
15-4890 Land Use Regulation		1,730,000
15-4891 Land Use Regulation		1,211,000
16-4891 Water Monitoring and Planning		6,175,000
23-4910 Hazardous Waste Management.		2,468,000
Total Appropriation, Environmental Regulation		$99,069,000
Personal Services:		
Salaries and Wages	($4,910,000)	
Employee Benefits	(1,195,000)	
Materials and Supplies	(263,000)	
Services Other Than Personal	(535,000)	
Maintenance and Fixed Charges	(22,000)	
Special Purpose:		
Air Pollution Maintenance Program	(98,000)	
Construction Grants Program	(257,000)	
Coastal Zone Management Implementation	(323,000)	
Barnegat Bay Pumpout Stations	(28,000)	
State Wetlands Conservation Plan	(155,000)	
Coastal Zone Management Grant §309	(9,000)	
Water Pollution Control (S106) - Ground Water Project	(124,000)	
Coastal Zone Management Grant §6217	(47,000)	
Underground Injection Control	(26,000)	
Monitoring and Planning	(1,098,000)	
Non-Point Source Implementation Grant	(300,000)	
NPDES Implementation Support Program	(1,247,000)	
Hazardous Waste - Resource Conservation Recovery Act	(43,000)	
Pollution Prevention Incentive	(150,000)	
Pollution Prevention Incentive -Counties	(83,000)	
Other Special Purpose	(1,437,000)	
State Aid and Grants:		
Construction Loan Revolving Fund	(85,000,000)	

Monitoring and Planning	(201,000)	
Non-Point Source Implementation Grant	(1,151,000)	
Additions, Improvements and Equipment	(367,000)	

46 Environmental Planning and Administration

26-4805 Regulatory and Governmental Affairs		$11,000
99-4800 Management and Administrative Services		975,000
Total Appropriation, Environmental Planning and Administration		$986,000
Personal Services:		
Salaries and Wages	($156,000)	
Employee Benefits	(37,000)	
Materials and Supplies	(21,000)	
Services Other Than Personal	(177,000)	
Maintenance and Fixed Charges	(3,000)	
Special Purpose:		
State/EPA Data Management Grant	(100,000)	
Other Special Purpose	(57,000)	
Additions, Improvements and Equipment	(435,000)	

47 Enforcement Policy

02-4855 Air Pollution Control		$3,280,000
15-4855 Land Use Regulation		482,000
23-4855 Hazardous Waste Management		1,866,000
Total Appropriation, Enforcement Policy		$5,628,000
Personal Services:		
Salaries and Wages	($3,113,000)	
Employee Benefits	(755,000)	
Materials and Supplies	(28,000)	
Services Other Than Personal	(343,000)	
Maintenance and Fixed Charges	(17,000)	
Special Purpose:		
Air Pollution Maintenance Program	(502,000)	
Coastal Zone Management Implementation	(34,000)	
Hazardous Waste - Resource Conservation Recovery Act	(158,000)	
Other Special Purpose	(376,000)	
Additions, Improvements and Equipment	(302,000)	
Total Appropriation, Department of Environmental Protection		$267,677,000

46 DEPARTMENT OF HEALTH

20 Physical and Mental Health

21 Health Services

01-4215 Vital Statistics	$523,000
02-4220 Family Health Services	118,486,000
03-4230 Epidemiology, Environmental and Occupational Health Services	27,819,000
04-4240 Alcoholism, Drug Abuse and Addiction Services	52,924,000

08-4280 Laboratory Services		540,000
12-4245 AIDS Services		23,478,000
Total Appropriation, Health Services		$223,770,000
Personal Services:		
Salaries and Wages	($29,202,000)	
Employee Benefits	(7,095,000)	
Materials and Supplies	(1,203,000)	
Services Other Than Personal	(9,046,000)	
Maintenance and Fixed Charges	(218,000)	
Special Purpose:		
Supplemental Food Program--W.I.C.	(58,182,000)	
Other Special Purpose	(6,784,000)	
State Aid and Grants:		
Preventative Health and Health Services	(2,472,000)	
Supplemental Food Program--W.I.C.	(12,000,000)	
Maternal and Child Health Block Grant	(6,722,000)	
Substance Abuse Block Grant	(385,000)	
Second Chance: Centers for Drug Addicted Pregnant Women	(290,000)	
Substance Abuse Block Grant	(28,642,000)	
Prevention Disabilities	(65,000)	
Essex County Healthy Start Initiative	(1,000,000)	
Childhood Lead Poisoning	(815,000)	
Housing Opportunities For Persons With AIDS	(35,000)	
HIV/AIDS Surveillance Grant	(219,000)	
AIDS Epidemiology Study of Blood Donors	(68,000)	
HIV/AIDS Prevention Education Grant	(6,559,000)	
Comprehensive AIDS Resources Grant	(8,255,000)	
Social Services Block Grant--Family Planning	(1,940,000)	
Family Planning Program - Title X	(2,939,000)	
State Based Diabetes Program	(164,000)	
Pediatric AIDS Health Care Demonstration Project	(1,559,000)	
Injury Demonstration Projects for Evaluation of Youth Violence Prevention	(232,000)	
Early Intervention for Infants and Toddlers With Disabilities (Part H)	(8,126,000)	
Coordination of Home Visits to Families With Children In New Jersey	(260,000)	
WIC Farmer's Market Nutrition Program	(203,000)	
Comprehensive Breast and Cervical Cancer - Early Detection Program	(839,000)	
Preventative Health and Health Services Block Grant	(149,000)	
Early Intervention Program For Medicaid Recipients	(2,200,000)	
Venereal Disease Project	(64,000)	

Comprehensive AIDS Prevention and Surveillance Grant	(59,000)	
Sexually Transmitted Disease Training Center Program	(254,000)	
Tuberculosis Control Program	(4,982,000)	
Evaluation of STD Professional Education	(58,000)	
TB/HIV Risk Factor Program	(78,000)	
HIV/AIDS Prevention Education Grant	(15,000)	
Lyme Disease Research	(113,000)	
Fetal Infant Mortality Review Program	(48,000)	
Demonstration Project For Adolescents	(200,000)	
Newark Area Juvenile Justice Treatment	(1,100,000)	
Seabrook Women and Children's Project	(700,000)	
Health Program For Indochinese Refugees	(5,000)	
Immunization Project	(8,397,000)	
Residential Substance Abuse Treatment for Pregnant and Postpartum Women	(938,000)	
Newark Target Cities Project - Substance Abuse	(1,913,000)	
Preventive Health and Health Services Block Grant-Alcoholism, Drug Abuse and Addiction Services	(245,000)	
Social Services Block Grant-- Alcohol Rehabilitation Program	(638,000)	
American Stop Smoking Intervention Study	(597,000)	
Drug Abuse Campus Treatment Demonstration Project	(4,737,000)	
Additions, Improvements and Equipment	(761,000)	

22 Health Planning and Evaluation

06-4260 Health Facilities Evaluation		$9,571,000
07-4270 Health Care Planning, Financing and Information Services		53,000
Total Appropriation, Health Planning and Evaluation		$9,624,000
Personal Services:		
Salaries and Wages	($5,242,000)	
Employee Benefits	(1,263,000)	
Materials and Supplies	(43,000)	
Services Other Than Personal	(1,248,000)	
Maintenance and Fixed Charges	(409,000)	
Special Purpose:		
Other Special Purpose	(1,285,000)	
State Aid and Grants:		
State Office of Rural Health	(53,000)	
Additions, Improvements and Equipment	(81,000)	

25 Health Administration

99-4210 Management and Administrative Services	$368,000
Total Appropriation, Health Administration	$368,000

Personal Services:		
Salaries and Wages	($47,000)	
Employee Benefits	(11,000)	
Special Purpose:		
Other Special Purpose	(10,000)	
State Aid and Grants:		
Preventive Health and Health Services Block Grant	(300,000)	
Total Appropriation, Department of Health		$233,762,000

54 DEPARTMENT OF HUMAN SERVICES

20 Physical and Mental Health

23 Mental Health Services

7700 Division of Mental Health Services

08-7700 Community Services		$9,467,000
99-7700 Management and Administrative Services		127,000
Total Appropriation, Division of Mental Health Services		$9,594,000
Personal Services:		
Salaries and Wages	($395,000)	
Special Purpose:		
Enhancing Decision Support for DMHS	(127,000)	
State Aid and Grants:		
Mental Health Systems Improvement Demonstration	(150,000)	
Projects for Assistance in Transition from Homelessness (PATH)	(964,000)	
Block Grant Mental Health Services	(7,508,000)	
Substance Abuse Block Grant	(450,000)	

24 Special Health Services

7540 Division of Medical Assistance and Health Services

21-7540 Health Services Administration and Management		$39,327,000
22-7540 General Medical Services		1,960,411,000
Total Appropriation, Division of Medical Assistance and Health Services		$1,999,738,000
Personal Services:		
Salaries and Wages	$15,079,000)	
Compensation Awards	(97,000)	
Materials and Supplies	(183,000)	
Services Other Than Personal	(4,017,000)	
Maintenance and Fixed Charges	(2,283,000)	
Special Purpose:		
Administration of U.S. Department of Health and Human Services Programs	(348,000)	
Payments to Fiscal Agents	(13,774,000)	
Eligibility Determination	(2,850,000)	
Professional Standards Review Organization--Utilization Review	(453,000)	

Affirmative Action and Equal Employment Opportunity	(18,000)
State Aid and Grants:	
Managed Care Initiative	(174,587,000)
Peer Grouping	(48,622,000)
Hospital Health Care Subsidy	(71,550,000)
Community Care Programs for Elderly and Disabled	(58,587,000)
Health Care Subsidy Fund - CCPED Federal Match	(1,500,000)
Long Term Care Alternatives	(788,000)
Payments For Medical Assistance Recipients -	
Nursing Homes	(515,992,000)
Inpatient Hospital	(312,426,000)
Prescription Drugs	(151,238,000)
Outpatient Hospital	(96,937,000)
Physician	(66,141,000)
Home Health	(39,565,000)
Medicare B Payments	(48,080,000)
Dental	(20,410,000)
County Psychiatric Hospital	(7,112,000)
Medical Supplies	(19,594,000)
Clinic	(46,655,000)
Transportation	(24,692,000)
Other Services	(39,028,000)
Unit Dose Contract Services	(1,340,000)
Consulting Pharmacy Services	(480,000)
Maternal and Child Health Expansion	(30,302,000)
Medicaid Expansion to Age 19 and 100% of Poverty	(3,549,000)
Medicaid expansion to 185% of Poverty	(19,874,000)
Medicaid expansion - SOBRA	(161,362,000)
Additions, Improvements and Equipment	(225,000)

30 Educational, Cultural and Intellectual Development

32 Operation and Support of Educational Institutions

7600 Division of Developmental Disabilities

99-7600 Management and Administrative Services		$5,395,000
Total Appropriation, Division of Developmental Disabilities		$5,395,000
Personal Services:		
Salaries and Wages	($5,237,000)	
Materials and Supplies	(2,000)	
Services Other Than Personal	(3,000)	
Maintenance and Fixed Charges	(65,000)	
Special Purpose:		
Developmental Disabilities Council	(88,000)	

7601 Community Programs

01-7601 Purchased Residential Care	$74,508,000
02-7601 Social Supervision and Consultation	12,137,000

03-7601 Adult Activities		56,315,000
04-7601 Education and Day Training		385,000
Total Appropriation, Community Programs		$143,345,000
Personal Services:		
Salaries and Wages	($13,129,000)	
Special Purpose:		
Developmental Disabilities Council	(272,000)	
State Aid and Grants:		
Community Care Waiver, Title XIX	(70,353,000)	
Community Services Waiting List Reduction - Residential Initiative	(4,000,000)	
Stresspite Children's Respite - Temporary Child Care	(200,000)	
Developmental Disabilities Council	(1,185,000)	
Day Care Services	(439,000)	
Work-Study Training Program for Caseworkers	(1,478,000)	
Citizens' Advocacy Program	(176,000)	
Intermediate Care Facilities - Mental Retardation	(52,113,000)	

7610 Green Brook Regional Center

05-7610 Residential Care and Habilitation		$3,057,000
06-7610 Health Services		699,000
07-7610 Education and Training		512,000
98-7610 Physical Plant and Support Services		948,000
99-7610 Management and Administrative Services		651,000
Total Appropriation, Green Brook Regional Center		$5,867,000
Personal Services:		
Salaries and Wages	($5,867,000)	

7620 Vineland Developmental Center

05-7620 Residential Care and Habilitation		$14,434,000
06-7620 Health Services		3,968,000
98-7620 Physical Plant and Support Services		1,282,000
99-7620 Management and Administrative Services		485,000
Total Appropriation, Vineland Developmental Center		$20,169,000
Personal Services:		
Salaries and Wages	($20,169,000)	

7630 North Jersey Developmental Center

05-7630 Residential Care and Habilitation		$7,615,000
06-7630 Health Services		3,086,000
98-7630 Physical Plant and Support Services		.632,000
99-7630 Management and Administrative Services		757,000
Total Appropriation, North Jersey Developmental Center		$12,090,000
Personal Services:		
Salaries and Wages	($12,090,000)	

7640 Woodbine Developmental Center

05-7640 Residential Care and Habilitation		$9,211,000
06-7640 Health Services		2,021,000

98-7640	Physical Plant and Support Services	1,524,000
99-7640	Management and Administrative Services	827,000
	Total Appropriation, Woodbine Developmental Center	$13,583,000
Personal Services:		
	Salaries and Wages ..... ($13,583,000)	

7650 New Lisbon Developmental Center

05-7650	Residential Care and Habilitation..	$15,155,000
06-7650	Health Services.....	6,237,000
98-7650	Physical Plant and Support Services	2,099,000
99-7650	Management and Administration ..	935,000
	Total Appropriation, New Lisbon Developmental Center	$24,426,000
Personal Services:		
	Salaries and Wages ..... ($24,426,000)	

7660 Woodbridge Developmental Center

05-7660	Residential Care and Habilitation..	$12,203,000
06-7660	Health Services	724,000
98-7660	Physical Plant and Support Services	458,000
99-7660	Management and Administrative Services	1,247,000
	Total Appropriation, Woodbridge Developmental Center.....	$14,632,000
Personal Services:		
	Salaries and Wages ..... ($14,632,000)	

7670 Hunterdon Developmental Center

05-7670	Residential Care and Habilitation..	$7,292,000
06-7670	Health Services.....	1,477,000
98-7670	Physical Plant and Support Services	1,597,000
99-7670	Management and Administrative Services	760,000
	Total Appropriation, Hunterdon Developmental Center.....	$11,126,000
Personal Services:		
	Salaries and Wages ..... ($11,126,000)	

7690 North Princeton Developmental Center

05-7690	Residential Care and Habilitation..	$7,087,000
06-7690	Health Services.....	1,085,000
98-7690	Physical Plant and Support Services	993,000
99-7690	Management and Administrative Services	766,000
	Total Appropriation, North Princeton Developmental Center	$9,931,000
Personal Services:		
	Salaries and Wages ..... ($9,931,000)	

33 Supplemental Education and Training Programs

7560 Commission for the Blind and Visually Impaired

11-7560	Habilitation and Rehabilitation.....	$6,799,000
12-7560	Instruction, Community Programs and Prevention	570,000
99-7560	Management and Administrative Services	1,053,000
	Total Appropriation, Commission for the Blind and Visually Impaired	$8,422,000

Personal Services:	
Salaries and Wages	($4,235,000)
Employee Benefits	(63,000)
Materials and Supplies	(185,000)
Services Other Than Personal	(664,000)
Maintenance and Fixed Charges	(264,000)
State Aid and Grants:	
Independent Living - SupportedEmployment	(199,000)
Independent living - Part C, Older Blind	(180,000)
Vocational Rehabilitation-Independent Living, Title VII, Part A	(99,000)
Preventive Health Block Grant	(75,000)
Vocational Rehabilitation--Direct Service	(2,093,000)
Social services block grant	(319,000)
Additions, Improvements and Equipment	(46,000)

50 Economic Planning, Development and Security
53 Economic Assistance and Security
7550 Division of Family Development

15-7550 Income Maintenance Management	$608,593,000
Total Appropriation, Division of Family Development	$608,593,000

Personal Services:	
Salaries and Wages	($10,164,000)
Compensation Awards	(9,000)
Materials and Supplies	(278,000)
Services Other Than Personal	(11,062,000)
Maintenance and Fixed Charges	(1,148,000)
Special Purpose:	
Electronic Benefit Transfer/Distribution System	(463,000)
Electronic Benefit Transfer, Evaluation and Development, Food Stamps	(731,000)
EBT - Operational Food Stamp Match for CWA's	(2,186,000)
EBT - Operational IV-A Match for CWA's	(651,000)
Title XX Urban Empowerment Zone	(10,418,000)
Automated Child Support Enforcement Program	(113,000)
Child Support Program Legislative Initiatives	(1,941,000)
Jobs Opportunities Basic Skills Training Program Title IV-A	(26,996,000)
Jobs Opportunities Basic Skills Training Program Title IV-F	(28,539,000)
Title IV-A At Risk Child Care	(8,323,000)
Affirmative Action and Equal Employment Opportunity	(8,000)
Other Special Purpose	(145,000)
State Aid and Grants:	
Supplemental Security Income - Title XIV	(400,000)
Non Public Assistance Legal Services	(291,000)
FSA Grant to Improve Child Care Licensing and Registration	(379,000)
Child Care Development Block Grant	(14,147,000)

Dependent Care Planning and Development	(400,000)
Refugee Resettlement Program	(1,100,000)
Administration Expenses to Counties - Assistance Programs	(75,424,000)
Dependent Children Assistance	(236,254,000)
Energy Assistance Program	(44,520,000)
AFDC Immunization Demonstration Program	(685,000)
County Administrative Expenses - Food Stamp Program	(48,489,000)
Title XIX	(33,372,000)
Social Services Block Grant	(22,840,000)
Title IV-D	(20,307,000)
Low Income Energy Assistance Program	(4,120,000)
Refugee Resettlement/Cuban Haitian Entrant Program	(152,000)
IV-D CSP Payments to CPD and County Sheriff	(2,000,000)
Parents Fair Share Program - Title IV-D	(375,000)
Title IV-F	(153,000)
Additions, Improvements and Equipment	(10,000)

55 Social Services Programs

7570 Division of Youth and Family Services

16-7570 Initial Response/Case Management		$40,345,000
17-7570 Substitute Care		40,696,000
18-7570 General Social Services		41,968,000
23-7580 Services For The Deaf		50,000
99-7570 Management and Administrative Services		14,844,000
Total Appropriation, Division of Youth and Family Services		$137,903,000
Personal Services:		
Salaries and Wages	($38,649,000)	
Materials and Supplies	(2,031,000)	
Services Other Than Personal	(9,247,000)	
Maintenance and Fixed Charges	(10,233,000)	
State Aid and Grants:		
Initial Response/Case Management	(1,134,000)	
East Orange District Office Management Enhancement Program	(175,000)	
Family Violence Prevention and Services	(665,000)	
Respite Care ARC North	(150,000)	
Respite Care ARC South	(150,000)	
Transitional Residence	(600,000)	
National Center for Child Abuse and Neglect	(80,000)	
Title XIX - Children in Residential Centers	(220,000)	

Title IV-B Child Welfare Services	(15,000)
Title IV-A (Foster Care)	(5,000,000)
Title XIX (Other Residential)	(486,000)
Title XIX (Residential/Group Home)	(5,293,000)
Title XIX (Special Home Services Providers)	(3,974,000)
Title XIX (Subsidized Adoption)	(1,046,000)
Title XIX (Foster Care)	(2,847,000)
Title IV-E (Residential/Group Home)	(4,804,000)
Title IV-E (Special Home Services Providers)	(2,573,000)
Title IV-E (Subsidized Adoption)	(1,421,000)
Title IV-E (Foster Care)	(2,983,000)
Title IV-B (Residential/Group Home)	(128,000)
Title IV-B (Special Home Services Providers)	(101,000)
Title IV-B (Subsidized Adoption)	(117,000)
Title IV-B (Foster Care)	(2,669,000)
Purchase of Service Contracts	(1,248,000)
Title XIX Children in Residential Centers	(23,000)
General Social Services	(124,000)
Office of Refugee Resettlement - Social Services	(1,483,000)
Targeted Assistance Disabilities Grant	(632,000)
JOB Links Disability Grant	(300,000)
Refugee Cash Management Unaccompanied Minors	(1,462,000)
Title XIX (Purchase of Day Care)	(284,000)
Title IV-E (Purchase of Day Care)	(1,028,000)
Title XIX - Children in Residential Centers	(1,521,000)
Family Preservation Services (Title IV-B)	(2,525,000)
Title XIX (Family Support Services)	(2,913,000)
Title IV-E (Family Support Services)	(1,280,000)
Title IV-B (Family Support Services)	(1,631,000)
Title IV-A (Emergency Assistance to Families)	(1,840,000)
Independent Living (Title IV-E)	(2,386,000)
Purchase of Service Contracts	(7,021,000)
National Center For Child Abuse and Neglect	(525,000)
SSBG Day Care	(7,972,000)
Title IV A/E	(3,132,000)
Children's Justice Act	(350,000)
Additions, Improvements and Equipment	(1,432,000)

56 Juvenile Services

7593 Division of Juvenile Services

34-7593 Juvenile Rehabilitation		$1,610,000
Total Appropriation, Division of Juvenile Services		$1,610,000
Personal Services:		
Salaries and Wages	($1,013,000)	
Employee Benefits	(96,000)	
Special Purpose:		
Elizabeth and Union Day Program	(200,000)	
Chapter 1 - Delinquent	(301,000)	

70 Government Direction, Management and Control
76 Management and Administration
7500 Division of Management and Budget

87-7500 Research, Policy and Planning		$2,125,000
99-7500 Management and Administrative Services		29,300,000
Total Appropriation, Division of Management and Budget		$31,425,000
Personal Services:		
Salaries and Wages	($669,000)	
Special Purpose:		
Challenge Grant (Children's Trust Fund) .	(507,000)	
Automated Child Support Enforcement Program	(299,000)	
Office of Prevention.....	(255,000)	
Head Start State Collaboration Project.....	(45,000)	
Title XIX, ICF-MR	(1,028,000)	
DHS Adult Basic Education Program	(175,000)	
Federal Cost Recoveries.....	(15,344,000)	
Title IV-A, Aid to Families With Dependent Children.....	(492,000)	
Title IV-B, Child Welfare Services.....	(134,000)	
Title IV-E, Foster Care.....	(288,000)	
Low Income Energy Assistance Block Grant	(70,000)	
Title XIX, ICF-MR	(3,627,000)	
Title XIX, Medical Assistance.....	(2,600,000)	
IDEA (State Institutions) Human Services	(700,000)	
Early Intervention, Compliance	(76,000)	
Refugee Resettlement Program.....	(18,000)	
Social Service Block Grant	(2,323,000)	
Vocational Rehabilitation Act, Section 120	(148,000)	
Food Stamp Program.....	(447,000)	
REACH - Title IV-F	(119,000)	
Title I - Part D Neglected and Delinquent	(1,647,000)	
Other Special Purpose.....	(289,000)	
State Aid and Grants:		
Childhood Lead Poisoning -Prevention....	(125,000)	
Total Appropriation, Department of Human Services		$3,057,849,000

62 DEPARTMENT OF LABOR

50 Economic Planning, Development and Security
51 Economic Planning and Development

18-4570 Planning and Research		$7,233,000
99-4565 Management and Administrative Services		13,041,000
Total Appropriation, Economic Planning and Development		$20,274,000
Personal Services:		
Salaries and Wages	($12,981,000)	
Compensation Awards	(9,000)	
Employee Benefits	(3,887,000)	
Materials and Supplies.....	(286,000)	
Services Other Than Personal.....	(1,492,000)	

Maintenance and Fixed Charges	(1,038,000)	
Special Purpose:		
Occupational Informational Coordinating Program	(10,000)	
State Training Inventory	(2,000)	
Other Special Purpose	(130,000)	
State Aid and Grants:		
Occupational Informational Coordinating Program	(3,000)	
Additions, Improvements and Equipment	(436,000)	

52 Economic Regulation

12-4550 Enforcement of Workplace Standards		$1,410,000
Total Appropriation, Economic Regulation		$1,410,000
Personal Services:		
Salaries and Wages	($849,000)	
Employee Benefits	(248,000)	
Materials and Supplies	(15,000)	
Services Other Than Personal	(71,000)	
Maintenance and Fixed Charges	(78,000)	
Special Purpose:		
OSHA On-Site Consultation	(110,000)	
Other Special Purpose	(19,000)	
Additions, Improvements and Equipment	(20,000)	

53 Economic Assistance and Security

01-4510 Unemployment Insurance		$86,632,000
02-4515 Disability Determination		39,775,000
Total Appropriation, Economic Assistance and Security		$126,407,000
Personal Services:		
Salaries and Wages	($68,609,000)	
Employee Benefits	(19,542,000)	
Materials and Supplies	(1,487,000)	
Services Other Than Personal	(14,646,000)	
Maintenance and Fixed Charges	(8,953,000)	
Special Purpose:		
Old Age and Survivors' Insurance--Disability Determination	(3,845,000)	
Other Special Purpose	(375,000)	
State Aid and Grants:		
Old Age and Survivors' Insurance--Disability Determination	(8,000,000)	
Additions, Improvements and Equipment	(950,000)	

54 Manpower and Employment Services

07-4535 Vocational Rehabilitation Services	$38,721,000
09-4545 Employment Services	47,917,000
10-4545 Employment Development Services	111,250,000
Total Appropriation, Manpower and Employment Services	$197,888,000

Personal Services:		
Salaries and Wages	($41,812,000)	
Employee Benefits	(11,822,000)	
Materials and Supplies	(562,000)	
Services Other Than Personal	(6,769,000)	
Maintenance and Fixed Charges	(5,796,000)	
Special Purpose:		
Rehabilitation In-Service Training	(80,000)	
Rehabilitation of Supplemental Security Income Beneficiaries	(1,500,000)	
Other Special Purpose	(2,529,000)	
State Aid and Grants:		
Comprehensive Services for Independent Living	(550,000)	
State Council on Vocational Education	(29,000)	
Vocational Rehabilitation Act 0f 1973	(14,579,000)	
DVRS Transportation Services Grant	(375,000)	
Job Search Assistance	(1,694,000)	
Job Training Partnership Act	(356,000)	
Job Training Partnership Act--5% Older Individuals	(1,435,000)	
Job Training Partnership Act--8% Education	(2,900,000)	
Job Training Partnership Act--Title II-C, Youth Training	(13,680,000)	
Job Training Partnership Act--Title II-A, Training Services For the Disadvantaged	(23,050,000)	
Job Training Partnership Act--Title II-B, Summer Youth Employment and Training Program	(23,748,000)	
Job Training Partnership Act--Title III, Dislocated Workers	(29,791,000)	
Job Training Partnership Act -Title III D - Discretionary Funding	(270,000)	
Job Training Partnership Act--Title IV, Federally Administered Programs	(205,000)	
Employment Services	(100,000)	
Employment Services Rapid Response Team	(348,000)	
Employment Services Rapid Response Team	(29,000)	
Project Reemployment Opportunity System	(496,000)	
New Jersey Commission On Employment and Training	(84,000)	
Supported Employment	(831,000)	
SETC Literary Enhancement Center	(13,000)	
Technology Related Assistance Project	(550,000)	
Trade Adjustment Assistance Project	(5,735,000)	
NAFTA Transitional Adjustment Assistance	(2,020,000)	
Vocational Rehabilitation - Integrated Employment	(480,000)	
Vocational Rehabilitation Services - Basic Support Program	(125,000)	
Additions, Improvements and Equipment	(3,545,000)	
Total Appropriation, Department of Labor		$345,979,000

66 DEPARTMENT OF LAW AND PUBLIC SAFETY

10 Public Safety and Criminal Justice

12 Law Enforcement

06-1200 Patrol Activities and Crime Control.		$592,000
07-1200 Police Services and Public Order ..		1,500,000
08-1200 Emergency Services		6,937,000
09-1020 Criminal Justice.....		27,557,000
24-1200 Marine Police Operations		925,000
Total Appropriation, Law Enforcement ...		$37,511,000
Personal Services:		
Salaries and Wages	($3,285,000)	
Cash in Lieu of Maintenance	(5,000)	
Employee Benefits.....	(1,249,000)	
Materials and Supplies	(207,000)	
Services Other Than Personal.....	(1,036,000)	
Maintenance and Fixed Charges.....	(141,000)	
Special Purpose:		
Hotel Interdiction Program	(80,000)	
Cops MORE Grant.....	(432,000)	
Firearms Unit - National Criminal History	(1,500,000)	
Survival Crisis Management Grant.....	(575,000)	
Maintenance and Services.....	(75,000)	
Earthquake Preparedness Grant	(150,000)	
Emergency Management Preparedness and Assistance - EXER.....	(50,000)	
Emergency Management Training and Education	(48,000)	
Urban Research and Rescue.....	(400,000)	
Facilities and Equipment.....	(871,000)	
FEMA State Assistance Program.....	(200,000)	
Statewide Police Emergency Network.....	(50,000)	
Hazard Mitigation Program	(18,000)	
Hazardous Materials Transportation Uniform Safety Act	(275,000)	
Hazardous Emergency Response Right To Know Computerizations	(97,000)	
Recreational Boating Safety Financial Assistance.....	(925,000)	
Other Special Purpose.....	(163,000)	
Violence Against Women Act.....	(430,000)	
State Aid and Grants:		
Nuclear Civil Protection Planning	(427,000)	
Emergency Management Assistance Program	(837,000)	
Hurricane Preparedness Program.....	(95,000)	
Emergency Management Assistance Program - Local Jurisdictions.....	(1,674,000)	
Department of Defense Funding (CFDA 12.607)	(300,000)	
Juvenile Justice Administration and Grants	(4,126,000)	
Victim Assistance Grants.....	(3,000,000)	

High Intensity Drug Trafficking Area (HIDTA)	(760,000)	
Drug Enforcement Administration and Grants	(14,000,000)	
Additions, Improvements and Equipment	(30,000)	

13 Special Law Enforcement Activities

03-1160 Driver Control and Regulatory Affairs		$8,487,000
Total Appropriation, Special Law Enforcement Activities		$8,487,000
Personal Services:		
Salaries and Wages	($1,156,000)	
Employee Benefits	(140,000)	
Materials and Supplies	(156,000)	
Services Other Than Personal	(222,000)	
Maintenance and Fixed Charges	(99,000)	
Special Purpose		
Fatal Accident Reporting System -Control	(104,000)	
NHTSA 402 - Youthful Driver	(250,000)	
NHTSA Funding Title 23 - High Risk Driver	(1,000,000)	
Bike Helmet Program	(65,000)	
Traffic Records Materials	(50,000)	
Traffic Records Technology Program	(100,000)	
Seat Belt Usage 75% Program	(75,000)	
Safe Communities Program	(1,116,000)	
OP Special Traffic Safety Program	(225,000)	
Motorcycle Occupant	(376,000)	
Drunk Driver Prevention	(1,100,000)	
Other Special Purpose	(85,000)	
State Aid and Grants:		
Highway Safety-Traffic Records	(141,000)	
Emergency Services	(241,000)	
Traffic Engineering Services Project - FHWA Section 402	(150,000)	
Selective Enforcement Management	(877,000)	
Highway Safety-Safety Restraints Program	(96,000)	
Highway Safety-Alcohol Education and Public Awareness Coordinators	(32,000)	
Alcohol Education Materials	(491,000)	
Alcohol Incentive Program 5th Year Supplement	(25,000)	
FHWA Program Management	(115,000)	

19 Central Planning, Direction and Management

99-1000 Management and Administrative Services		$8,000,000
Total Appropriation, Central Planning, Direction and Management		$8,000,000
Special Purpose:		
National Criminal History Program - OAG	($8,000,000)	

80 Special Government Services
82 Protection of Citizens' Rights

16-1350 Protection of Civil Rights		$934,000
19-1440 Violent Crimes Compensation		535,000
Total Appropriation, Protection of Citizens' Rights		$1,469,000
Personal Services:		
Salaries and Wages	($615,000)	
Employee Benefits	(75,000)	
Special Purpose:		
New Charge Resolution Project	(244,000)	
Victim Compensation Award	(535,000)	
Total Appropriation, Department of Law and Public Safety		$55,467,000

67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS

10 Public Safety and Criminal Justice
14 Military Services

30-3620 Physical Plant and Support Services		$7,560,000
40-3620 New Jersey National Guard Support Services		4,498,000
Total Appropriation, Military Services		$12,058,000
Personal Services:		
Salaries and Wages	($4,138,000)	
Employee Benefits	(868,000)	
Materials and Supplies	(2,359,000)	
Services Other Than Personal	(1,191,000)	
Maintenance and Fixed Charges	(394,000)	
Special Purpose:		
New Jersey National Guard Challenge Youth Program	(2,085,000)	
Additions, Improvements and Equipment	(1,023,000)	

80 Special Government Services
83 Services To Veterans

30-3630 Physical Plant and Support Services		$8,000,000
50-3610 Veterans' Outreach and Assistance		1,319,000
Total Appropriation, Services To Veterans		$9,319,000
Personal Services:		
Salaries and Wages	($282,000)	
Employee Benefits	(91,000)	
Materials and Supplies	(6,000)	
Services Other Than Personal	(42,000)	
Special Purpose:		
Veterans' Education Monitoring	(12,000)	
Transitional Housing	(350,000)	
Transitional Housing Homeless	(100,000)	

Housing and Urban Development		
Transitional Housing	(392,000)	
Other Special Purpose	(19,000)	
Additions, Improvements and Equipment	(8,025,000)	
Total Appropriation, Department of Military and Veterans' Affairs		$21,377,000

74 DEPARTMENT OF STATE

30 Educational, Cultural and Intellectual Development

36 Higher Educational Services

60-2600 Statewide Planning and Coordination for Higher Education		$390,000
Total Appropriation, Higher Educational Services		$390,000
Personal Services:		
Salaries and Wages	($185,000)	
Employee Benefits	(60,000)	
Materials and Supplies	(19,000)	
Services Other Than Personal	(126,000)	

37 Cultural and Intellectual Development Services

05-2530 Support of the Arts		$1,004,000
06-2535 Museum Services		263,000
Total Appropriation, Cultural and Intellectual Development Services		$1,267,000
Personal Services:		
Salaries and Wages	($255,000)	
Employee Benefits	(26,000)	
Underserved Communities Initiative	(140,000)	
Materials and Supplies	(8,000)	
Services Other Than Personal	(122,000)	
Maintenance and Fixed Charges	(3,000)	
Special Purpose:		
Folk Arts-Southern New Jersey Program	(86,000)	
Delaware Water Gap National Recreation Area	(50,000)	
Local Programs	(90,000)	
National Endowment for the Arts:		
Museum Exhibition	(50,000)	
National Endowment for the Humanities:		
Afro American life in New Jersey	(50,000)	
Institute of Museum Services:		
General Support Grant	(113,000)	
Other Special Purpose	(17,000)	
State Aid and Grants:		
Basic Block Grant	(228,000)	
Arts in Education	(28,000)	
Additions, Improvements and Equipment	(1,000)	

70 Government Direction, Management and Control
74 General Government Services

08-2545 Records Management		$99,000
Total Appropriation, General Government Services		$99,000
Special Purpose:		
National Endowment for the Humanities.	($99,000)	

80 Special Government Services
82 Protection of Citizens' Rights

17-2581 Mental Health Screening Services		$200,000
Total Appropriation, Protection of Citizens' Rights		$200,000
Personal Services:		
Salaries and Wages	($200,000)	
Total Appropriation, Department of State		$1,956,000

78 DEPARTMENT OF TRANSPORTATION

60 Transportation Programs
61 State Highway Facilities

02-6200 Transportation Systems Improvements-Planning		$22,500,000
10-6300 Interstate Program		57,476,000
28-6300 Demonstration Program		26,125,000
29-6300 Congestion Mitigation and Air Quality Program		24,607,000
36-6300 National Highway System		84,225,000
37-6300 Surface Transportation Program		274,986,000
40-6300 Bridge Program		160,073,000
65-6300 Rail Freight Lines		1,000,000
71-6200 Transportation Systems Improvements		500,000
Total Appropriation, State Highway Facilities		$651,492,000
Special Purpose:		
Highway Planning and Research	($10,500,000)	
Metropolitan Planning Funds	(9,000,000)	
New Jersey Transportation Planning Assistance	(3,000,000)	
Rail Freight Capital Projects	(1,000,000)	
Supportive Services Highway Construction Training Program	(500,000)	

Route	Section	Description	County	Amount
Special Purpose:				
INTERSTATE PROGRAM				
1. CONSTRUCTION				
80	5AV11L	Westbound local lanes only, Vreeland Avenue to east of Hackensack River bridge, rehabilitation and operational improvements	Bergen	($4,000,000)

287	2N	Access improvements at River Road, Washington Avenue, and Durham Avenue	Middlesex	(4,250,000)
295	1BC	Exit 20: Mantua Grove Road and Grove Road, operational improvements	Gloucester	(22,800,000)
2. DESIGN				
80	H	Eastbound local lanes from Route 17 to vicinity of Vreeland Avenue off ramp, rehabilitation and operational improvements	Bergen	(2,500,000)
80	(17)	Interchange ramps at Madison Avenue	Passaic	(500,000)
295	1BA	Exit 16: North of Still Run to Democrat Road, operational improvements	Gloucester	(100,000)
295	1BB	Exit 18: North of Clonmell Creek to south of Mantua Creek, operational improvements	Gloucester	(100,000)
		Emergency call boxes	Various	(300,000)
3. RIGHT-OF-WAY				
80	F	Saddle River Road to South Summit Avenue, eastbound local lanes, rehabilitation and operational improvements	Bergen	(500,000)
4. STATEWIDE INVESTMENTS				
		Unanticipated design, right-of-way, and construction expenses Interstate Highway Completion Program	Various	(3,000,000)
		Unanticipated design, right-of-way, and construction expenses Interstate Highway Maintenance Program	Various	(1,000,000)
		Unanticipated design, right-of-way, and construction expenses Interstate Highway Transfer Program	Various	(1,200,000)
		Preventive maintenance	Various	(500,000)

		Resurfacing	Various	(10,050,000)
		Annual set-aside for NJ Turnpike	Bergen	(6,000,000)
287	(15)	Route I-95 (New Jersey Turnpike) to Route 22, sign improvements	Somerset Middlesex	(676,000)

Special Purpose:
DEMONSTRATION PROGRAM

1. CONSTRUCTION

		Traffic signal contract 10, Route 1 from Quaker Bridge Road to Garden State Parkway	Mercer Middlesex	(5,000,000)
280	(9)	Interchange improvements at at Edwards Road/New Road interchange	Morris	(573,000)
280	(13)	Neward Downtown Connector	Essex	(4,300,000)

2. DESIGN

4 17	2AE2P3G	Garden State Parkway to Farview Avenue, Route 4 and Route 17 interchange, replacement	Bergen	(1,000,000)
		Ocean City - Longport bridge, replacement	Cape May	(2,000,000)
21	2N	Bridge over Route I-78 and Conrail, replacement	Essex	(6,852,000)
280	(13)	Newark Downtown Connector	Essex	(1,000,000)

3. RIGHT-OF-WAY

280	(13)	Newark Downtown Connector	Essex	(3,200,000)

4. STATEWIDE INVESTMENTS

		D&R Canal bridges, timber bridge research program	Mercer Hunterdon Somerset	(1,200,000)
		Various transportation grants	Various	(1,000,000)

Special Purpose:
CONGESTION MITIGATION AND AIR QUALITY PROGRAM

1. CONSTRUCTION

		Atlantic City computerized traffic control system	Atlantic	(700,000)
		Traffic signal contract 10, Route 1 from Quaker Bridge Road to Garden State Parkway	Mercer Middlesex	(2,000,000)

		Trenton signal computerization	Mercer	(1,700,000)
4		Bergen Mall pedestrian overpass, replacement	Bergen	(1,500,000)
2. STATEWIDE INVESTMENTS				
		Clean Cities Program	Various	(500,000)
		Bicycle and pedestrian facilities	Various	(2,000,000)
		Unanticipated design, right-of-way, and construction expenses	Various	(1,000,000)
		Employer trip reduction program	Various	(1,800,000)
		Intelligent transportation system development	Various	(1,000,000)
		Park and ride program, HOV program, ride-sharing program	Various	(4,500,000)
		Transportation management association program	Various	(3,500,000)
		Traffic operations center, north	Various	(2,697,000)
		Traffic operations center, south	Various	(1,710,000)
Special Purpose: NATIONAL HIGHWAY SYSTEM				
1. CONSTRUCTION				
		Traffic signal contract 10, Route 1 from Quaker Bridge Road to Garden State Parkway	Mercer Middlesex	(4,000,000)
40	11B	Intersection improvements at County Route 552 (Bears Head Road)	Atlantic	(2,000,000)
42F	13M14S	Route 55 to Route I-295, widening	Camden Gloucester	(22,500,000)
55	5G to 10E	North of Route 47 to north of Route 40, fencing	Salem Gloucester Cumberland	(3,100,000)
80		Route I-80/Garden State Parkway, interchange reconstruction	Bergen	(8,000,000)
2. DESIGN				
1	1Q	Vicinity of Route 1 Alternate to south of Route I-295, operational improvements	Mercer	(500,000)
1 130 171	6T16E1B	Interchange improvements at intersection of Routes 1 and 130	Middlesex	(1,500,000)

1&9		Eliminate Charlotte Circle and improve Tonnele Circle	Hudson	(1,000,000)
4 17	2AE2P3G	Garden State Parkway to Farview Avenue, Route 4 and Route 17 interchange, replacement	Bergen	(2,000,000)
18	2F7E11H	Vicinity of Route 1 to vicinity of New Street, rehabilitation and operational improvements	Middlesex	(750,000)
23 94	7D8C	Intersection improvements at Route 23 and Route 94	Sussex	(200,000)
27		AMTRAK structure over Evergreen Street, replacement	Middlesex	(1,600,000)
31		Intersection improvements at County Route 518	Mercer	(500,000)
31		Intersection improvements at County Route 579	Hunterdon	(300,000)
46	(51)	Intersection improvements at New Road	Morris	(1,600,000)
46		Intersection improvements at Notch Road	Passaic	(1,700,000)
46		Intersection improvements at Plymouth and Clinton Roads	Essex Morris	(1,800,000)
73	3P	Route I-295 to Commerce Parkway, operational improvements	Burlington	(500,000)
95 NJTPK		Noise barriers, Leonia and Englewood(NJTPK jurisdiction)	Bergen	(600,000)
202 31		Route 31 to Wertsville Road, operational improvements	Hunterdon	(500,000)
206	15N	Old Somerville Road to Brown Avenue, widening	Somerset	(1,000,000)
206	(37)	Intersection improvements at Stokes Road (CR541) and Indian Mills Road (CR648)	Burlington	(200,000)

3. RIGHT-OF-WAY

1		Henderson Road to South Brunswick/ North Brunswick line, drainage improvements	Middlesex	(831,000)
4 17	2AE2P3G	Garden State Parkway to Farview Avenue, Route 4 and Route 17 interchange, replacement	Bergen	(10,500,000)

57 3D	Penwell Road to bridge over Musconetcong River, rehabilitation	Warren	(500,000)
287 6M	Ramp relocation at Routes 202 & 206	Somerset	(890,000)
4. PROJECT DEVELOPMENT			
	Truck weigh stations, location studies	Various	(2,000,000)
5. STATEWIDE INVESTMENTS			
	Unanticipated design, right-of-way, and construction expenses	Various	(3,000,000)
	Resurfacing program	Various	(7,400,000)
	Preventive maintenance	Various	(3,254,000)
Special Purpose: SURFACE TRANSPORTATION PROGRAM			
1. CONSTRUCTION			
	14th Street from Holland Tunnel north tube exit portal to Jersey Avenue, traffic improvements	Hudson	(5,200,000)
	Avalon Boulevard from Route 9 to Ingrams Thorofare bridge, resurfacing	Cape May	(650,000)
	Belford Ferry Terminal	Monmouth	(5,600,000)
	Bicycle lockers, various locations	Somerset	(200,000)
	Broadway and Atlantic Avenues, signalization project	Camden	(95,000)
	Broadway and Kaighn Avenues, signalization project	Camden	(95,000)
	Handicap person ramps at road intersections	Burlington	(500,000)
	Resurface various Camden City roads	Camden	(1,489,000)
	Signal improvements to various intersections along Camden City water-front, partial funding	Camden	(30,000)
	Camp Meeting Avenue bridge, replacement	Somerset	(1,605,000)
	Central Avenue from State highway to Paterson Plank Road, road improvements	Hudson	(1,045,000)

Charles Street from Ferry Avenue to Budd Street, reconstruction	Camden	(70,000)
Chestnut Avenue from South East Boulevard to Main Road (CR 555), resurfacing	Cumberland	(787,000)
Cleveland Avenue from 29th Street to 34th Street, reconstruction	Camden	(296,000)
Easton Avenue from Park Boulevard to French Street, traffic signal improvements	Middlesex	(400,000)
Gloucester City, road guiderails	Gloucester	(150,000)
Gloucester City, road resurfacing	Gloucester	(1,650,000)
Greenbrook Road and Washington Avenue, traffic signal modernization	Somerset	(100,000)
Haddon Avenue and Benson Street, signalization project	Camden	(55,000)
Haddon and Kaighn Avenues, signalization project	Camden	(100,000)
Hammonton Road from 12th Street to 15th Street, resurfacing	Atlantic	(952,000)
Hudson River waterfront walkway, Castle Point	Hudson	(1,000,000)
Iron Bridge Road bridge over Crosswicks Creek, replacement	Mercer	(1,500,000)
Kenwood/Kaighn/Baird Boulevard, signalization project	Camden	(75,000)
Lafayette Avenue bridge over Goffle Brook, rehabilitation	Passaic	(1,125,000)
Main Street & Finderne Avenue, Weston Canal Road to Foothill Road, signalization project	Somerset	(750,000)
Mine Hill Road bridge over Pohatcong Creek, replacement	Warren	(1,100,000)
North 30th Street, 350 feet northwest of River Road, reconstruction	Camden	(43,000)
Palisades Interstate Parkway, George Washington Bridge to New York State Line, northbound lanes, rehabilitation	Bergen	(10,925,000)

		Resurface various county roads	Passaic	(262,000)
		Resurfacing and pavement marker installation, Parts 1 & 2, various county routes	Sussex	(2,438,000)
		Pearl Street bridge over Assiscunk Creek, replacement	Burlington	(2,200,000)
		Perry Street and North Clinton Avenue, intersection improvements	Mercer	(960,000)
		Port Norris Road, County Route 555 to County Route 732, resurfacing	Cumberland	(650,000)
		River Road bridge over Third River, replacement	Passaic	(2,200,000)
		Sanford Avenue from Springfield Avenue to Central Avenue	Essex	(1,700,000)
		Resurface County Routes 521 and 560	Sussex	(1,091,000)
		Split Rock Road bridge over Pole Bridge branch, replacement	Burlington	(1,723,000)
		Telegraph Road from Water Works Road to County Route 647, resurfacing	Salem	(1,100,000)
		Trenton wayfinding and directional signage at major gateways and downtown streets, Phase 1	Mercer	(300,000)
		Tuckahoe Road from Route 9 to County Route 623, resurfacing	Cape May	(140,000)
		Valley View Road bridge over Old Hamburg/Paterson Turnpike, elimination	Passaic	(980,000)
		Warren Glen/Bloomsbury Road bridge, elimination	Warren	(600,000)
		Westfield Avenue and 36th Street, signalization project	Camden	(60,000)
1&9	2AG	Southbound viaduct over Waverly Yards, replacement	Essex	(40,000,000)
9	3N	Improve intersection at Hilliard Boulevard and Cedar Bridge Road	Ocean	(970,000)
10	2J1D	West of Salem Street to west of Millbrook Avenue, rehabilitation and operational improvements	Morris	(8,075,000)
21		Newark roadside improvements	Essex	(500,000)
23	7E	Improve intersection at County Route 517	Sussex	(500,000)
31	8M	Halstead Street to County Route 513, widening	Hunterdon	(8,625,000)

168 2H1D	Gloucester/Camden county line to Third Avenue, rehabilitation	Camden	(5,700,000)
202 10D	Vicinity of Church Street to north of Finley Avenue and Childs Road, rehabilitation	Somerset	(1,000,000)
2. DESIGN			
	Amwell Road railroad bridge over Conrail, replacement	Somerset	(200,000)
	Arnot Street bridge over Saddle River, replacement	Bergen	(150,000)
	Bayonne: Kennedy Boulevard traffic signal upgrade	Hudson	(380,000)
	Bear Tavern Road bridge over Jacobs Creek, replacement	Mercer	(280,000)
	Black River Road bridge over Herzog Brook, replacement	Somerset	(150,000)
	Broadway and Atlantic Avenue, signalization project	Camden	(10,000)
	Broadway and Kaighn Avenue, signalization project	Camden	(10,000)
	Traffic sign management program	Burlington	(500,000)
	Burnt Hill Road bridge, replacement	Somerset	(50,000)
	Resurface various Camden City roadways	Camden	(149,000)
	Traffic sign management program	Camden	(264,000)
	Signal improvements to various Camden City waterfront intersections, partial funding	Camden	(3,000)
	Charles Street from Ferry Avenue to Budd Street, reconstruction	Camden	(7,000)
	Cleveland Avenue from 29th Street to 34th Street, reconstruction	Camden	(30,000)
	Fanny Road bridge over NJ Transit Boonton Line, replacement	Morris	(500,000)
	Federal Street bridge over Cooper River, rehabilitation	Camden	(400,000)
	Groveville-Allentown Road bridge over Doctors Creek, replacement	Mercer	(250,000)
	Haddon Avenue and Benson Street, signalization project	Camden	(6,000)
	Haddon and Kaighn Avenues, signalization project	Camden	(10,000)
	Jersey City: Bergen, Central, Summit and Palisade Avenues roadway reconstruction	Hudson	(324,000)

	Kennedy Avenue bridge over Wallkill River, replacement	Sussex	(110,000)
	Kenwood/Kaighn/Baird Boulevard, signalization project	Camden	(8,000)
	Kinnaman Avenue bridge over Pohatcong Creek, replacement	Warren	(160,000)
	Lamington Road bridge, replacement	Somerset	(150,000)
	Locke Avenue bridge over Raccoon Creek, replacement	Gloucester	(300,000)
	Love Road bridge over Chambers Brook, replacement	Somerset	(110,000)
	Mountainview Avenue bridge over Dead River tributary, replacement	Somerset	(170,000)
	North 30th Street, 350 feet northwest of River Road, reconstruction	Camden	(5,000)
	Old Texas Road bridge, replacement	Middlesex	(500,000)
	Perry Street and North Clinton Avenue, intersection improvements	Mercer	(150,000)
	Riverdale Road bridge over Holdrum Brook, replacement	Bergen	(150,000)
	Sparta Munson Corner Road from Beardslee Hill Drive to 1600 feet north, realignment	Sussex	(80,000)
	Tomlin Station Road over Nehonsey Brook and over White Sluice Race, replacement	Gloucester	(180,000)
	Trenton wayfinding and directional signage at major gateways and downtown streets, Phase 1	Mercer	(150,000)
	Tuckahoe Road, 500 feet north of Marsh Lake Branch to US 40, reconstruction	Atlantic Gloucester	(526,000)
	Vernon-Glenwood Road fromCarol Drive to Ann Place, realignment	Sussex	(170,000)
	Washington Avenue bridge over Furnace Brook, replacement	Warren	(120,000)
	Westfield Avenue and 36th Street, signalization project	Camden	(6,000)
1&9 (27)	Eliminate Ridgefield Circle	Bergen	(500,000)
17	Interchange improvements at Century Road	Bergen	(1,500,000)
22	Intersection improvements at Belvidere Road, County Road 519	Warren	(1,000,000)
35 5H	Hollowbrook culvert and channel improvements	Monmouth	(200,000)

46	(46)	Interchange improvements at Browerton Road	Passaic	(2,000,000)
47	1C	Garden State Parkway to Railroad Avenue, center turn lane	Cape May	(1,000,000)
130	(21)	Intersection improvements at County Route 539, Cranbury Circle	Middlesex	(852,000)
		Final design, local highways	Various	(5,000,000)

3. RIGHT-OF-WAY

		Beaver Dam Road bridge over Beaver Dam Creek, South Branch, replacement	Ocean	(2,000,000)
		Daniel Road bridge over Manalapan Brook, replacement	Middlesex	(54,000)
		Greentree Road from County Route 639 to County Route 630, reconstruction	Gloucester	(2,000,000)
		Jackson Street bridge, ramp construction from Jackson Street to Raymond Boulevard	Essex	(2,500,000)
		Perry Street and North Clinton Avenue, intersection improvements	Mercer	(40,000)
1&9	7E	Interchange at Paterson Plank Road and Union Turnpike, grade separation	Hudson	(14,000,000)
10 46	1H7K	Eliminate Ledgewood Circle	Morris	(1,000,000)
10	4L	Intersection improvements at Ridgedale Avenue	Morris	(3,600,000)
30	5G	Vicinity of Chester Avenue to Shore Road, rehabilitation and operational improvements	Atlantic	(5,600,000)
31	6D	Flemington Circle to Bartles Corner Road, operational improvements	Hunterdon	(4,200,000)
46	7G	Intersection improvements at Drake Avenue	Morris	(500,000)
47	16C	Intersection improvements at Deptford Avenue/Turkey Hill Road	Gloucester	(830,000)
130	11G	Intersection improvements at Cedar Lane and Delaware Avenue	Burlington	(200,000)
130 206	12E12K	North of Black's Creek to Route 206, rehabilitation and operational improvements	Burlington	(450,000)

4. PROJECT DEVELOPMENT		
Project development, Delaware Valley Regional Planning Commission	Various	(800,000)
Project development, North Jersey Transportation Planning Authority	Various	(2,000,000)
Project development, local highway design	Various	(2,500,000)
Project development, preliminary engineering	Various	(1,200,000)
Project development, regional design	Various	(2,700,000)
5. STATEWIDE INVESTMENTS		
Camden County paratransit, vehicle replacement	Camden	(250,000)
Bridge deck patching	Various	(10,000,000)
Bridge painting	Various	(8,000,000)
Unanticipated design, right-of-way, and construction expenses	Various	(4,000,000)
Supportive services program	Various	(500,000)
Drainage rehabilitation and maintenance	Various	(5,000,000)
Emergency service patrol, North Jersey	Various	(1,300,000)
Emergency service patrol, South Jersey	Various	(1,160,000)
Hazard elimination	Various	(4,200,000)
Intermodal management system	Various	(150,000)
Department metrication program	Various	(500,000)
Pre-apprenticeship training and related training for minorities and females	Various	(1,000,000)
Native American outreach program	Various	(200,000)
Pavement management system	Various	(2,100,000)
Roadside rehabilitation program	Various	(3,005,000)
Rail - highway grade crossing program	Various	(3,000,000)
Resurfacing program	Various	(16,143,000)
Safety management system	Various	(3,100,000)
Signs program	Various	(4,000,000)
Somerset county transit, paratransit and ridesharing guide	Somerset	(12,000)
State Police enforcement and safety services	Various	(1,800,000)

Preventive maintenance	Various	(1,000,000)
State road restriping program	Various	(6,000,000)
Subscription bus operation, countywide	Somerset	(266,000)
Transportation enhancement projects	Various	(8,895,000)
Traffic monitoring systems	Various	(4,000,000)
Utility reconnaissance and relocation	Various	(1,000,000)
Value engineering	Various	(100,000)

Special Purpose:
BRIDGE PROGRAM

1. CONSTRUCTION

Birmingham Road Bridge #2 over Indian Run, replacement	Burlington	(1,231,000)
Buck Road bridge over Reeds Branch at Garrison Lake, replacement	Gloucester	(750,000)
Cranbury Neck Road bridge over Millstone River, replacement	Mercer Middlesex	(5,120,000)
Franklin Street bridge over Narraticon Run, replacement	Cumberland	(1,670,000)
Lincoln Avenue/High Street bridge over Rahway River, replacement	Union	(3,213,000)
Mickleton-Gibbstown Road bridge over Nehonsey Brook, replacement	Gloucester	(1,250,000)
New Lisbon Road bridge over Greenwood Branch of Rancocas Creek, replacement	Burlington	(1,000,000)
Orr Road bridge over Crosswicks Creek, replacement	Mercer Burlington	(1,655,000)
Piney Hollow Road bridge over Great Egg Harbor River, replacement	Camden	(2,000,000)
Snake Den Road bridge over West Brook, replacement	Passaic	(535,000)
Somerdale Road bridge over Cooper River, replacement	Camden	(2,000,000)
Tomlin Station Road Bridge #1 over Raccoon Creek, replacement	Gloucester	(1,000,000)
Williamstown-Franklinville Road bridge over Scotland Run, replacement	Gloucester	(1,150,000)

1&9	2AG	Southbound Viaduct over Waverly Yards, replacement	Essex	(69,000,000)
45	2C3B	Bridge over Mannington Creek, replacement	Salem	(3,200,000)
46	13D	Bridges over Passaic River and McBrideAvenue, rehabilitation	Passaic	(12,400,000)
80	5AV11L	Westbound local lanes only, Vreeland Avenue to east of Hackensack River bridge, rehabilitation and operational improvements	Bergen	(13,000,000)
130	1J1K	Bridges over LittleTimber Creek (replacement) and South Branch of Newton Creek (rehabilitation)	Camden	(4,103,000)
2. DESIGN				
		Calhoun Street bridge, Spring Street to Bellevue Avenue, replacement	Mercer	(130,000)
		Colonial Road bridge over tributary to Pond Brook, replacement	Bergen	(325,000)
		Greenbank Road bridge over Mullica River, rehabilitation	Atlantic Burlington	(300,000)
9 9&35	1F25C	Edison Bridge, new structure and rehabilitation of existing structure over Raritan River	Middlesex	(1,600,000)
9	15D	Bridge over Nacote Creek, replacement	Atlantic	(600,000)
31	6E	Bridges over south branch of Raritan River and Conrail, replacement	Hunterdon	(800,000)
31	8P	Bridge over NJ Transit Raritan Valley Line, replacement	Hunterdon	(750,000)
35 71	5J3H	Bridge over Shark River and North Channel, replacement	Monmouth	(1,000,000)
45	2D	Bridge over Fenwick Creek, replacement	Salem	(680,000)
46	4H	Bridge over former Lehigh Hudson River Railroad, elimination	Warren	(270,000)
46	(35)	Bridge over Den Brook, superstructure rehabilitation	Morris	(400,000)
49	3J4C	Bridge over Alloway Creek, replacement	Salem	(250,000)

3. RIGHT-OF-WAY				
		Bordentown-Georgetown Road bridge over Black's Creek, replacement	Burlington	(150,000)
		Jacksonville-Hedding Road bridge over Assiscunk Creek, replacement	Burlington	(150,000)
		Maurice River Parkway bridge over Blackwater Branch, replacement	Cumberland	(64,000)
21	2N	Bridge over Route I-78 and Conrail, replacement	Essex	(1,000,000)
31	6E	Bridges over south branch of Raritan River and Conrail, replacement	Hunterdon	(750,000)
4. PROJECT DEVELOPMENT				
		Project development, bridge projects	Various	(8,000,000)
5. STATEWIDE INVESTMENTS				
		Bridge inspection	Various	(12,177,000)
		Bridge management system	Various	(400,000)
		Bridge painting	Various	(1,000,000)
		Unanticipated design, right-of-way, and construction expenses	Various	(5,000,000)

62 Public Transportation

29-6310 Congestion Mitigation and Air Quality Program	$33,000,000
37-6310 Surface Transportation Program....	5,500,000
96-6310 Federal Transit Administration.....	321,940,000
Total Appropriation, Public Transportation	$360,440,000

Special Purpose:

CONGESTION MITIGATION AND AIR QUALITY PROGRAM

1. CONSTRUCTION				
		Hunter Connection, track connection between Raritan Valley and Northeast Corridor Lines	Various	(12,500,000)
		Newark Penn Station	Essex	(5,000,000)
		Hamilton Transit Complex, bus maintenance facility	Mercer	(9,000,000)
2. STATEWIDE INVESTMENTS				
		Transportation Management Association support, suburban areas	Various	(500,000)

	Transportation demand management strategies	Essex Union	(2,000,000)
	Experimental transit services	Various	(4,000,000)
Special Purpose:			
SURFACE TRANSPORTATION PROGRAM:			
1. CONSTRUCTION			
	Newark Penn Station	Essex	(5,500,000)
Special Purpose:			
FEDERAL TRANSIT ADMINISTRATION:			
1. CONSTRUCTION			
	Track rehabilitation	Various	(19,500,000)
	Tunnel and bridge rehabilitation	Various	(2,000,000)
	Signals and communi cation/ electric traction system	Various	(7,370,000)
	Rail support facil- ities and equipment	Various	(1,000,000)
	Hoboken Terminal, Yard rehabilitation	Hudson	(600,000)
	Rail passenger stations/terminals	Various	(3,000,000)
	Hamilton Transit Complex, bus maintenance facility	Mercer	(11,130,000)
	Rail park and ride	Various	(4,000,000)
	Accessibility for people with disabilities, high level platforms/stations	Various	(3,200,000)
	Penn Station, New York, improvements	New York	(10,800,000)
	Secaucus Transfer	Bergen Hudson Passaic	(101,000,000)
2. DESIGN			
	Montclair Connection	Morris Essex Passaic	(4,000,000)
3. DESIGN/RIGHT-OF-WAY			
	Hudson/Bergen light rail transit system	Hudson Bergen	(42,200,000)
4. CAPITAL ACQUISITION			
	Bus replacement program	Various	(12,100,000)

Replace Arrow II rail cars	Various	(42,440,000)
Associated rail capital maintenance	Various	(2,000,000)
Private carrier capital improvement program	Various	(8,500,000)
5. STATEWIDE INVESTMENTS		
Building capital leases	Atlantic Essex Hudson	(10,710,000)
Information services	Various	(4,000,000)
New initiatives	Various	(8,150,000)
Miscellaneous	Various	(390,000)
6. PROJECT DEVELOPMENT		
Study and development	Various	(150,000)
7. OPERATING ASSISTANCE		(23,700,000)

64 Regulation and General Management

05-6070 Access and Use Management		$18,000,000
Total Appropriation, Regulation and General Management		$18,000,000
Special Purpose:		
Airport Fund	($14,000,000)	
Motor Carrier Safety Assistance Program	(4,000,000)	
Total Appropriation, Department of Transportation		$1,029,932,000

50 DEPARTMENT OF THE TREASURY

30 Educational, Cultural and Intellectual Development

36 Higher Educational Services

46-2150 Student Assistance Programs		$14,581,000
Total Appropriation, Higher Educational Services		$14,581,000
Personal Services:		
Salaries and Wages	($6,658,000)	
Employee Benefits	(1,634,000)	
Materials and Supplies	(382,000)	
Services Other Than Personal	(2,066,000)	
Maintenance and Fixed Charges	(609,000)	
Special Purpose:		
Other Special Purpose	(452,000)	
State Aid and Grants:		
State Student Incentive Grant Program	(1,661,000)	
Paul Douglas Teaching Scholarship	(388,000)	
National Health Service Corporation - State Loan Repayment Program	(560,000)	
Additions, Improvements and Equipment	(171,000)	

50 Economic Planning, Development and Security
52 Economic Regulation

54-2007 Utility Regulation		$600,000
46-2014 Energy Resource Management		1,425,000
Total Appropriation, Economic Regulation		$2,025,000
Personal Services:		
Salaries and Wages	($580,000)	
Employee Benefits	(141,000)	
Materials and Supplies	(1,000)	
Services Other Than Personal	(2,000)	
Special Purpose:		
Division of Gas Expansion	(600,000)	
Costal Energy Impact Administration	(15,000)	
State Energy Conservation Program	(365,000)	
Energy Extension Service	(265,000)	
Other Special Purpose	(56,000)	
Total Appropriation, Department of the Treasury		$16,606,000

98 THE JUDICIARY

10 Public Safety and Criminal Justice
15 Judicial Services

04-9725 Criminal Courts		$250,000
05-9730 Family Courts		6,990,000
07-9740 Probation Services		43,014,000
10-9755 Information Services		400,000
Total Appropriation, Judicial Services		$50,654,000
Personal Services:		
Salaries and Wages	($1,899,000)	
Employee Benefits	(473,000)	
Materials and Supplies	(2,000)	
Services Other Than Personal	(36,000)	
Special Purpose:		
Child Support and Paternity Program,Title IV-D	(40,833,000)	
Child Support and Paternity Program,Title IV-D	(6,990,000)	
Improving Courts Response To Domestic Violence	(400,000)	
Additions, Improvements and Equipment	(21,000)	
Total Appropriation, The Judiciary		$50,654,000
Total Appropriation, Federal Funds		$5,843,444,000

Notwithstanding any State law to the contrary, no State agency shall accept or expend federal funds except as appropriated by the Legislature or otherwise provided in this act.

In addition to the federal funds appropriated in this act, there are appropriated the following federal funds, subject to allotment by the Director of the Division of Budget and Accounting: emergency disaster aid funds; pass-through grants to

political subdivisions of the State over which the State is not permitted to exercise discretion in the use or distribution of the funds and for which no State matching funds are required; the first 25 percent of unanticipated grant awards, and up to 25 percent of increases in previously anticipated grant awards for which no State matching funds are required except, for the purpose of this section, federal funds received by one executive agency that are ultimately expended by another executive agency shall not be considered pass-through grants; federal financial aid funds for students attending post secondary educational institutions in excess of the amount specifically appropriated; provided however, that the Director of the Division of Budget and Accounting shall notify the Legislative Budget and Finance Officer of such grants; and all other grants of $500,000 or less which have been awarded competitively.

For the purposes of federal funds appropriations, "political subdivisions of the State" means counties, municipalities, school districts, or agencies thereof, regional, county or municipal authorities, or districts other than interstate authorities or districts; "discretion" refers to any action in which an agency may determine either the amount of funds to be allocated or the recipient of the allocation; and "grants" refers to one-time, or time limited awards, which are received pursuant to submission of a grant application in competition with other grant applications.

The unexpended balances of federal funds as of June 30, 1995 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, 1995 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, 1996, reports on proposed expenditures during fiscal year 1996 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 service 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 his designated representative. The Director of the Division of Budget and Accounting shall reject any recommendations for payment which the Director deems improper.

Grand Total Appropriation, All Funds ... $21,838,036,000

2. 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.

3. 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 or 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, 1995 of such funds, subject to the approval of the Director of the Division of Budget and Accounting.

4. 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, 1995 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.

5. 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.

6. 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.

7. There are appropriated such sums as may be required for the collection services with regard to debts owed to the State, subject to allotment by the Director of the Division of Budget and Accounting.

8. The unexpended balances as of June 30, 1995 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.

9. Unless otherwise provided, balances remaining as of June 30, 1995 in accounts of appropriations enacted subsequent to April 1, 1995 are appropriated.

10. 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, fund code, as defined by the appropriation unit, and program code, as defined by the appropriation unit, 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 funds, in amounts greater than $300,000, to or from any account within an item of appropriation in which the unexpended balances are reappropriated in this act, or which is otherwise designated as a carry-forward account;

(3) Requests for the transfer of State and other nonfederal funds, in amounts greater than $25,000, to or from any Special Purpose or State aid or Grant account within an item of appropriation, from or to a different item of appropriation;

(4) Requests for the transfer of State and other nonfederal funds, in amounts greater than $25,000, to or from any Special Purpose or State aid or Grant account in which the identifying organization code, fund code, as defined by the appropriation unit, and program code, as defined by the appropriation unit, remain the same, provided that the transfer would effect a change in the legislative intent of the appropriations;

(5) Requests for the transfer of State funds, in amounts greater than $25,000, 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;

(6) Requests for the transfer of federal funds, in amounts greater than $100,000, 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;

(7) Requests for the transfer of federal funds, in amounts greater than $100,000, to or from any Special Purpose or State Aid and Grants account within an item of appropriation, from or to a different item of appropriation;

(8) Requests for the transfer of federal funds, in amounts greater than $100,000, to or from any Special Purpose or State Aid and Grants account, in which the identifying organization code, fund code and program code remain the same, provided that the transfer would effect a change in the legislative intent of the appropriations; and

(9) 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 (5) 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. 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 branch 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 his 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 allotment to meet any condition of emergency or necessity under the State Contingency Fund and transfers from the appropriations to the various accounts in the category of Salary and Other Benefits, both in the Inter-Departmental Accounts, shall not be subject to legislative approval or disapproval.

11. 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.

12. 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 employee benefits, debt service, rent, telephone, motor pool, insurance, postage, lease payments on equipment purchases 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 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 as the director shall determine. Receipts in any non-State funds are appropriated for the purpose of such transfer.

13. 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.

14. 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.

15. 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.

16. 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.

17. Notwithstanding the provision of any other law, the State Treasurer may transfer from any fund in his 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 whose statutes provide for interest earnings to accrue to the fund, all such transfers shall be without interest. When 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.

18. 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.

19. 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).

20. The Director of the Division of Budget and Accounting may settle any claim not exceeding $2,000 due and owing to the State.

21. 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.

22. 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 his designated representative. The Director of the Division of Budget and Accounting shall reject any recommendations for payment which the director deems improper.

23. 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.

24. 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 January 23, 1995.

25. State agencies shall prepare and submit a copy of their agency or departmental budget requests for Fiscal Year 1997 by October 1, 1995 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, 1995, and updated spending plans on February 1, and May 1, 1996. The spending plans shall account for any changes in departmental spending which differ from this appropriation 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.

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. 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.

28. 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 $.25 per mile.

29. Notwithstanding any other provisions in this act, other than those provisions which specifically identify this section and provide to the contrary, no unexpended balances as of June 30, 1995 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.

30. 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. §1 et seq.) which requires issuers of tax-exempt debt obligations to rebate any arbitrage earnings to the federal government.

31. In order to provide effective cash flow management for revenues and expenditures of the General Fund and the Property Tax Relief Fund to implement the fiscal year 1996 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.

32. 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.

33. Such sums as may be necessary are appropriated to fund the cost of auditors and attorneys, 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 or its successor, with written reports on the detailed appropriation and expenditure of such sums within each agency.

34. None of the funds appropriated to the Executive Branch of State government for Information Processing, Development, Telecommunications, and Related Services (External), Information Processing-Internal, and Information Processing and Telecommunications Equipment shall be available to pay for any information processing services or equipment without the review of the Office of Telecommunications and Information Systems and compliance with Statewide policies and standards; authorization and approval by the Office of Telecommunications and Information Systems is required for expenditure of amounts in excess of the current Direct Purchase Authorization (DPA) threshold.

35. 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, subject to the approval of the Director of the Division of Budget and Accounting.

36. The unexpended balances as of June 30, 1995 in accounts that are funded by Interfund Transfers are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

37. There is appropriated $9,000,000 from the Safe Neighborhood Services Fund for transfer to the General Fund as State revenue.

38. There is appropriated $10,000,000 from the Sanitary Landfill Facility Contingency Fund for transfer to the General Fund as State revenue.

39. There is appropriated $11,719,000 from the Water Supply Replacement Trust Fund for transfer to the General Fund as State revenue.

40. Notwithstanding the provisions of P.L.1990, c.44 (C.52:9H-14 et seq.), balances in the Surplus Revenue Fund may be appropriated to offset reductions in federal funds.

41. Notwithstanding the provisions of P.L.1983, c.303 (C.52:27H-60), each of the municipalities in which an enterprise zone is designated whose separate account in the enterprise zone assistance fund was reduced in the FY 1995 Appropriations Act shall be entitled to receive such additional sums, not to exceed 100% of the annual sales tax revenue collected by certified vendors in their individual zones, to be distributed in a cumulative amount not to exceed: Bridgeton ($690,000), Camden ($225,000), Elizabeth ($3,300,000), Jersey City ($3,870,000), Kearny ($780,000), Millville ($285,000), Newark ($1,680,000), Orange ($285,000), Plainfield ($435,000), Trenton ($795,000), Vineland ($2,655,000), subject to the approval of the Director of the Division of Budget and Accounting.

42. There is created within the General Fund a restricted fund to be known as the "Reserve Fund," which is credited with the amount of $150,000,000 from the General Fund undesignated fund balance as of July 1, 1995. Money deposited in the fund shall not be expended or transferred prior to March 15, 1996.

43. This act shall take effect July 1, 1995.

Approved June 30, 1995.

CHAPTER 165

AN ACT decreasing the rates of taxation under the gross income tax, amending N.J.S.54A:2-1.

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

1. 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 over $50,000.00.....	$400.00 plus 2.5% of the excess over $20,000.00
Over $50,000.00 but not over $70,000.00.....	$1,150.00 plus 3.5% of the excess over $50,000.00
Over $70,000.00 but not over $80,000.00.....	$1,850.00 plus 5.0% of the excess over $70,000.00
Over $80,000.00 but not over $150,000.00.....	$2,350.00 plus 6.5% of the excess over $80,000.00
Over $150,000.00.....	$6,900.00 plus 7.0% of the excess over $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 over $50,000.00.....	$380.00 plus 2.375% of the excess over $20,000.00

Over $50,000.00 but not over $70,000.00	$1,092.50 plus 3.325% of the excess over $50,000.00
Over $70,000.00 but not over $80,000.00	$1,757.50 plus 4.750% of the excess over $70,000.00
Over $80,000.00 but not over $150,000.00.....	$2,232.50 plus 6.175% of the excess over $80,000.00
Over $150,000.00	$6,555.00 plus 6.650% of the excess over $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 over $50,000.00	$340.00 plus 2.125% of the excess over $20,000.00
Over $50,000.00 but not over $70,000.00	$977.50 plus 2.975% of the excess over $50,000.00
Over $70,000.00 but not over $80,000.00	$1,572.50 plus 4.250% of the excess over $70,000.00
Over $80,000.00 but not over $150,000.00.....	$1,997.50 plus 6.013% of the excess over $80,000.00
Over $150,000.00	$6,206.60 plus 6.580% of the excess over $150,000.00

(4) for taxable years beginning on or after January 1, 1996:

If the taxable income is:	The tax is:
Not over $20,000.00.....	1.400% of taxable income
Over $20,000.00 but not over $50,000.00	$280.00 plus 1.750% of the excess over $20,000.00
Over $50,000.00 but not over $70,000.00	$805.00 plus 2.450% of the excess over $50,000.00

Over $70,000.00 but not over $80,000.00.....	$1,295.50 plus 3.500% of the excess over $70,000.00
Over $80,000.00 but not over $150,000.00.....	$1,645.00 plus 5.525% of the excess over $80,000.00
Over $150,000.00.....	$5,512.50 plus 6.370% of the excess over $150,000.00

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 over $35,000.00.....	$400.00 plus 2.5% of the excess over $20,000.00
Over $35,000.00 but not over $40,000.00.....	$775.00 plus 5.0% of the excess over $35,000.00
Over $40,000.00 but not over $75,000.00.....	$1,025.00 plus 6.5% of the excess over $40,000.00
Over $75,000.00	$3,300.00 plus 7.0% of the excess over $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 over $35,000.00.....	$380.00 plus 2.375% of the excess over $20,000.00
Over $35,000.00 but not over $40,000.00.....	$736.25 plus 4.750% of the excess over $35,000.00

Over $40,000.00 but not over $75,000.00	$973.75 plus 6.175% of the excess over $40,000.00
Over $75,000.00	$3,135.00 plus 6.650% of the excess over $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 over $35,000.00	$340.00 plus 2.125% of the excess over $20,000.00
Over $35,000.00 but not over $40,000.00	$658.75 plus 4.250% of the excess over $35,000.00
Over $40,000.00 but not over $75,000.00	$871.25 plus 6.013% of the excess over $40,000.00
Over $75,000.00	$2,975.80 plus 6.580% of the excess over $75,000.00

(4) for taxable years beginning on or after January 1, 1996:

If the taxable income is:	The tax is:
Not over $20,000.00.....	1.400% of taxable income
Over $20,000.00 but not over $35,000.00	$280.00 plus 1.750% of the excess over $20,000.00
Over $35,000.00 but not over $40,000.00	$542.50 plus 3.500% of the excess over $35,000.00
Over $40,000.00 but not over $75,000.00	$717.50 plus 5.525% of the excess over $40,000.00
Over $75,000.00	$2,651.25 plus 6.370% of the excess over $75,000.00

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.

2. This act shall take effect immediately.

Approved July 4, 1995.

CHAPTER 166

AN ACT providing that the notice of the adoption, amendment or repeal of any administrative rule include a jobs impact statement and amending P.L.1968, c.410.

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

1. Section 4 of P.L.1968, c.410 (C.52:14B-4) is amended to read as follows:

C.52:14B-4 Adoption, amendment, repeal of rules.

4. (a) Prior to the adoption, amendment, or repeal of any rule, except as may be otherwise provided, the agency shall:

(1) Give at least 30 days' notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon. The notice shall be mailed to all persons who have made timely requests of the agency for advance notice of its rule-making proceedings and in addition to other public notice required by law shall be published in the New Jersey Register and shall be filed with the President of the Senate and the Speaker of the General Assembly. The notice shall be additionally publicized in such manner as the agency deems most appropriate in order to inform those persons most likely to be affected by or interested in the intended action. Methods that may be employed include publication of the notice in newspapers of general circulation or in trade, industry, governmental or professional publications, distribution of press releases to the news media and posting of notices in appropriate locations;

(2) Prepare for public distribution at the time the notice appears in the Register a statement setting forth a summary of the proposed rule, a clear and concise explanation of the purpose and effect of the rule, the specific legal authority under which its adoption is authorized, a description of the expected socio-economic impact of the rule, a regulatory flexibility analysis, or the statement of find-

ing that a regulatory flexibility analysis is not required, as provided in section 4 of P.L.1986, c.169 (C.52:14B-19) and a jobs impact statement which shall include an assessment of the number of jobs to be generated or lost if the proposed rule takes effect; and

(3) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. The agency shall consider fully all written and oral submissions respecting the proposed rule.

The agency shall conduct a public hearing on the proposed rule at the request of a committee of the Legislature, or a governmental agency or subdivision, provided such request is made to the agency within 15 days following publication of the proposed rule in the Register. The agency shall provide at least 15 days' notice of such hearing, which shall be conducted in accordance with the provisions of subsection (g) of this section;

(4) Prepare for public distribution a report listing all parties offering written or oral submissions concerning the rule, summarizing the content of the submissions and providing the agency's response to the data, views and arguments contained in the submissions.

(b) A rule prescribing the organization of an agency may be adopted at any time without prior notice or hearing. Such rules shall be effective upon filing in accordance with section 5 of this act or upon any later date specified by the agency.

(c) If an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon fewer than 30 days' notice and states in writing its reasons for that finding, and the Governor concurs in writing that an imminent peril exists, it may proceed without prior notice or hearing, or upon any abbreviated notice and hearing that it finds practicable, to adopt the rule. The rule shall be effective for a period of not more than 60 days unless each house of the Legislature passes a resolution concurring in its extension for a period of not more than 60 additional days. The rule shall not be effective for more than 120 days unless repromulgated in accordance with normal rule-making procedures.

(d) No rule hereafter adopted is valid unless adopted in substantial compliance with this act. A proceeding to contest any rule on the ground of noncompliance with the procedural requirements of this act shall be commenced within one year from the effective date of the rule.

(e) An agency may file a notice of intent with respect to a proposed rule-making proceeding with the Office of Administrative Law, for publication in the New Jersey Register at any time prior to the formal notice of action required in subsection (a) of this section. The notice shall be for the purpose of eliciting the views of interested parties on an action prior to the filing of a formal rule proposal. An agency may

use informal conferences and consultations as means of obtaining the viewpoints and advice of interested persons with respect to contemplated rule-making. An agency may also appoint committees of experts or interested persons or representatives of the general public to advise it with respect to any contemplated rule-making.

(f) An interested person may petition an agency to promulgate, amend or repeal any rule. Each agency shall prescribe the form for the petition and the procedure for the submission, consideration and disposition of the petition. The petition shall state clearly and concisely:

(1) The substance or nature of the rule-making which is requested;

(2) The reasons for the request and the petitioner's interest in the request;

(3) References to the authority of the agency to take the requested action.

Within 30 days following receipt of any such petition, the agency shall either deny the petition, giving a written statement of its reasons, or shall proceed to act on the petition, which action may include the initiation of a formal rule-making proceeding. Upon the receipt of the petition, the agency shall file a notice stating the name of the petitioner and the nature of the request with the Office of Administrative Law for publication in the New Jersey Register. Notice of formal agency action on such petition shall also be filed with the division for publication in the Register.

(g) All public hearings shall be conducted by a hearing officer, who may be an official of the agency, a member of its staff, a person on assignment from another agency, a person from the Office of Administrative Law assigned pursuant to subsection o. of section 5 of P.L.1978, c.67 (C.52:14F-5) or an independent contractor. The hearing officer shall have the responsibility to make recommendations to the agency regarding the adoption, amendment or repeal of a rule. These recommendations shall be made public. At the beginning of each hearing, or series of hearings, the agency, if it has made a proposal, shall present a summary of the factual information on which its proposal is based, and shall respond to questions posed by any interested party. Hearings shall be conducted at such times and in locations which shall afford interested parties the opportunity to attend. A verbatim transcript of each hearing shall be maintained, and copies of the transcript shall be available to the public at no more than the actual cost.

2. This act shall take effect immediately.

Approved July 5, 1995.

CHAPTER 167

AN ACT concerning sexually oriented businesses, amending N.J.S.2C:33-12.1 and supplementing chapter 33 of Title 2C of the New Jersey Statutes.

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

1. N.J.S.2C:33-12.1 is amended to read as follows:

Abating nuisance.

2C:33-12.1. Abating Nuisance. a. In addition to the penalty imposed in case of conviction under N.J.S.2C:33-12 or under section 2 of P.L.1995, c.167 (C.2C:33-12.2), the court may order the immediate abatement of the nuisance, and for that purpose may order the seizure and forfeiture or destruction of any chattels, liquors, obscene material or other personal property which may be found in such building or place, and which the court is satisfied from the evidence were possessed or used with a purpose of maintaining the nuisance. Any such forfeiture shall be in the name and to the use of the State of New Jersey, and the court shall direct the forfeited property to be sold at public sale, the proceeds to be paid to the treasurer of the county wherein conviction was had.

b. If the owner of any building or place is found guilty of maintaining a nuisance, the court may order that the building or place where the nuisance was maintained be closed and not used for a period not exceeding one year from the date of the conviction.

C.2C:33-12.2 Sexually oriented business, nuisance; crime.

2. a. As used in this act:

(1) "Sexually oriented business" means:

(a) A commercial establishment which as one of its principal business purposes offers for sale, rental, or display any of the following:

Books, magazines, periodicals or other printed material, or photographs, films, motion pictures, video cassettes, slides or other visual representations which depict or describe a "specified sexual activity" or "specified anatomical area"; or still or motion picture machines, projectors or other image-producing devices which show images to one person per machine at any one time, and where the images so displayed are characterized by the depiction of a "specified sexual activity" or "specified anatomical area"; or instruments,

devices, or paraphernalia which are designed for use in connection with a "specified sexual activity"; or

(b) A commercial establishment which regularly features live performances characterized by the exposure of a "specified anatomical area" or by a "specified sexual activity," or which regularly shows films, motion pictures, video cassettes, slides, or other photographic representations which depict or describe a "specified sexual activity" or "specified anatomical area";

(2) "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(3) "Specified anatomical area" means:

(a) Less than completely and opaquely covered human genitals, pubic region, buttock or female breasts below a point immediately above the top of the areola; or

(b) Human male genitals in a discernibly turgid state, even if covered.

(4) "Specified sexual activity" means:

(a) The fondling or other erotic touching of covered or uncovered human genitals, pubic region, buttock or female breast; or

(b) Any actual or simulated act of human masturbation, sexual intercourse or deviate sexual intercourse.

b. In addition to any activities proscribed by the provisions of N.J.S.2C:33-12, a person is guilty of maintaining a nuisance when the person owns or operates a sexually oriented business which offers for public use booths, screens, enclosures or other devices which facilitate sexual activity by patrons.

c. Notwithstanding any other provision of law, a municipality shall have the power to determine restrictions, if any, on the hours of operation of sexually oriented businesses.

d. A person who violates this act is guilty of a crime of the fourth degree.

3. This act shall take effect 60 days following enactment.

Approved July 5, 1995.

CHAPTER 168

AN ACT concerning the hearing impaired and amending P.L.1977, c.166.

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

1. Section 8 of P.L.1977, c.166 (C.34:1-69.1a) is amended to read as follows:

C.34:1-69.1a Advisory Council on the Deaf and Hard of Hearing; membership; terms; compensation; vacancies.

8. a. There shall be within the Division of the Deaf and Hard of Hearing an Advisory Council on the Deaf and Hard of Hearing which shall consist of 18 members. One representative from each of the following shall be ex-officio members: Department of Education, Department of Health, Department of Human Services, Division of Vocational Rehabilitation Services in the Department of Labor, Commission on Higher Education and the Marie Katzenbach School for the Deaf. Twelve members shall be appointed by the Governor: one shall be a business person selected from a list of candidates supplied by the New Jersey State Chamber of Commerce, one lay citizen born of deaf parents, five citizens who are deaf, two of whom shall be chosen from the professions and three to be lay persons, and five citizens who are hard of hearing. In considering the appointment of the five citizens who are deaf the Governor shall give appropriate consideration to persons recommended by profoundly deaf adults represented by the New Jersey Association of the Deaf, Incorporated. In considering the appointment of the five citizens who are hard of hearing, the Governor shall give appropriate consideration to persons recommended by hard of hearing adults represented by the organization, Self Help for Hard of Hearing People, Inc. Each appointive member shall serve for a term of three years and until his successor is appointed and qualifies, except that of the members first appointed the Governor shall designate the appointee's terms so that two shall be appointed for terms of one year, two for terms of two years and three for terms of three years.

b. Members of the Advisory Council on the Deaf and Hard of Hearing shall serve without compensation but shall be entitled to reimbursement for expenses incurred in performance of their duties. Vacancies on the council shall be filled for the unexpired term. Members may be removed by the Governor for cause.

2. This act shall take effect immediately.

Approved July 5, 1995.

CHAPTER 169

AN ACT concerning the resale of tickets of admission to places of entertainment, and amending P.L.1983, c.135.

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

1. Notwithstanding the provisions of section 8 of P.L.1983, c.135 (C.56:8-33), for a period of 18 months following the effective date of this act, the resale price of each ticket subject to the provisions of P.L.1983, c.135 (C.56:8-26 et seq.) shall not be limited to the price charged therefor and printed on the face of the ticket. As used in this section, "resale" means a sale by a person other than the owner or operator of a place of entertainment or of the entertainment event or an agent of any such person.

2. This act shall take effect 90 days after enactment.

Approved July 5, 1995.

CHAPTER 170

AN ACT concerning special improvement districts and amending P.L.1972, c.134.

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

1. Section 2 of P.L.1972, c.134 (C.40:56-66) is amended to read as follows:

C.40:56-66 Definitions.

2. As used in this act:

a. "Pedestrian mall" or "pedestrian mall improvement" means any local improvement designed to be used primarily for the movement, safety, convenience and enjoyment of pedestrians, whether or not a part of a street is set apart for roadway for emergency vehicles, transit vehicles and private vehicles or any of them, and a pedestrian mall improvement shall include but not be

limited to pedestrian thoroughfares, perimeter parking, public seating, park areas, outdoor cafes, shelters, trees, flower plantings, sculpture, newsstands, telephone booths, traffic signs, kiosks, fire hydrants, street lighting, ornamental signs, ornamental lights, trash receptacles, display cases, marquees, awnings, canopies, overhead radiant heating fixtures, underground radiant heating pipes and devices, walls, bollards and chains and all such other fixtures, equipment, facilities and appurtenances which in the judgment of the governing body of a municipality will enhance the movement, safety, convenience and enjoyment of pedestrians and benefit the municipality and adjoining properties.

b. "Special improvement district" means an area within a municipality designated by municipal ordinance as an area in which a special assessment on property within the district shall be imposed for the purposes of promoting the economic and general welfare of the district and the municipality. The municipal ordinance may exempt residential properties, residential portions of mixed use properties, parcels with any number of residential units, or vacant properties located within the district from special assessment.

c. "District management corporation" means an entity created by municipal ordinance or incorporated pursuant to Title 15A of the New Jersey Statutes and designated by municipal ordinance to receive funds collected by a special assessment within a special improvement district, as authorized by this amendatory and supplementary act.

2. This act shall take effect immediately.

Approved July 5, 1995.

CHAPTER 171

AN ACT concerning trademarks, amending and supplementing P.L.1966, c.263, amending P.L.1987, c.454, and repealing sections 1 and 9 of P.L.1966, c.263.

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

C.56:3-13.1a Definitions relative to trademarks.

1. As used in this act:

"Abandoned," when used with reference to a mark, means the occurrence of either of the following:

(1) When its use has been discontinued with intent not to resume that use. Intent not to resume may be inferred from circumstances. Nonuse for two consecutive years shall constitute prima facie evidence of abandonment.

(2) When any course of conduct of the owner, including acts of omission as well as commission, causes the mark to lose its significance as a mark.

"Act" means and refers to P.L.1966, c.263 (C.56:3-13.2 et seq.) as amended and supplemented by: P.L.1971, c.171 (C.56:3-13.7a); P.L.1987, c.454 (C.56:3-13.16 et seq.); and P.L.1995, c.171 (C.56:3-13.1a et al.).

"Applicant" means the person filing an application for registration of a mark under this act, and the legal representatives, successors, or assigns of that person.

"Dilution" means the lessening of the capacity of the registrant's mark to identify and distinguish goods or services, regardless of the presence or absence of competition between the parties, or the likelihood of confusion, mistake, or deception.

"Mark" means any trademark or service mark entitled to registration under this act, whether registered or not.

"Owner" means a person who has legal rights to a mark either as a result of registration or at common law.

"Person" means a natural person, and also includes a firm, partnership, corporation, union, association, or other organization capable of suing and being sued in a court of law.

"Registrant" means the person to whom the registration of a mark under this act is issued, and the legal representatives, successors, or assigns of that person.

"Secretary" or "Secretary of State" means the Secretary of State of New Jersey or the designee of the secretary charged with the administration of this act.

"Service mark" means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the services of one person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown. Service mark includes titles, character names used by a person, and other distinctive features of radio or television programs, notwithstanding that they, or the programs, advertise the goods of the sponsor.

"Trademark" means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the goods of the person, including a unique product, from those

manufactured and sold by others, and to indicate the source of the goods, even if that source is unknown.

"Trade name" means any name used by a person to identify a business or vocation of the person.

"Use" means the bona fide use of a mark in the ordinary course of trade in this State, and not made merely to reserve a right in a mark. A mark shall be deemed to be in use: (1) on goods when it is placed in any manner on the goods or their containers, or the displays associated with the goods or containers, or on the tags or labels affixed to the goods or containers, or if the nature of the goods makes placement impracticable, then on the documents associated with the goods or their sale, and the goods are sold or transported in commerce in this State; and (2) on services when it is used or displayed in the sale or advertising of services and the services are rendered in this State.

2. Section 2 of P.L.1966, c.263 (C.56:3-13.2) is amended to read as follows:

C.56:3-13.2 Registrability.

2. Registrability.

A mark by which the goods or services of an applicant for registration may be distinguished from the goods or services of others shall not be registered if it:

(a) consists of or comprises immoral, deceptive or scandalous matter; or

(b) consists of or comprises matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute; or

(c) consists of or comprises the flag or coat of arms or other insignia of the United States, or of any state or municipality, or of any foreign nation, or any simulation thereof; or

(d) consists of or comprises the name, signature or portrait identifying a particular living individual, except by the individual's written consent; or

(e) consists of a mark which, (1) when used on or in connection with the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them, or (2) when used on or in connection with the goods or services of the applicant is primarily geographically descriptive or deceptively misdescriptive of them, or (3) is primarily merely a surname; provided, however, that

nothing in this subsection (e) shall prevent the registration of a mark used by the applicant which has become distinctive of the applicant's goods or services. The Secretary of State may accept as evidence that the mark has become distinctive, as used on or in connection with the applicant's goods or services, proof of continuous use thereof as a mark by the applicant in this State for the five years before the date on which the claim of distinctiveness is made; or

(f) consists of or comprises a mark which so resembles a mark registered in this State or a mark or trade name previously used in this State by another and not abandoned or dissolved, as to be likely, when used on or in connection with the goods or services of the applicant, to cause confusion or mistake or to deceive.

3. Section 3 of P.L.1966, c.263 (C.56:3-13.3) is amended to read as follows:

C.56:3-13.3 Application for registration.

3. Application for registration.

Subject to the limitations set forth in this act, any person who uses a mark may file in the office of the Secretary of State, in a manner complying with the requirements of the Secretary of State, an application for registration of that mark setting forth, but not limited to, the following information:

(a) the name and business address of the person applying for registration; and, if a corporation the state of incorporation, or, if a partnership, the state in which the partnership is organized and the names of the general partners, as specified by the Secretary of State;

(b) the goods or services on or in connection with which the mark is used and the mode or manner in which the mark is used on or in connection with such goods or services and the class in which such goods or services fall;

(c) the date when the mark was first used anywhere and the date when it was first used in this State by the applicant or a predecessor in interest; and

(d) a statement that the applicant is the owner of the mark, that the mark is in use, and that, to the knowledge of the person verifying the application, no other person has registered the mark, either with the United States Patent and Trademark Office or with the Secretary of State, or has the right to use such mark either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods or services of such other person, to cause confusion, or to cause mistake, or to deceive.

The Secretary of State may require a statement as to whether an application to register the mark, or portions of a composite of the mark, has been filed by the applicant or a predecessor in interest in the United States Patent and Trademark Office; and, if so, the applicant shall provide the Secretary of State with information regarding any application, including the filing date and serial number of each application, the status of each application and, if any application was refused registration or has otherwise not resulted in a registration, the reasons for the refusal or for the application not resulting in registration.

The application shall be typed and prepared on 8-1/2" x 11" bond paper, or prepared using any other means approved by the Secretary of State. The Secretary of State shall also require that a drawing of the mark, complying with requirements that the Secretary of State may specify, accompany the application.

The application shall be signed and verified by oath, affirmation or declaration subject to punishment for perjury, by the applicant or by a member of the firm or an officer of the corporation or association applying.

The application shall be accompanied by three specimens showing the mark as actually used.

The application shall be accompanied by an application fee established by and payable to the Secretary of State.

4. Section 4 of P.L.1966, c.263 (C.56:3-13.4) is amended to read as follows:

C.56:3-13.4 Certificate of registration.

4. Certificate of registration.

Upon compliance by the applicant with the requirements of this act, the Secretary of State shall cause a certificate of registration to be issued and delivered to the applicant. The certificate of registration shall be issued under the signature of the Secretary of State and the Seal of the State, and it shall show the name and business address and, if a corporation, the state of incorporation, or if a partnership, the state in which the partnership is organized and the names of the general partners, as specified by the Secretary of State, of the person claiming ownership of the mark, the date claimed for the first use of the mark anywhere and the date claimed for the first use of the mark in this State, the class of goods or services and a description of the goods or services on or

in connection with which the mark is used, a reproduction of the mark, the registration date and the term of the registration.

Any certificate of registration issued by the Secretary of State under the provisions of this act or a copy of a certificate of registration duly certified by the Secretary of State shall be admissible in evidence as competent and sufficient proof of the registration of the mark in any action or judicial proceedings in any court of this State.

5. Section 5 of P.L.1966, c.263 (C.56:3-13.5) is amended to read as follows:

C.56:3-13.5 Duration and renewal.

5. Duration and renewal.

Registration of a mark with the Secretary of State shall be effective for a term of five years from the date of registration and, upon application filed within six months prior to the expiration of the term, in a manner complying with the requirements of the Secretary of State, the registration may be renewed for a like term from the end of the expiring term. A renewal fee in an amount established by and payable to the Secretary of State, shall accompany the application for renewal of the registration.

A mark registration may be renewed for successive periods of five years in like manner.

Any registration in force on the effective date of P.L.1995, c.171 (C.56:3-13.1a et al.) shall continue in full force and effect for the unexpired term of the registration, and may be renewed by filing an application for renewal with the Secretary of State complying with the requirements of the Secretary of State and paying the renewal fee established by the Secretary of State within six months prior to the expiration of the registration.

All applications for renewal shall include a verified statement that the mark has been and is still in use and shall include a specimen showing actual use of the mark on or in connection with the goods or services.

6. Section 6 of P.L.1966, c.263 (C.56:3-13.6) is amended to read as follows:

C.56:3-13.6 Assignment, other instruments.

6. Assignment, other instruments.

a. Any mark and its registration or application for registration shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business

connected with the use of and symbolized by the mark. Assignment shall be by instruments in writing duly executed and shall be recorded with the Secretary of State upon the payment of the recording fee payable to the Secretary of State. An assignment of any registration under this act shall be void as against any subsequent purchaser for valuable consideration without notice, unless it is filed for recording with the Secretary of State within 20 days after the date of the assignment or prior to the subsequent purchase or transfer.

b. Other instruments which relate to a mark registered or application pending pursuant to this act, including, but not limited to, a change of owner name, shall be recorded by the Secretary of State upon the payment of the recording fee established by and payable to the Secretary of State, provided that the instrument is in writing and executed by the applicant or registrant. Instruments recordable under the provisions of the Uniform Commercial Code, such as security interests and mortgages, and their recordation, shall continue to be governed by and recorded under the provisions of the Uniform Commercial Code.

c. Acknowledgement by the assignee or transferee shall be prima facie evidence of the execution of an assignment or other instrument and, when recorded by the Secretary of State, the record shall be prima facie evidence of execution.

d. A photocopy of any instrument referred to in subsections a. and b. of this section shall be accepted for recording if it is certified by any of the parties to the instrument, or their successors, to be a true and correct copy of the original.

7. Section 7 of P.L.1966, c.263 (C.56:3-13.7) is amended to read as follows:

C.56:3-13.7 Records.

7. Records.

The Secretary of State shall keep for public examination a record of all marks registered or renewed under this act and applications for registration of a mark, and all documents recorded pursuant to section 6 of P.L.1966, c.263 (C.56:3-13.6). The Secretary of State shall provide copies of these records to the public upon payment of a fee established by and payable to the Secretary of State.

8. Section 8 of P.L.1966, c.263 (C.56:3-13.8) is amended to read as follows:

C.56:3-13.8 Cancellation.

8. Cancellation.

The Secretary of State shall cancel from the register:

(a) after one year from the effective date of this act, all registrations under prior acts which are more than 10 years old and not renewed in accordance with this act;

(b) any registration concerning which the Secretary of State shall receive a voluntary request for cancellation thereof from the registrant or the assignee of record;

(c) all registrations granted under this act and not renewed in accordance with the provisions of this act;

(d) any registration concerning which a federal court of competent jurisdiction or a court of competent jurisdiction in this State shall find:

(1) that the registered mark has been abandoned;

(2) that the registrant is not the owner of the mark;

(3) that the registration was granted contrary to the provisions of section 2 of P.L.1966, c.263 (C.56:3-13.2);

(4) that the registration was obtained fraudulently;

(5) that the registered mark is so similar, as to be likely to cause confusion or mistake or to deceive, to a mark registered by another person in the United States Patent and Trademark Office, prior to the date of the filing of the application for registration by the registrant under this act, and not abandoned; provided, however, that should the registrant prove that he is the owner of a concurrent registration of his mark in the United States Patent and Trademark Office covering an area including this State, the registration under this act shall not be canceled;

(6) that the mark is or has become the generic name for the goods or services, or a portion thereof, for which it has been registered.

(e) when a federal court of competent jurisdiction or a court of competent jurisdiction in this State shall order cancellation of a registration on any ground.

9. Section 10 of P.L.1966, c.263 (C.56:3-13.10) is amended to read as follows:

C.56:3-13.10 Fraudulent registration.

10. Fraudulent registration.

Any person who shall for himself or herself, or on behalf of any other person, procure the filing or registration of any mark in the office of the Secretary of State under the provisions of this act, by

knowingly making any false or fraudulent representation or declaration, orally or in writing, or by any other fraudulent means, shall be liable to pay all damages sustained in consequence of the filing or registration, to be recovered by or on behalf of the injured party in any court of competent jurisdiction.

10. Section 2 of P.L.1987, c.454 (C.56:3-13.16) is amended to read as follows:

C.56:3-13.16 Action for trafficking in counterfeit marks; remedies.

2. a. Subject to the provisions of section 13 of P.L.1966, c.263 (C.56:3-13.13), and with respect to a mark registered pursuant to this act and a mark protected at common law, any person who engages in the conduct specified in paragraphs (1) and (2) of this subsection shall be liable in a civil action by the owner or the designee of the owner of the mark for any or all of the remedies provided in subsections d., e. and f. of this section, except that under paragraph (2) of this subsection, the owner or designee shall not be entitled to recover profits or damages unless the conduct has been committed with the intent to cause confusion or mistake or to deceive.

(1) The use, without consent of the owner or designee, of any reproduction, counterfeit, copy, or colorable imitation of a mark in connection with the sale, distribution, offering for sale, or advertising in this State of any goods or services on or in connection with which the use is likely to cause confusion or mistake or to deceive as to the source of origin of the goods or services; or

(2) The reproduction, counterfeiting, copying or colorable imitation of a mark and the application of a reproduction, counterfeit, copy or colorable imitation of a mark to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used upon or in connection with the sale or other distribution in this State of the goods or services.

b. The action shall be brought in the Superior Court of the county in which the defendant resides, is found, has an agent, transacts business, or in which the reproduction, counterfeit, copy or imitation of the mark is found.

c. The plaintiff in the civil action shall establish violation of subsection a. of this section by a preponderance of the evidence. A jury trial shall be available at the request of either party.

d. In an action brought pursuant to subsection a. of this section, the court may grant temporary restraining orders and injunctions, as may be deemed just and reasonable by the court,

to prevent any conduct described in paragraphs (1) and (2) of subsection a. of this section, and may require the defendants to pay to the plaintiff all profits derived from or all damages suffered by reason of such conduct, or both. The court may also order that any reproduction, counterfeit, copy or imitation in the possession or under the control of any defendant in the case be disposed of or destroyed in accordance with the provisions of section 3 of P.L.1987, c.454 (C.56:3-13.17). The court, in its discretion, may enter judgment for an amount not to exceed three times the profits or damages and may also award reasonable attorneys' fees and costs of suit to the prevailing party in cases where the court finds the other party committed the wrongful acts with knowledge or in bad faith or if the court finds the other party's conduct so egregious as to justify such an award. In assessing defendant's profits, plaintiff shall be required to prove defendant's sales only; defendant must prove all elements of cost or deduction claimed therefrom.

e. Upon finding a violation of subsection a. of this section, the court may, in its discretion, award prejudgment interest on the monetary recovery awarded under subsection d. of this section, at an annual interest rate established pursuant to Rule 4:42-11 of the Rules Governing the Courts of the State of New Jersey, commencing on the date of the service of the plaintiff's pleadings which set forth the claim for monetary recovery and ending on the date the judgment is awarded or for a shorter time as the court deems appropriate.

f. Any provisional or equitable remedy that would be available in a comparable civil action commenced under the federal Trademark Act of 1946, 15 U.S.C.§1051 et seq. may, to the same extent and upon a comparable showing, be made available to a party in an action commenced under this section, subject to the conditions and requirements imposed by the Civil Practice Rules of the Rules Governing the Courts of the State of New Jersey.

g. (Deleted by amendment, P.L.1995, c.171.)

h. In any civil proceeding brought under this section relating to the manufacture, use, display or sale of a counterfeit mark, in addition to the remedies available to an owner as provided in subsections d., e. and f. of this section, the court shall have jurisdiction to prevent and restrain the manufacture, use, display or sale of a counterfeit mark by issuing appropriate orders, including, in appropriate circumstances, an ex parte temporary restraining order without a seizure, or an ex parte order without notice for the seizure of counterfeit goods and the following materials:

(1) Spurious marks;

(2) The means of making the spurious marks;

(3) Articles in the defendant's possession bearing the spurious marks, or on or in connection with which the spurious marks are intended to be used;

(4) Business records documenting the manufacture, purchase or sale of counterfeit marks.

Any business records seized through an ex parte seizure order under this subsection shall be taken into the custody of the court. The applicant or its representatives shall not be permitted to see these records during the course of the search or thereafter, except under an appropriate protective order, issued on notice to the person from whom the business records were seized, with respect to confidential business information.

i. Ex parte seizure orders under subsection h. of this section shall not be issued unless the applicant:

(1) Provides an affidavit clearly setting forth specific facts in support of the need for the seizure order, and

(2) Provides security in an amount as the court deems adequate for the payment of damages as any person may suffer as a result of a wrongful seizure or wrongful attempted seizure of his property under subsection h. of this section. These damages shall include but not be limited to lost profits, the cost of materials, and loss of good will. In any case in which it is shown that the applicant caused the seizure without adequate evidence that the goods or materials were counterfeit, damages shall include reasonable attorney's fees.

(3) The court shall place under seal any order for an ex parte seizure under subsection h. of this section, together with the papers upon which the order was granted, until the party in possession of the goods or materials has been given an opportunity to contest the order.

j. No order for an ex parte seizure under subsection h. of this section shall be issued unless the court finds that a temporary restraining order on notice to the defendant or an ex parte temporary restraining order would be inadequate to protect the applicant's interest. In particular, no court shall issue an order for an ex parte seizure under subsection h. of this section unless it clearly appears from specific facts offered under oath or affirmation that:

(1) Counterfeit goods or the materials described above are located at the place identified in the affidavit;

(2) The applicant will suffer immediate and irreparable injury, loss or damage if the goods or materials are not seized through execution of an ex parte order, in that:

(a) The person from whom the goods or materials are to be seized would not comply with an order directing him to retain the goods or materials and to make them available to the court, but would instead make the goods or materials inaccessible by destroying, hiding or transferring them; or

(b) The person from whom the goods or materials are to be seized will otherwise act to frustrate the court in a proceeding under this section; and

(3) The applicant has made no effort to publicize the requested seizure and will refrain from doing so until the party in possession of the goods and materials has been given an opportunity to contest the order.

k. An order for a seizure under subsection h. of this section shall particularly describe the goods or materials to be seized, the place from which they are to be seized, and the amount of security provided by the applicant.

l. The court shall set a hearing date not more than 10 court days after the last date on which seizure is ordered at which any person from whom goods are seized may appear and seek release of the seized goods.

m. Where an order for seizure is made, the court shall direct the sheriff of the county in which the property is located to make the seizure or, where the property to be seized is located in more than one county, the direction shall issue to the sheriff of each of those counties. The sheriff shall make the seizure within 72 hours of the order.

C.56:3-13.3a Examination of applications, procedures.

11. a. Upon the filing of an application for registration and payment of the application fee, the secretary may cause the application to be examined for conformity with the requirements of this act.

b. The applicant shall provide any additional pertinent information requested by the secretary, including a description of a design mark, and may make, or authorize the secretary to make, any amendments to the application that may be reasonably requested by the secretary or deemed by the applicant to be advisable to respond to any rejection or objection.

c. The secretary may require the applicant to disclaim an unregistrable component of a mark otherwise registrable, and an applicant may voluntarily disclaim a component of a mark sought to be registered. The disclaimer shall not prejudice or affect the applicant's or registrant's rights then existing or thereafter arising in the disclaimed matter, or the applicant's or registrant's rights of registration on

another application if the disclaimed matter is or becomes distinctive of the applicant's or registrant's goods or services.

d. Amendments may be made by the secretary to the application submitted by the applicant upon the applicant's agreement; or the secretary may require submission of a fresh application.

e. If the applicant is found not to be entitled to registration, the secretary shall notify the applicant and shall advise the applicant of the reasons for the denial of registration. The applicant shall have a reasonable period of time specified by the secretary in which to reply or to amend the application, in which event the application shall then be reexamined. This procedure may be repeated until:

(1) the secretary finally refuses registration of the mark; or

(2) the applicant fails to reply or amend within the specified period, in which case the application shall be deemed to have been abandoned.

f. If the secretary finally refuses registration of the mark, the applicant may seek a review in accordance with the procedures set forth in section 14 of P.L.1995, c.171 (C.56:3-13.3b).

g. In the instance of applications concurrently being processed by the secretary seeking registration of the same or confusingly similar marks for the same or related goods or services, the secretary shall grant priority to the applications in order of filing. If a prior-filed application is granted a registration, any other application for the same or confusingly similar marks shall be rejected. A rejected applicant may bring an action for cancellation of the registration of the same or confusingly similar mark upon grounds of prior or superior rights to the mark, in accordance with the provisions of subsection b. of section 14 of P.L.1995, c.171 (C.56:3-13.3b).

C.56:3-13.9a Establishment of classification of goods, services.

12. The secretary shall by regulation establish a classification of goods and services for convenience of administration of this act, but which shall not limit or extend the applicant's or registrant's rights, and a single application for registration of a mark may include any or all goods or services on or in connection with which the mark is actually being used, indicating the appropriate class or classes of goods or services. When a single application includes goods or services which fall within multiple classes, the secretary shall require payment of a fee for each class. The classification of goods and services shall conform to the classification adopted by the United States Patent and Trademark Office pursuant to 15 U.S.C. §1112.

C.56:3-13.20 Remedies for dilution of famous marks.

13. The owner of a mark which is famous in this State shall be entitled, subject to the principles of equity, to an injunction, commencing after the owner's mark becomes famous, against another person's use of the mark which causes dilution of the distinctive quality of the owner's mark, and to obtain other relief provided in this section. In determining whether a mark is famous, a court may consider factors such as, but not limited to:

a. The degree of inherent or acquired distinctiveness of the mark in this State;

b. The duration and extent of use of the mark in connection with the goods and services;

c. The duration and extent of advertising and publicity of the mark in this State;

d. The geographical extent of the trading area in which the mark is used;

e. The channels of trade for the goods or services with which the registrant's mark is used;

f. The degree of recognition of the registrant's mark in its and in the other's trading areas and channels of trade in this State; and

g. The nature and extent of use of the same or similar mark by third parties.

The owner of a famous mark shall be entitled only to injunctive relief in this State in an action brought under this section, unless the subsequent user willfully intended to trade on the owner's reputation or to cause dilution of the owner's mark. If willful intent is proven, the owner shall also be entitled to any other remedies set forth in this act, subject to the discretion of the court and the principles of equity.

C.56:3-13.3b Review of registration decisions, procedure.

14. a. An applicant or registrant shall have the right of appeal solely on the record to an administrative law judge designated by the Office of Administrative Law or to the Superior Court in Mercer County as follows:

(1) The grounds shall include:

(a) any decision by the Secretary of State refusing registration or renewal of an existing registration, or;

(b) the failure of the Secretary of State to update the register of marks in the manner provided by section 8 of P.L.1966, c.263 (C.56:3-13.8).

(2) An appeal shall not be taken until a formal request for reconsideration of the action at issue has been filed and denied by the Office of the Secretary of State.

(3) A notice of intent to appeal shall be filed with the Secretary of State at least 10 days prior to the taking of any appeal.

(4) An appeal may be taken by filing a complaint with the designated administrative law judge or with the Superior Court in Mercer County requesting equitable relief for the grounds on which the appeal is made. No money damages or costs shall be awarded if the requested relief is granted.

(5) A copy of the complaint shall be served on the Secretary of State, and the Secretary of State shall have the right to elect to intervene and defend, oppose or otherwise participate in the appeal.

(6) The Secretary of State shall promulgate the fees and charges for the appeal, which fees and charges shall be the same as that for other appeals, to an administrative law judge or to the New Jersey Superior Court.

b. Where grounds exist for cancellation as provided in section 8 of P.L.1966, c.263 (C.56:3-13.8), and the Secretary of State has not cancelled the mark, a third party with standing may, by petition to the Secretary of State, move to have the registration declared void and removed from the register of marks of record by acting as follows:

(1) A petition to cancel shall be filed with the Secretary of State, which shall state the facts in support of the petition, and shall be accompanied by a fee established by the Secretary of State.

(2) A copy of the petition shall be served on the registrant or the owner of the mark by certified mail, return receipt requested, and notice of the service shall be filed with the Secretary of State.

(3) The registrant or owner shall have 20 days from receipt of the petition within which to respond to the petition, providing evidence in support of the objection to the cancellation. The Secretary of State may provide an extension of time for the response.

(4) In the event that the registrant or owner files no objection to the cancellation, or in the event that grounds for cancellation are clear on the record, the Secretary of State shall order cancellation. In the event that the Secretary of State denies cancellation, the petitioner shall have a right of appeal to the designated administrative law judge or to the Superior Court in Mercer County in accordance with the procedures set forth in paragraphs (4), (5) and (6) of subsection a. of this section.

(5) Upon service of a copy of the complaint on the Secretary of State, the Secretary of State shall have the right to elect to intervene and defend, oppose or otherwise participate in the appeal.

c. In any action brought against a nonresident registrant under this section, service may be effected in accordance with the procedures established for service upon nonresident corporations and business entities as provided in Rule 4:4-4(c) of the Rules Governing the Courts of the State of New Jersey, or any amendment to that rule.

C.56:3-13.21 Regulations, fees.

15. The Secretary of State shall promulgate regulations pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the provisions of this act. The regulations promulgated by the secretary shall include the fees payable for the various applications and recording fees and for related services. Unless specified by the secretary, the fees shall not be refundable.

C.56:3-13a Purpose of act, construction.

16. This 1995 amendatory and supplementary act is intended to provide a system of State trademark registration and protection substantially consistent with the federal system of trademark registration and protection under the federal Trademark Act of 1946, 15 U.S.C. §1051 et seq. The interpretation and construction of the federal Trademark Act of 1946 shall be examined as persuasive authority for the interpretation and construction of this 1995 amendatory and supplementary act.

Repealer.

17. Sections 1 and 9 of P.L.1966, c.263 (C.56:3-13.1 and 56:3-13.9) are repealed.

18. This act shall take effect six months after its enactment, but its provisions shall not apply to lawsuits and applications for the registration of a trademark pending on the effective date.

Approved July 5, 1995.

CHAPTER 172

AN ACT providing for the regulation of alternate operator service providers and supplementing P.L.1991, c.428 (C.48:2-21.16 et seq.).

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

C.48:2-21.22 Findings, declarations relative to AOS companies.

1. The Legislature finds and declares that:

a. In 1991, the Legislature acted to exempt competitive telecommunications services from traditional utility regulation upon a finding that such regulation is generally not necessary to protect the public interest in the competitive marketplace. However, in its report to the Governor and Legislature on the implementation of P.L.1991, c.428 (C.48:2-21.16 et seq.) the Board of Public Utilities has found that where a captive market exists for competitive telecommunications services, market conditions are not always able to protect the public interest.

b. In particular, the board has received many complaints concerning "alternate operator service" (AOS) companies which provide operator assistance for collect, third-party billed, and credit card calls, usually at pay phones on the premises of hotels, restaurants, hospitals or airports, with such establishments receiving a commission for calls placed through the AOS arrangement. Given the provisions of P.L.1991, c.428, there has been some debate on the extent of the board's authority to protect consumers' interests with regard to AOS companies.

c. It is appropriate, therefore, that the Legislature act to clarify the powers of the board with regard to AOS companies, and to specifically authorize the board to take appropriate action, including, but not limited to, rate regulation, to protect the interests of consumers of alternate operator services upon a finding of the board that such action is necessary to protect the users of those services.

C.48:2-21.23 Regulation of "alternate operator service provider," definition.

2. Notwithstanding the provisions of P.L.1991, c.428 (C.48:2-21.16 et seq.) or any other law to the contrary, the Board of Public Utilities, upon a finding by the board that such measures are necessary to protect the users of alternate operator service providers, may regulate the rates and terms and conditions of service of those providers, and use any other means necessary pursuant to law, rule or regulation to protect users of those services.

As used in this section, "alternate operator service provider" means a non-facilities based telecommunications carrier who is a reseller leasing lines from local exchange carriers and interexchange carriers and who, using these leased facilities along with its own operators, provides operator-assisted services.

3. This act shall take effect immediately.

Approved July 5, 1995.

CHAPTER 173

AN ACT concerning landfill reclamation improvement districts, supplementing Title 40A of the New Jersey Statutes and amending N.J.S.40A:4-39.

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

C.40A:12A-50 Findings, declarations relative to landfill reclamation improvement districts.

1. The Legislature finds and declares that it is a public purpose and compelling State interest to facilitate the redevelopment of landfill reclamation sites within municipalities that are attempting to create economic growth and thereby to promote job creation and economic development. Environmentally sound landfill reclamation is essentially a "capping" process, and the development potential of a capped landfill is limited. The extensive closed landfill areas in some of the State's urban areas, the prior commercial retail development experience and the excellent transportation potential of those areas makes it vital that the commercial reuse of those sites be encouraged by providing municipal governments with the appropriate financing tools.

The Legislature, therefore, determines that it is appropriate to enable certain municipalities to establish landfill reclamation improvement districts comprising reclaimed landfills of sufficient size in existing urban enterprise zones and to provide those municipalities with the appropriate economic tools for the reclamation. To provide those tools, it is appropriate to allow a municipality to fund beneficial improvements through the use of revenue bonds, and to allow a municipality to act as a conduit through which the commercial tenants of a development district may finance their own futures by franchise assessments on businesses within the district, with the proceeds of the assessment to be used for land reclamation and infrastructure improvements made directly by a municipality within the district or indirectly through redevelopers.

C.40A:12A-51 Definitions.

2. As used in sections 1 through 6 of this act:

"Redeveloper" means any person that enters or proposes to enter into a redevelopment agreement with a municipality that has established a landfill reclamation improvement district.

"Redevelopment agreement" means a contract between a municipality and a redeveloper for any work or undertaking for the clearance, development and redevelopment, construction or rehabilitation of any structure or improvement of commercial, industrial or public structures or improvements that provide a public benefit within a district undertaken pursuant to an ordinance creating a landfill reclamation improvement district pursuant to section 3 of P.L.1995, c.173 (C.40A:12A-52).

"Franchise assessment" means: (1) an assessment on the amount of the sale price of all tangible property sold by a business in a district, valued in money, whether received in money or otherwise, excluding the cost of transportation if such cost is separately stated in the written contract and excluding any tax imposed pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.); (2) an assessment on all rental receipts from the rental of commercial property in a district; or (3) both (1) and (2).

"Landfill reclamation improvement district" or "district" means a contiguous tract of land of at least 150 acres in size, of which not less than 100 acres were formerly used as a landfill, located in a municipality having a population of more than 12,000 according to the latest federal decennial census and in an area designated as an urban enterprise zone in which the receipts of certain sales are exempt 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.), pursuant to section 21 of P.L.1983, c.303 (C.52:27H-80), which has been designated a landfill reclamation improvement district by a municipality pursuant to section 3 of P.L.1995, c.173 (C.40A:12A-52).

C.40A:12A-52 Creation of landfill reclamation improvement districts permitted.

3. A municipality having a population of more than 12,000 according to the most recent federal decennial census in which there is an area designated as an urban enterprise zone in which the receipts of certain sales are exempt 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.), pursuant to section 21 of P.L.1983, c.303 (C.52:27H-80), may adopt an ordinance creating a landfill reclamation improvement district whenever the municipality determines that the district will promote job creation and economic development. A municipality may create, by separate ordinances, more than one district.

C.40A:12A-53 Adoption of ordinance to levy franchise assessment.

4. A municipality that has created a district pursuant to section 3 of P.L.1995, c.173 (C.40A:12A-52), may adopt an ordinance to

levy, within the district, a franchise assessment not to exceed three percent. The rate of the franchise assessment shall be uniform throughout the district. Notwithstanding any other law to the contrary, agreements for the payment of a franchise assessment authorized by ordinance pursuant to this section shall remain in full force and effect regardless of whether such ordinance is altered or repealed.

A copy of an ordinance adopted pursuant to this section shall be transmitted upon adoption to the State Treasurer. Every ordinance levying a franchise assessment pursuant to this section shall provide for reporting assessments due and for the collection thereof, and all franchise assessments pursuant to such an ordinance shall be remitted to the chief financial officer of the municipality. An ordinance levying a franchise assessment shall take effect only on the first day of any month in any year. For the purposes of the effective administration of the franchise assessment, the municipality shall have all of the rights and responsibilities established pursuant to sections 35 through 39 of P.L.1970, c.326 (C.40:48C-35 through 40:48C-39) and the franchise assessment shall be administered pursuant to those sections.

C.40A:12A-54 Appropriation of franchise assessments for redevelopment.

5. Notwithstanding any law to the contrary, all franchise assessments that are payable to a municipality from businesses located within a landfill reclamation improvement district and that are subject to a redevelopment agreement shall be appropriated by the municipality for payment as provided for in the redevelopment agreement. Any portion of the aggregate franchise assessment collected annually by the municipality and retained pursuant to a redevelopment agreement which is not appropriated or expended by the municipality for purposes of the district shall be apportioned between the municipality and the county in which the landfill reclamation improvement district is located, such that 90 percent of the aggregate franchise assessment collected in that year shall be paid to the municipality and 10 percent shall be paid to the county for use in economic development, unless the county waives its interest or any part thereof. Franchise assessments shall be made by the municipality until such time as the redeveloper has been paid in full, as defined in the redevelopment agreement, notwithstanding the fact that a municipality may no longer qualify to designate a district or that the district designation may have expired prior to the full satisfaction of the payments due the redeveloper under a redevelopment agreement.

C.40A:12A-55 Adoption of redevelopment plan, powers of municipality.

6. a. A municipality that has created a landfill reclamation improvement district pursuant to section 3 of P.L.1995, c.173 (C.40A:12A-52), is deemed to have adopted a redevelopment plan for the specifically delineated area of the district for the purposes of section 7 of the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-7) and may undertake a redevelopment project within the district. In addition to the other powers enumerated in this act, the municipality may incur indebtedness, borrow and expend money, and issue its negotiable bonds or other obligations pursuant to sections 29 through 37 of P.L.1992, c.79 (C.40A:12A-29 through 40A:12A-37) for the purpose of financing or refinancing the construction, reconstruction, repair, alteration, improvement, and development of any infrastructure or parking or transportation facilities or work that reduces, abates or prevents environmental pollution or other improvements that provide a public benefit within or to a landfill reclamation improvement district.

b. Notwithstanding the provisions of subsection g. of section 37 of P.L.1992, c.79 (C.40A:12A-37), the bonds and notes issued pursuant to this section shall not be direct and general obligations of the municipality issuing them and the municipality shall not be obligated to levy and collect a tax sufficient in an amount to pay the principal and interest on such bonds and notes when the same become due and payable. Any bonds or other obligations issued or authorized pursuant to this section shall be deductible from the gross debt of the municipality or county on any debt statement filed in accordance with the "Local Bond Law," P.L.1960, c.169 (C.40A:2-1 et seq.).

c. A municipality that has created a landfill reclamation improvement district may adopt an ordinance which provides for tax abatement within that district and for a payment in lieu of taxes. The municipality may enter into agreements of no more than 35 years' duration with the redeveloper or owners of all or any part of a district for tax abatement and payments in lieu of taxes in an amount agreed upon. The bonds or other obligations described in this section shall be special and limited obligations secured by the agreement for payment in lieu of taxes or other available sources.

d. In addition to the bonds or other obligations authorized to be issued by a municipality pursuant to this section, the New Jersey Economic Development Authority, created pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4) or a county improvement authority may issue negotiable bonds or other obligations for the purpose of financing or refinancing the construction, reconstruc-

tion, repair, alteration, improvement, and development of any infrastructure or parking or transportation facilities or work that reduces, abates or prevents environmental pollution or other improvements that provide a public benefit within or to a landfill reclamation improvement district. The agreement for payment in lieu of taxes provided for in this section or other source of revenues may be assigned directly to the New Jersey Economic Development Authority or county improvement authority or the trustee of bonds as payment or security for the bonds or other obligations. Notwithstanding any law to the contrary, the assignment of the agreement for payment in lieu of taxes may be an absolute assignment of all the municipality's right, title, and interest in such agreement or in the payment in lieu of taxes, and such agreement or payment shall not be included in the general funds of the municipality. The municipality shall be a "person" within the meaning of that term as defined in section 3 of P.L.1974 c.80 (C.34:1B-3); and the purpose described in this section shall be a "project" within the meaning of that term as defined in section 3 of P.L.1974, c.80 (C.34:1B-3).

e. After the bonds are paid and no longer deemed to be outstanding, the payment in lieu of taxes shall be paid directly to the municipality and shall be included within its general funds.

7. N.J.S.40A:4-39 is amended to read as follows:

Anticipation of dedicated revenues.

40A:4-39. a. In the budget of any local unit, dedicated revenues anticipated during the fiscal year from any dog tax, dog license, solid fuel license, sinking fund for term bonds, bequest, escheat, federal grant, motor vehicle fine dedicated to road repairs, relocation costs deposited into a revolving relocation assistance fund established pursuant to section 2 of P.L.1987, c.98 (C.20:4-4.1a), receipts from franchise assessments levied pursuant to section 4 of P.L.1995, c.173 (C.40A:12A-53) and, subject to the prior written consent of the director, other items of like character when the revenue is not subject to reasonably accurate estimate in advance, may be included in said budget by annexing to said budget a statement in substantially the following form:

"The dedicated revenues anticipated during the year ..... from ..... (here insert one or more of the sources above, as the case may be) are hereby anticipated as revenue and are hereby appro-

priated for the purposes to which said revenue is dedicated by statute or other legal requirement."

b. Dedicated revenues included in accordance with this section shall be available for expenditure by the local unit as and when received in cash during the fiscal year. The inclusion of such dedicated revenues shall be subject to the approval of the director, who may require such explanatory statements or data in connection therewith as the director deems advisable for the information and protection of the public.

8. This act shall take effect immediately but sections 1 through 7 shall remain inoperative until July 1, 1995.

Approved July 6, 1995.

CHAPTER 174

AN ACT requiring notification of pregnant women of the benefits of being tested for the presence of antibodies to the human immunodeficiency virus and supplementing Title 26 of the Revised Statutes.

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

C.26:5C-15 Definitions.

1. As used in this act:

"AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control and Prevention of the United States Public Health Service.

"Commissioner" means the Commissioner of Health.

"Department" means the Department of Health.

"HIV" means the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.

C.26:5C-16 Information on HIV testing; guidelines for notification; confidentiality.

2. a. A physician or other health care practitioner who is the primary caregiver for a pregnant woman or a woman who seeks treatment within four weeks of giving birth, shall, in accordance with guidelines developed by the commissioner, provide the woman with information about HIV and AIDS, and also inform the woman of the benefits of being tested for HIV and present her with the option of being tested. The woman shall, on a form and in a manner prescribed by the commissioner, acknowledge receipt

of the information and indicate her preference regarding testing. A woman shall not be denied appropriate prenatal or other medical care because she decides not to be tested for HIV.

b. The commissioner shall establish guidelines regarding notification to a woman whose test result is positive, and to provide, to the maximum extent possible, for counseling about the significance of the test result.

c. Information about a woman which is obtained pursuant to this section shall be held confidential in accordance with the provisions of P.L.1989, c.303 (C.26:5C-5 et seq.).

C.26:5C-17 Fees.

3. If a test sample taken pursuant to section 2 of this act is analyzed in the department's laboratory, the department may charge a reasonable fee for the test. The amount of the fee and the procedures for collecting the fee shall be established by the commissioner.

C.26:5C-18 Action due to unauthorized disclosure.

4. A woman who has or is suspected of having AIDS or HIV infection may pursue an action against a person who makes an unauthorized disclosure of any information concerning the woman's positive test result for the presence of antibodies to HIV which is obtained pursuant to section 2 of this act, in accordance with the provisions of section 10 of P.L.1989, c.303 (C.26:5C-14).

C.26:5C-19 Agreements authorized.

5. The commissioner is authorized to enter into agreements with the federal government and public health agencies in other states to achieve greater effectiveness or efficiency in carrying out the provisions of this act.

C.26:5C-20 Rules, regulations.

6. The commissioner, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effect this act.

7. This act shall take effect on the 60th day after enactment.

Approved July 7, 1995.

CHAPTER 175

AN ACT concerning the investment of certain public funds and supplementing P.L.1950, c.270 (C.52:18A-79 et seq.).

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

C.52:18A-89.8 Investments in Israeli obligations.

1. Notwithstanding the provisions of section 11 of P.L.1950, c.270 (C.52:18A-89) or any other law, rule or regulation to the contrary, the Director of the Division of Investment in the Department of the Treasury shall have the authority to invest and reinvest the assets of any pension or annuity fund under the jurisdiction of the division in securities at fair market value issued and unconditionally guaranteed as to interest and principal by the State of Israel.

2. This act shall take effect immediately.

Approved July 10, 1995.

CHAPTER 176

AN ACT providing for the issuance of Olympic license plates and supplementing chapter 3 of Title 39 of the Revised Statutes.

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

C.39:3-27.61 Definitions.

1. As used in this act:

"Director" means the Director of the Division of Motor Vehicles in the Department of Law and Public Safety;

"Division" means the Division of Motor Vehicles in the Department of Law and Public Safety;

"Fund" means the fund created pursuant to section 4 of this act.

C.39:3-27.62 Issuance of United States Olympic license plates.

2. The director shall, upon proper application therefor, issue United States Olympic license plates, for any motor vehicle owned or leased and registered in the State. In addition to the registration number and other markings or identification otherwise prescribed by law, a United States Olympic license plate shall display the official United States Olympic Committee logo and wording which indicates support for the advancement of excellence in amateur athletic competition in this State. The wording, design and color scheme of the plate shall be chosen by the director.

C.39:3-27.63 Application; fee.

3. Application for issuance of a United States Olympic license plate shall be made to the division on forms and in a manner as may be prescribed by the director. In order to be deemed complete, an application shall be accompanied by a fee of $50, in addition to any other fees required by law for the registration of the motor vehicle.

An annual fee of $10 shall be charged for the renewal of a United States Olympic license plate in addition to any other fees required by law. Applicants for a United States Olympic license plate shall be advised of the annual $10 renewal fee at the time of initial application.

C.39:3-27.64 "Garden State Games Trust Fund" created.

4. There is created in the Department of the Treasury a special non-lapsing fund to be known as the "Garden State Games Trust Fund." There shall be deposited in the fund the $50 application fee and the $10 renewal fee collected pursuant to section 3 of this act. Moneys deposited in the fund shall be dedicated to the purposes set forth in section 5 of this act. Moneys deposited in the fund shall be held in interest-bearing accounts in public depositories as defined pursuant to section 1 of P.L.1970, c.236 (C.17:9-41), and may be invested or reinvested in such securities as are approved by the State Treasurer. Interest or other income earned on moneys deposited into the fund, and any moneys which may be appropriated or otherwise become available for the purposes of the fund, shall be credited to and deposited in the fund for use as set forth in this act.

C.39:3-27.65 Allocation of funds.

5. Moneys deposited in the fund shall be allocated as follows:

a. Prior to the deposit of license plate fees collected pursuant to section 4 of this act into the fund, the division shall be reimbursed for all costs reasonably and actually incurred as stipulated by the director for:

(1) producing, issuing, renewing and publicizing the availability of United States Olympic license plates; and

(2) any initial fees collected from the issuance of United States Olympic license plates shall be allocated to the division to pay the cost of any computer programming changes that may be necessary to implement the United States Olympic license plate program established by this act.

b. The director shall annually certify the average cost per license plate incurred in the immediately preceding year by the division in producing, issuing, renewing and publicizing the availability of United States Olympic license plates. The annual

certification of the average cost per license plate shall be approved by the Joint Budget Oversight Committee, or its successor.

c. In the event that the average cost per license plate as certified by the director and approved by the Joint Budget Oversight Committee, or its successor, is greater than the $50 application fee established in section 3 of this act in two consecutive fiscal years, the director may discontinue the issuance of United States Olympic license plates.

d. The moneys remaining in the fund shall be provided in equal amounts to the Garden State Games, for New Jersey's sports festival for amateur athletes, and the United States Olympic Committee.

C.39:3-27.66 Notification of eligible motorists.

6. The director shall notify eligible motorists of the opportunity to obtain United States Olympic license plates by including a notice with all motor vehicle registration renewals, and by posting appropriate posters or signs in all division facilities and offices.

7. This act shall take effect on the 180th day after enactment, but the State Treasurer and the Director of the Division of Motor Vehicles may take such anticipatory acts in advance of the date as may be necessary for the timely implementation of this act.

Approved July 10, 1995.

CHAPTER 177

AN ACT concerning bicycle helmets and amending P.L.1991, c.465.

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

1. Section 3 of P.L.1991, c.465 (C.39:4-10.3) is amended to read as follows:

C.39:4-10.3 Posting of sign required; violations, penalties; renters required to provide helmet; immunity.

3. a. A person regularly engaged in the business of selling or renting bicycles shall post a sign at the point where the sale or rental transaction is completed stating: "STATE LAW REQUIRES A BICYCLE RIDER UNDER 14 YEARS OF AGE TO WEAR A HELMET." The size of the sign shall be at a minimum 15 inches in length and 8 inches in width. This notification requirement shall

not apply to a seller when a bicycle is sold through the use of a catalog or brochure and the purchase and payment are made by mail, telephone or another telecommunications or electronic method.

A person who fails to post a sign required by this subsection within 60 days after the effective date of this amendatory act (P.L.1995, c.177) shall be subject to a penalty not to exceed $25 a day for each day the business is open to the public and the sign is not posted. The enforcement of this subsection shall be vested in the Director of the Division of Consumer Affairs of the Department of Law and Public Safety, the inspectors appointed under his authority, and the police or peace officers of, or inspectors duly appointed for this purpose, by any municipality or county or by the State. Jurisdiction of proceedings to collect the penalties prescribed by this act is vested in the Superior Court and the municipal court in any municipality where the defendant may be apprehended or where he may reside. Process shall be either a summons or warrant and shall be executed in a summary manner pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

b. A person regularly engaged in the business of renting bicycles shall provide a helmet to a person under 14 years of age who will operate the bicycle in an area where a helmet is required, if the person does not already have a helmet in his possession. A fee may be charged for the helmet rental.

c. A person regularly engaged in the business of selling or renting bicycles who complies with the applicable requirements of this section shall not be liable in a civil action for damages for any physical injury sustained by a bicycle operator or passenger who is under the age of 14 years as a result of the operator's or passenger's failure to wear a helmet or to wear a properly fitted or fastened helmet in violation of the requirements of this act.

d. Within 60 days after the effective date of this amendatory act (P.L.1995, c.177), the Division of Consumer Affairs in the Department of Law and Public Safety shall make a reasonable effort to notify any person who is regularly engaged in the business of selling or renting bicycles of the requirements of this section. The responsibility of a person under this section shall not be abrogated or diminished in any manner if the person fails to receive or become aware of a notice from the division.

2. This act shall take effect immediately.

Approved July 11, 1995.

CHAPTER 178

AN ACT eliminating a provision under "The New Jersey Campaign Contributions and Expenditures Reporting Act" for designation of a campaign depository account as an "election fund" and amending P.L.1973, c.83.

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

1. Section 12 of P.L.1973, c.83 (C.19:44A-12) is amended to read as follows:

C.19:44A-12 Records of contributions.

12. An organizational or campaign treasurer or deputy organizational or campaign treasurer of a candidate committee or joint candidates committee, a political committee, a continuing political committee, a political party committee or a legislative leadership committee shall make a written record of all funds which he receives as contributions to the candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, including in that record the name and mailing address of the contributor, the amount and date of the contribution, and where the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer. The organizational or campaign treasurer shall retain that record for a period of not less than four years. All funds so received shall be deposited by the campaign or organizational treasurer or deputy campaign or organizational treasurer in a campaign depository of the candidate committee or joint candidates committee, the continuing political committee, political committee, political party committee or legislative leadership committee no later than the tenth calendar day following receipt of such funds; except that any such treasurer or deputy treasurer may, when authorized by the candidate, candidates or committee of which he is the campaign or organizational treasurer or deputy campaign or organizational treasurer, transfer any such funds to the duly designated campaign or organizational treasurer or deputy campaign or organizational treasurer of another candidate or committee, for inclusion in the campaign depository thereof, without first so depositing them; provided, however, that the amount so transferred shall not be in excess of the amount that

may be contributed by one candidate to another candidate in an election pursuant to section 18 of P.L.1993, c.65 (C.19:44A-11.3), but this proviso shall not be construed to prohibit a county or municipal committee of a political party from making a contribution or contributions, or from transferring funds as hereinabove authorized, to any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee. A record of all nondeposited funds so transferred shall be attached to the statement required under this section, identifying them as to source and amount in the same manner as deposited funds.

2. This act shall take effect immediately.

Approved July 11, 1995.

CHAPTER 179

AN ACT concerning State operated school districts, amending P.L.1975, c.212 and P.L.1987, c.399.

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

1. Section 2 of P.L.1987, c.399 (C.18A:7A-35) is amended to read as follows:

C.18A:7A-35 State district superintendent.

2. a. The schools of a State-operated school district shall be conducted by and under the supervision of a State district superintendent of schools appointed by the State board upon recommendation of the commissioner. The individual selected shall be qualified by training and experience for the particular district.

b. The State district superintendent shall be appointed for an original term not to exceed five years. Notwithstanding any other provision of law, no person so appointed shall acquire tenure nor shall the commissioner, with approval of the State board, be precluded from terminating the superintendent's services pursuant to the terms of the superintendent's individual contract of employment. For

the purpose of the New Jersey Tort Claims Act, N.J.S.59:1-1 et seq., the State district superintendent shall be considered a State officer.

c. The salary of the State district superintendent shall be fixed by the commissioner and adjusted from time to time as the commissioner deems appropriate. The cost for said salary and for the salaries of all persons appointed pursuant to this amendatory and supplementary act shall be an expense of the local school district.

d. The State district superintendent shall perform all the duties and possess all the powers heretofore and hereafter assigned in Title 18A of the New Jersey Statutes to central administrative and supervisory staff, instructional and noninstructional, which shall include but not be limited to the superintendent of schools, secretary of the board of education, school business administrator, school business manager, and assistants and clerks thereto.

e. Except as otherwise provided in this amendatory and supplementary act, the State district superintendent shall have the power to perform all acts and do all things consistent with law necessary for the proper conduct, maintenance and supervision of the schools in the district.

f. The State district superintendent may make, amend and repeal district rules, policies and guidelines, not inconsistent with law for the proper conduct, maintenance and supervision of the schools in the district.

g. The State district superintendent shall provide in each school a mechanism for parent, teacher and community involvement. In addition, the State district superintendent shall provide for at least one public meeting in both the fall and the spring semesters to advise parents and members of the community on the activities within the district and to provide an opportunity for those parents, teachers and community members who wish to be heard. The meetings shall be at such times and places as to ensure maximum public participation.

h. The State district superintendent shall ensure that the district is in compliance with all federal and State laws, rules and regulations relating to equal employment opportunities, affirmative action and minority business opportunities.

2. Section 11 of P.L.1987, c.399 (C.18A:7A-44) is amended to read as follows:

C.18A:7A-44 Abolition of administrative positions; reorganization.

11. a. Notwithstanding any other provision of law or contract, the positions of the district's chief school administrator and those

executive administrators responsible for curriculum, business and finance, and personnel shall be abolished upon creation of the State-operated school district. The affected individuals shall be given 60 days' notice of termination or 60 days' pay. The notice or payment shall be in lieu of any other claim or recourse against the employing board or the school district based on law or contract. Any individual whose position is abolished by operation of this subsection shall be entitled to assert a claim to any position or to placement upon a preferred eligibility list for any position to which the individual may be entitled by virtue of tenure or seniority within the district. No individual whose position is abolished by operation of this subsection shall retain any right to tenure or seniority in the positions abolished herein.

b. Within one year of the establishment of the State-operated school district, the State district superintendent shall prepare a reorganization of the district's central administrative and supervisory staff and shall evaluate all individuals employed in central administrative and supervisory staff positions. The State district superintendent shall implement the reorganization on the July 1 next following its preparation, unless otherwise directed by the commissioner.

c. Notwithstanding any other provision of law or contract, the positions of the central administrative and supervisory staff, instructional and noninstructional, other than those positions abolished pursuant to subsection a. of this section, shall be abolished upon the reorganization of the State-operated school district's staff. The State district superintendent may hire an individual whose position is so abolished, based upon the evaluation of the individual and the staffing needs of the reorganized district staff. These individuals shall be hired with tenure if they had tenure in their prior position. If they did not have tenure in their prior position, they may obtain tenure pursuant to the provisions of N.J.S.18A:28-6. Individuals hired as State assistant superintendents shall not be hired with tenure and shall not acquire tenure. Employees or officers not hired for the reorganized staff shall be given 60 days' notice of termination or 60 days' pay. The notice or payment shall be in lieu of any other claim or recourse against the employing board or the school district based on law or contract. Notwithstanding this limitation, nothing herein shall preclude an individual from asserting upon separation from service any legal contractual right to health care coverage, annuities, accrued vacation days, accrued sick leave, insurance and approved tuition costs. Any employee whose position is abolished

by operation of this subsection shall be entitled to assert a claim to any position or to placement upon a preferred eligibility list for any position to which the employee may be entitled by virtue of tenure or seniority within the district. No employee whose position is abolished by operation of this subsection shall retain any right to tenure or seniority in the positions abolished herein.

3. Section 12 of P.L.1987, c.399 (C.18A:7A-45) is amended to read as follows:

C.18A:7A-45 Evaluations of principals, vice-principals.

12. a. The Commissioner of Education shall adopt criteria for the evaluation of building principals and vice-principals in a State-operated school district.

b. Upon appointment, the State district superintendent shall establish an assessment unit which shall conduct on-site evaluations of each building principal and vice-principal in accordance with the criteria established by the commissioner and render evaluation reports to the State district superintendent. No less than three evaluations shall be performed for each building principal and vice-principal within 18 months following the establishment of State operation. All personnel records for building principals and vice-principals prepared before the establishment of the State-operated district shall be sealed upon issuance of the State Board of Education order establishing the State-operated school district.

c. Notwithstanding any other provision of law or contract, the State district superintendent, after completion of an assessment cycle of not less than 12 months, may dismiss any tenured building principal or vice-principal for inefficiency, incapacity, unbecoming conduct or other just cause as defined by the criteria for principal or vice-principal performance in State-operated districts established by the commissioner pursuant to subsection a. of this section. Nothing herein shall preclude the dismissal of a tenured building principal or vice-principal prior to the completion of an assessment cycle of not less than 12 months if the basis for the dismissal is incapacity or unbecoming conduct. All dismissals of tenured building principals or vice-principals shall be conducted in accordance with the procedures set forth in sections 10, 11, 13, 14, 16 and 17 of chapter 6 of Title 18A of the New Jersey Statutes, except that the State district superintendent shall act as the board of education in all respects.

d. The commissioner and the Office of Administrative Law are empowered and directed to take any necessary action to expedite hearings for dismissal of tenured principals or vice-principals, including relaxation of any time requirements established by law or practice. In no event shall a hearing commence later than 45 days after certification of charges. Hearings shall be completed within 45 days of commencement. In no event shall a final decision be issued later than 120 days following the certification of charges.

e. Evaluations of building principals or vice-principals conducted by district personnel prior to the establishment of the State-operated school district shall not be admissible in a tenure hearing for any building principal or vice-principal except in the following circumstances:

(1) Evaluations of building principals or vice-principals performed by members of the State-operated school district's central administrative and supervisory staff who are hired by the State district superintendent to fill one of the positions in the reorganized central office of the State-operated district shall be admissible;

(2) Evaluations of building principals or vice-principals made by individuals who were no longer employed by the school district as of the date it became a State-operated school district shall be admissible only if the evaluation was performed more than five years preceding the date of the establishment of the State-operated district.

4. Section 14 of P.L.1987, c.399 (C.18A:7A-47) is amended to read as follows:

C.18A:7A-47 Board of education.

14. Within 60 days, the commissioner shall establish a board of education consisting of not more than 15 persons from among the residents of the district. The membership of the board shall be representative of the community's racial and ethnic balance. Previous members of the board of education shall not be precluded from consideration for membership on this board. Of the 15 members, 13 shall be appointed by the commissioner and two shall be appointed by the local governing body of the municipality in which the school district is located. If the school district includes more than one municipality, then the governing body of each constituent municipality shall have one appointment to the board and the number of appointments by the commissioner shall be reduced accordingly. If the local governing body fails to agree upon the selection of board members within 60 days of the establishment of the State-operated school district, then the commissioner may

make the additional two appointments. Any vacancies on the board shall be filled by the appropriate appointing authority within 45 days of the occurrence of the vacancy. All individuals appointed to the board shall meet all of the statutory requirements for membership on a board of education and shall be required to attend all meetings of the board, all meetings of standing board committees to which the member is appointed, and all in-service training sessions provided for board members. Any member of the board who, during the course of any school year, fails to attend eighty percent of all meetings of the board and of standing board committees and in-service training sessions shall be removed upon recommendation of the State district superintendent to the appropriate appointing authority. Members of the board of education shall serve for two-year terms, unless removed from the board as provided herein. The board shall meet as soon as may be possible after its appointment and shall select a chairman and a vice-chairman from among its members.

The State district superintendent shall meet with the board of education at least once in each month and may meet more frequently as necessary for the effective operation of the school district. The meetings of the board shall be convened and scheduled at the direction of the State district superintendent, and the State district superintendent shall determine the agenda. At the meetings, the State district superintendent shall report to the board on all actions taken and on pending actions in a timely fashion, and provide an opportunity for a full discussion by the board and by the public of those actions. Meetings shall be conducted pursuant to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). On a regular basis, but no less than twice each year, the board of education shall report in writing directly to the State district superintendent concerning its assessment of the progress of the district. Copies of the report shall be forwarded to the commissioner and the State board. The State district superintendent shall make such clerical and other resources available as are necessary for the effective operation of the board of education.

The commissioner, in consultation with the New Jersey School Boards Association, shall provide the members of the board of education with appropriate in-service training in school matters.

5. Section 15 of P.L.1987, c.399 (C.18A:7A-48) is amended to read as follows:

C.18A:7A-48 Elections; board matters.

15. a. At the April school election in the fourth full academic year following the creation of a State-operated school district, nine board members shall be elected from among the 15 appointed board members, three to serve a one-year term, three to serve a two-year term, and three to serve a three-year term. If there are not nine members from the 15 appointed members who are willing to run for election, the commissioner shall retain the right to appoint the remaining members of the board. In each subsequent year, board members shall be elected from the community at large.

b. Beginning in the second year of State operation, the State district superintendent shall bring matters of curriculum before the board and may bring other matters before the board for a vote. Beginning in the third year of State operation, the State district superintendent shall bring legal matters before the board for a vote. Beginning in the fourth year of State operation, the State district superintendent shall bring fiscal matters before the board for a vote. However, the State district superintendent shall retain veto power until the reestablishment of local control.

6. Section 16 of P.L.1987, c.399 (C.18A:7A-49) is amended to read as follows:

C.18A:7A-49 Reestablishment of local control.

16. a. The State district superintendent shall annually provide to the commissioner an assessment of the progress of the district toward meeting the requirements necessary for State certification. In addition, the commissioner shall ensure that the district is regularly monitored by the Department of Education in the manner provided for all school districts in level III monitoring pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14). The commissioner shall formally report to the State board and to the Governor and the Legislature on the district's progress.

b. Based upon the annual assessment of progress and the district's having received State certification, but not sooner than five years after the establishment of the State-operated school district, the commissioner may recommend to the State board that local control be reestablished. If the State board so determines, local control shall be reestablished effective on the July 1 next ensuing.

c. Upon the reestablishment of local control, the board of education shall assume full responsibility for the operation of the school district; however, the State district superintendent and

those members of the superintendent's staff appointed by operation of these laws relating to State-operated school districts shall continue to serve for a one-year transition period upon conclusion of which their term of service shall expire without prejudice to the right of the district board of education to reappoint any or all such persons to similar positions within the district. During the transition period, the State district superintendent may place matters before the board for a vote. The board of education shall act upon all such matters brought before it by the State district superintendent.

d. Not more than one year following the reestablishment of local control, the board shall conduct a special election for purposes of placing the question of classification status before the voters of the district.

e. If the voters of the district shall elect to become a type I district, it shall be governed by the provisions of chapter 9 of Title 18A of the New Jersey Statutes relating to type I districts after January 31 next ensuing, unless the district is established in a city of the first class, in which case it shall be governed after June 30 next ensuing. The members of the district board of education at the time of said election shall continue in office until expiration of their respective terms and the qualification in office of their successors.

f. If the voters of the district shall so select that the district shall become a type II district, it shall be governed by the provisions of chapter 9 of Title 18A relating to type II districts and the members of the board of education at the time of said election shall remain and continue in office until the expiration of their respective terms and the qualification of their respective successors.

g. If the commissioner cannot recommend that local control be reestablished in a district five years after the establishment of a State-operated school district, then the commissioner shall provide a comprehensive report to the State board and to the Governor and the Legislature, including a detailed analysis of the causes for the failure of the district to achieve certification and an assessment of the amount of time necessary for the continuation of the State-operated school district. On the basis of that report the State board shall determine whether to continue the State-operated school district or return the district to local control pursuant to this section.

7. This act shall take effect immediately.

Approved July 11, 1995.

CHAPTER 180

AN ACT concerning gas and electric utility rates and supplementing chapter 2 of Title 48 of the Revised Statutes.

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

C.48:2-21.24 Findings, declarations relative to production, delivery of electricity, natural gas.

1. The Legislature finds and declares that it is the policy of the State to foster the production and delivery of electricity and natural gas in such a manner as to lower costs and rates and improve the quality and choices of service for all of the State's consumers and to thereby ensure that New Jersey remains economically competitive on a regional, national and international basis; to implement programs which effectuate the economic development goals of attracting and retaining business, maintaining and creating jobs and enhancing the economic vitality of the State; to achieve federal and State environmental objectives in a cost effective manner; to promote secure energy supplies and service to end users, and the efficient use, production and procurement of energy; to maintain universal access to reliable electric and gas utility service; and to reduce unnecessary and costly regulatory oversight.

The Legislature further finds and declares that competitive market forces can produce improved quality and choices of energy services at lower costs, as well as promote efficiency, reduce regulatory delay, foster productivity and innovation; that in a fully competitive marketplace, traditional utility regulation may not be required to protect the public interest; and that to varying degrees, competitive forces now pervade the wholesale electric power and natural gas markets and some segments of the retail markets in these industries.

The Legislature further finds and declares that the Division of the Ratepayer Advocate has the authority, pursuant to Reorganization Plan No. 001-1994, to appear before the Board of Public Utilities in any matters that affect the rates of public utility customers; that this act does not modify that authority; and that the Division of the Ratepayer Advocate therefore has full authority to intervene in matters filed with the Board of Public Utilities that are authorized by this act.

The Legislature therefore determines that, whenever practicable, in the interests of ratepayers and otherwise consistent with the policy goals of this act, the Board of Public Utilities should implement programs that promote a transition to a market-based,

competitive environment for the production and delivery of natural gas and electricity; that during a transitional phase aimed at achieving the long-term goal of lower electricity and natural gas costs to consumers, it may be necessary for the Board of Public Utilities to implement short-term measures to promote and enhance economic development and employment in the State and otherwise permit utilities to compete for customers with competitive alternatives; that transitional programs that align ratepayer and utility interests in cost management and foster greater innovation and productivity gains within the utility can help achieve the policy goals of this act; that during the transition to a market-based, competitive environment, the Board of Public Utilities must adopt guidelines that ensure that the transitional regulation produces tangible benefits for ratepayers as compared to the traditional form of regulation and that no cross-subsidization exists between or among classes of customers; and that the Board of Public Utilities should, subject to the provisions of this act, continue to regulate the price and quality of electricity and natural gas service under traditional rate base, rate of return regulation in those segments of the marketplace where full and effective competition does not exist or whenever the board determines that energy consumers are better served thereby.

The Legislature further determines that alternative forms of regulation shall be designed to achieve the State's objective of lowering rates for New Jersey consumers.

C.48:2-21.25 Definitions.

2. As used in this act:

"Alternative form of regulation" means a form of regulation of electric or gas utility services other than traditional rate base, rate of return regulation as embodied in Title 48 of the Revised Statutes, to be determined by the board;

"Base rate case" means an open, public hearing before the Board of Public Utilities to consider a filing by a public utility for a change in base rates, which includes an analysis of the public utility's income statement and balance sheet for the purpose of determining the level of revenues necessary to afford the public utility an opportunity to earn a fair and reasonable rate of return on prudently incurred capital investment in the public utility's rate base;

"Board" means the Board of Public Utilities or any successor agency;

"Competitive market" means a market for a particular utility service that is characterized by the existence of a number of

purveyors, the availability of like or substitute service, ease of market entry, and such other standards as may be adopted by the board;

"Comprehensive energy audit" means an assessment of all energy-using systems to determine the consumption characteristics of a building which shall (1) identify the type, size, and rate of energy consumption of such building, including industrial processes in the building; (2) identify appropriate energy conservation maintenance and operating procedures; and (3) indicate the need, if any, for the acquisition and installation of energy conservation measures;

"Cross subsidization" means an undue transfer of cost allocation or revenue recovery responsibility;

"Demand side management" means the management of a public utility's existing or future capacity or energy needs through the implementation of cost-effective energy efficiency technologies, including, but not limited to, installed conservation, load management and energy efficiency measures in the residential, commercial, industrial, institutional and governmental premises and facilities in the State;

"Marginal energy and capacity cost" means the incremental increase in a utility's energy and capacity costs associated with providing an additional increment of utility service, over a specified time period;

"Market pricing" means charging a negotiated price for utility service which is based upon the price available in a competitive marketplace, as opposed to a cost-of-service based tariff rate;

"Off-tariff rate" means a rate for utility service charged by a utility to a retail customer that is the result of a negotiation between the utility and the customer, rather than being based solely on a cost-of-service based tariff rate; and

"Revenue erosion" means a reduction in revenues received by a utility resulting from the provision of an off-tariff rate to a customer, as measured by the difference between the cost-of-service based tariff rate and the off-tariff rate, as applied to the sales to that customer.

C.48:2-21.26 Standards for off-tariff rate agreements.

3. a. No later than 90 days from the effective date of this act and notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Board of Public Utilities shall initiate a proceeding and shall adopt, after notice, provision of the opportunity for comment, and public hearing, specific standards regarding minimum prices, confidentiality standards, maximum contract duration, filing requirements, and such other standards as the board may determine are necessary for off-tariff rate agreements consistent with

this act. Any subsequent modification of the standards that is adopted by the board shall be adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. After the adoption by the board of specific standards pursuant to subsection a. of this section, an electric public utility may, within seven years of the effective date of this act, enter into an off-tariff rate agreement with an individual retail customer pursuant to the provisions of sections 3 and 4 of this act. The provisions of sections 3 and 4 of this act shall not apply to an off-tariff rate agreement entered into by an electric public utility after that seven-year period, except as otherwise provided by the board. Notwithstanding the seven-year limitation imposed pursuant to this subsection, an off-tariff rate agreement that is entered into during that seven-year period shall remain in effect until its expiration pursuant to the terms of the agreement.

c. An off-tariff rate agreement shall be filed with the board a minimum of 30 days prior to its effective date along with sufficient information to demonstrate that the off-tariff rate agreement meets the conditions established in subsection d. of this section and the standards established pursuant to subsection a. of this section. The entire agreement shall be available to the public, except that a public utility may petition the board to keep confidential certain parts of the agreement or supporting documentation that are competitively sensitive. Upon petition by the public utility, the board may classify as confidential any part of the agreement that is found to contain competitively sensitive information that, if revealed, would harm the competitive position of either party to the agreement. A copy of the off-tariff rate agreement and supporting information shall be served simultaneously upon the Director of the Division of the Ratepayer Advocate, or its successor agency. The staff of the board and the division shall have full access to all portions of the agreement and to any supporting documentation, subject to a standard non-disclosure agreement to be approved by the board. The board or its staff shall review the agreement, and upon review the board may delay its implementation if it requires additional time to review the agreement or shall disapprove the agreement upon a finding that it does not meet the conditions established in subsection d. of this section and the standards established pursuant to subsection a. of this section. If the board does not issue notice that it is delaying implementation for further review or that it disapproves the agreement, the utility may implement the off-tariff rate agreement.

An off-tariff rate agreement implemented pursuant to this subsection shall not include any reduction in the gross receipts and franchise tax.

d. An off-tariff rate agreement implemented pursuant to this section may establish a price for electricity to a retail customer that is different from, but in no case higher than, that specified in the utility's current cost-of-service based tariff rate otherwise applicable to that customer, and shall be subject to the following conditions:

(1) There shall be no retroactive recovery by the utility from its general ratepayer base of any revenue erosion that occurs prior to the conclusion of the utility's next base rate case. Subsequent to the conclusion of the utility's next base rate case, any such recovery shall be prospective only and in accordance with section 4 of this act.

(2) In no event shall any customer be required to enter into an off-tariff rate agreement.

(3) The off-tariff rate at a minimum shall equal the sum of the following: the utility's marginal energy and capacity cost over the term of the off-tariff rate agreement, the per kilowatt hour contribution to demand side management program costs as otherwise chargeable under the standard applicable rate schedule, and a floor margin to be specified by the board pursuant to subsection a. of this section, which shall constitute the minimum contribution by an off-tariff customer toward a public utility's fixed costs.

(4) Evidence of a comprehensive energy audit of the customer's facility must be submitted to the utility prior to the effective date of the off-tariff rate agreement, in order to ensure that the customer has evaluated cost-effective energy efficiency and demand side management measures at its facility as part of its efforts to reduce electricity costs.

(5) The term of the off-tariff rate agreement shall not exceed a maximum number of years, to be specified by the board pursuant to subsection a. of this section, except that the term of an off-tariff rate agreement may exceed the maximum contract term established by the board, only with the prior review and approval of the board on a case by case basis.

(6) The utility shall submit any information required by the filing requirements established pursuant to subsection a. of this section.

e. Each electric public utility shall file with the board and the Director of the Division of the Ratepayer Advocate, on a periodic basis to be determined by the board, a report, which shall be made available to the public, that includes the number of off-tariff rate contracts implemented, the aggregate expected revenues and margins derived thereunder, and an estimate of the aggregate

differential between the revenues produced under the off-tariff rate agreements and the revenues that would have been produced under a cost-of-service based tariff rate, so that the board can evaluate the total impact of off-tariff rate agreements on the financial integrity of the utility and on its ratepayers.

f. Upon notice and hearing, the board may suspend an electric public utility's implementation of additional off-tariff rate agreements based upon information in the report filed pursuant to subsection e. of this section or with other good cause. The board may suspend additional off-tariff rate agreements during the pendency of any such hearings.

C.48:2-21.27 Base rate case proceedings.

4. a. An electric public utility that enters into an off-tariff rate agreement pursuant to section 3 of this act shall not recover through rates any revenue erosion that occurs between the effective date of the agreement and the conclusion of the public utility's next base rate case.

b. As part of a base rate case proceeding, an electric public utility may request prospective recovery of a portion of the quantifiable revenue erosion resulting from an existing off-tariff rate agreement with a customer that previously purchased power from the utility under a tariff set by the board. Whenever a public utility requests partial recovery of revenue erosion from an off-tariff rate agreement, and notwithstanding any provision of subsection c. of section 3 of this act to the contrary, the entire agreement shall be available to the public, except that a public utility may petition the board to keep confidential certain parts of the agreement or supporting documentation that are competitively sensitive. Upon petition by the public utility, and after an opportunity for all interested parties to comment, the board may classify as confidential any part of the agreement that is found to contain competitively sensitive information that, if revealed, would harm the competitive position of either party to the agreement. An intervenor in the base rate case proceeding may request access to information that has been classified as confidential. The board shall grant such access, subject to an executed non-disclosure agreement, if the board determines that the intervenor's interest cannot be pursued fully in the base rate case proceeding without access to the information and that the intervenor is not a direct competitor of either party to the agreement.

c. In a base rate case proceeding at which an electric public utility requests, pursuant to subsection b. of this section, prospec-

tive recovery of revenue erosion, the board may approve prospective recovery of 50 percent of the revenue erosion occurring after the conclusion of that base rate case proceeding, in order to ensure that ratepayers shall not bear a greater portion of the revenue erosion resulting from the off-tariff rate agreement than the public utility, if the board determines that:

(1) All appropriate offsetting financial adjustments, including but not limited to sales growth, standby and backup sales to the customer, and off-system capacity sales, are credited to the revenue requirement calculation and that the utility is not already achieving a fair and reasonable rate of return;

(2) The utility has developed and implemented a corporate strategy to lower its cost of producing and delivering power;

(3) Ratepayers are paying lower rates with the implementation of an off-tariff rate agreement for a particular customer than without such implementation, because the off-tariff rate agreement allowed the utility to continue to maintain the customer and thus to continue to receive the customer's contribution to the fixed costs of the public utility. A determination that the public utility's ratepayers are paying lower rates will therefore include a finding that the customer receiving the off-tariff rate:

(a) Had a viable alternative source of power deliverable to its site and, had it not received the off-tariff rate, would have ceased to obtain its power primarily from the public utility; or

(b) Would have relocated its facility outside of the State to a location where power could be obtained at a lower cost, had it not received the off-tariff rate; and

(4) The utility and the customer have otherwise complied with the provisions of this act and the off-tariff rate standards adopted by the board pursuant to subsection a. of section 3 of this act.

C.48:2-21.28 Petitions for alternative forms of regulation.

5. a. An electric or gas public utility may petition the Board of Public Utilities to be regulated under an alternative form of regulation, for the setting of prices for all or a portion of its retail customer base, for the recovery in rates of a particular asset or expenditure, or for the purpose of creating incentives consistent with the provisions of this act. The public utility shall submit its plan for an alternative form of regulation with its petition. The public utility shall also file its petition and plan concurrently with the Director of the Division of the Ratepayer Advocate, or its successor. The public utility shall provide, within 15 days of the

filing of its petition and plan, notice of the specific filing to the clerk of each municipality, to the clerk of each Board of Chosen Freeholders, and to each county executive, in the service territory of the public utility. The public utility shall also provide, within 15 days of the filing, public notice to its customers of the filing, either by notice in a newspaper that has a general circulation in its service territory or by bill inserts as directed by the board. The board shall review the plan and may approve the plan, or approve it with modifications, if the board finds, after notice and hearing, that the plan will provide benefits to customers of the public utility relative to the pre-existing regulatory standards embodied in Title 48 of the Revised Statutes based upon a finding that the plan:

(1) Is designed to achieve the State's objective of producing lower rates for New Jersey consumers;

(2) Will provide incentives for the utility to lower its costs and rates;

(3) Will provide incentives to improve utility efficiency and productivity;

(4) Will foster the long-term production and delivery of electricity or natural gas in a manner that will improve the quality and choices of service;

(5) Includes a mechanism for the board to monitor and review the plan on a periodic basis over its term and to take appropriate actions if it is found that the plan is not achieving its intended results;

(6) Will maintain or improve pre-existing service quality standards, except that an individual customer may agree to accept lower quality service. A public utility shall continue to provide safe, adequate and proper service pursuant to R.S.48:2-23;

(7) Will not result in cross-subsidization among or between groups of utility customers, or between the portion of the utility's business or operations subject to the alternative form of regulation and the portion of the utility's business or operations that is not subject to the alternative form of regulation;

(8) Will reduce regulatory delay and cost;

(9) Is in the public interest and will produce just and reasonable rates; and

(10) Will enhance economic development in the State.

b. Consistent with the provisions of this act, and provided that the plan meets the standards established in subsection a. of this section, the board may approve a plan for an alternative form of regulation that permits a gas or electric public utility to establish a rate for a group of retail customers without a finding of rate base and reasonable rate of return pursuant to the pre-existing

provisions of Title 48 of the Revised Statutes, if the board determines that the rate being charged by the utility to a retail customer is no lower than a minimum price that is determined by the board to prevent anti-competitive pricing and that:

(1) The group of customers has access to a competitive market for supply of power to its site and that market pricing for that group of customers is thereby appropriate; or

(2) The group of customers has otherwise voluntarily agreed in writing to accept a price that has not been established based upon rate base and reasonable rate of return standards pursuant to Title 48 of the Revised Statutes; or

(3) At the time of the plan's approval, the level of retail prices of the utility for the group of customers is determined to be reasonably reflective of the level necessary to produce a fair and reasonable rate of return pursuant to a current evaluation under pre-existing standards of Title 48 of the Revised Statutes, and that the plan provides mechanisms for prospective adjustments to rates that will track trends in utility rates.

c. Consistent with the provisions of this act, and provided that the plan meets the standards established in subsection a. of this section, the board may approve a plan for an alternative form of regulation for a newly-constructed or acquired energy and capacity supply of a gas or electric public utility, including any transmission facilities directly associated with a generating unit, which regulation provides for a revenue requirement calculation that differs from the rate base, rate of return formula required by pre-existing standards of Title 48 of the Revised Statutes, if the board finds that:

(1) An asset, commodity or service comparable to that being provided by the utility could have been obtained from any one of many purveyors or suppliers in a competitive marketplace, and an opportunity was afforded those purveyors or suppliers to offer such an alternative source of energy and capacity supply; and

(2) The cost being charged to consumers by the utility under the alternative plan reflects the market price for that asset, commodity or service.

d. An alternative regulation plan as provided for in this section shall not include any mechanism for:

(1) Recovery of revenue erosion from other ratepayers; or

(2) A reduction in the gross receipts and franchise tax.

e. The board may require an independent audit or such accounting and reporting systems from electric and gas utilities as are necessary to allow a proper allocation of investments, costs or

expenses for all services provided under the provisions of this act that are subject to the jurisdiction of the board.

C.48:2-21.29 Report.

6. The Board of Public Utilities shall submit a report to the Legislature on the implementation of this act on December 1 of the third year following the effective date of this act and every four years thereafter. This report shall include the status of any investigations of programs to implement a restructuring of the electric power industry.

C.48:2-21.30 Authority of Division of Ratepayer Advocate.

7. Nothing in this act shall be construed to alter or diminish in any way the authority of the Division of the Ratepayer Advocate to participate in any proceeding before the Board of Public Utilities that may affect the rates that are charged to customers of an electric public utility.

8. This act shall take effect immediately.

Approved July 20, 1995.

CHAPTER 181

AN ACT concerning assault in certain circumstances and amending N.J.S.2C:12-1.

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

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

Assault.

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

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

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

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

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

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

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

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

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

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

(5) Commits a simple assault as defined in subsection a. (1), (2) or (3) of this section upon:

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

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

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

(d) Any school board member or school administrator, teacher or other employee of a school board while clearly identifiable as being engaged in the performance of his duties or because of his status as a member or employee of a school board; or

(e) Any employee of the Division of Youth and Family Services while clearly identifiable as being engaged in the performance of his duties or because of his status as an employee of the division; or

(6) Causes bodily injury to another person while fleeing or attempting to elude a law enforcement officer in violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this subsection upon proof of a violation of subsection b. of N.J.S.2C:29-2 or while operating a motor

vehicle in violation of subsection c. of N.J.S.2C:20-10 which resulted in bodily injury to another person.

Aggravated assault under subsections b. (1) and b. (6) is a crime of the second degree; under subsection b. (2) is a crime of the third degree; under subsections b. (3) and b. (4) is a crime of the fourth degree; and under subsection b. (5) is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree.

c. A person is guilty of assault by auto or vessel when the person drives a vehicle or vessel recklessly and causes either serious bodily injury or bodily injury to another. Assault by auto or vessel is a crime of the fourth degree if serious bodily injury results and is a disorderly persons offense if bodily injury results.

As used in this section, "vessel" means a means of conveyance for travel on water and propelled otherwise than by muscular power.

d. A person who is employed by a facility as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as defined in paragraph (1) or (2) of subsection a. of this section upon an institutionalized elderly person as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth degree.

e. A person who commits a simple assault as defined in subsection a. of this section is guilty of a crime of the fourth degree if the person acted, at least in part, with ill will, hatred or bias toward, and with a purpose to intimidate, an individual or group of individuals because of race, color, religion, sexual orientation, or ethnicity.

2. This act shall take effect immediately.

Approved July 24, 1995.

CHAPTER 182

AN ACT concerning certain securities of domestic insurers held outside this State and amending R.S.17:24-12 and N.J.S.17B:20-7.

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

1. R.S.17:24-12 is amended to read as follows:

Holding of securities within State; exceptions.

17:24-12. All securities of domestic insurers shall be held for safekeeping within the geographical limits of this State, except:

a. Securities deposited with public officials of other states, the District of Columbia, the United States Government, any territory or possession thereof, the Commonwealth of Puerto Rico, and foreign countries, to the extent required by the laws of the jurisdiction as a condition for authority to transact business;

b. Securities required as collateral for loans or as security for the performance of contracts;

c. Mortgages and evidences of indebtedness secured thereby, which are held for safekeeping in one or more offices operated by and under the direct control of an officer of the company;

d. Stock and other securities representing stock or convertible into stock, and options, warrants, or rights to acquire stock;

e. Debt securities with a maturity of less than one year;

f. Securities issued or guaranteed by the United States or any department or agency or instrumentality thereof; and

g. As long as there are held for safekeeping within the geographical limits of this State securities having a value of not less than $50,000,000.00, any other debt securities which are publicly traded.

This section shall not limit or prohibit: (1) the deposit of securities under agreements as provided in R.S.17:24-3, or (2) the transmission of securities outside the State for the purpose of securing or recording title to the securities or to property, or for the purpose of the sale, exchange or alteration of the provisions of the securities, or for the collection of any payment due thereon, or (3) the holding of securities in the names of nominees authorized by the board of directors of the insurer, or by a committee of the board which is charged with the duty of supervising investments, or (4) the lending of securities to any corporation or business partnership upon adequate collateral security, or (5) the holding outside of the State, in The Depository Trust Company or any other depository institution approved by the Commissioner of Insurance, of securities which comprise all or part of a custodial account for which the fiduciary is a qualified bank pursuant to section 28 of P.L.1948, c.67 (C.17:9A-28) or is an association authorized to exercise fiduciary powers pursuant to subsection (19) of section 48 of P.L.1963, c.144 (C.17:12B-48).

2. N.J.S.17B:20-7 is amended to read as follows:

Securities of domestic insurers.

17B:20-7. All securities of domestic insurers shall be held for safekeeping within the geographical limits of this State, except:

a. Securities deposited with public officials of other states, the District of Columbia, the United States Government, any territory or possession thereof, the Commonwealth of Puerto Rico, and foreign countries, to the extent required by the laws of the jurisdiction as a condition for authority to transact business;

b. Securities required as collateral for loans or as security for the performance of contracts;

c. Mortgages and evidences of indebtedness secured thereby, which are held for safekeeping in one or more offices operated by and under the direct control of an officer of the company;

d. Stock and other securities representing stock or convertible into stock, and options, warrants or rights to acquire stock;

e. Debt securities with a maturity of less than one year;

f. Securities issued or guaranteed by the United States or any department or agency or instrumentality thereof; and

g. As long as there are held for safekeeping within the geographical limits of this State securities having a value of not less than $50,000,000.00, any other debt securities which are publicly traded.

This section shall not limit or prohibit: (1) the deposit of securities under transactions as provided in N.J.S.17B:20-3, or (2) the transmission of securities outside the State for the purpose of securing or recording title to the securities or to property, or for the purpose of the sale, exchange or alteration of the provisions of the securities, or for the collection of any payment due thereon, or (3) the holding of securities in the names of nominees authorized by the board of directors of such insurer, or by a committee of the board which is charged with the duty of supervising investments, or (4) the lending of securities to any institution upon adequate collateral security, or (5) the holding outside of the State, in The Depository Trust Company or any other depository institution approved by the Commissioner of Insurance, of securities which comprise all or part of a custodial account for which the fiduciary is a qualified bank pursuant to section 28 of P.L.1948, c.67 (C.17:9A-28) or is an association authorized to exercise fiduciary powers pursuant to subsection (19) of section 48 of P.L.1963, c.144 (C.17:12B-48).

3. This act shall take effect immediately.

Approved July 24, 1995.

CHAPTER 183

AN ACT concerning immunity from liability in certain instances and amending P.L.1959, c.90.

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

1. Section 1 of P.L.1959, c.90 (C.2A:53A-7) is amended to read as follows:

C.2A:53A-7 Immunity from liability for negligence.

1. a. No nonprofit corporation, society or association organized exclusively for religious, charitable or educational purposes or its trustees, directors, officers, employees, agents, servants or volunteers shall, except as is hereinafter set forth, be liable to respond in damages to any person who shall suffer damage from the negligence of any agent or servant of such corporation, society or association, where such person is a beneficiary, to whatever degree, of the works of such nonprofit corporation, society or association; provided, however, that such immunity from liability shall not extend to any person who shall suffer damage from the negligence of such corporation, society, or association or of its agents or servants where such person is one unconcerned in and unrelated to and outside of the benefactions of such corporation, society or association.

Nothing in this subsection shall be deemed to grant immunity to any health care provider, in the practice of his profession, who is a compensated employee, agent or servant of any nonprofit corporation, society or association organized exclusively for religious, charitable or educational purposes.

b. No nonprofit corporation, society or association organized exclusively for hospital purposes or its trustees, directors, officers or volunteers shall, except as is hereinafter set forth, be liable to respond in damages to any person who shall suffer damage from the negligence of any agent or servant of such corporation, society or association, where such person is a beneficiary, to whatever degree, of the works of such nonprofit corporation, society or association; provided, however, that such immunity from liability shall not extend to any person who shall suffer damage from the negligence of such corporation, society, or association or of its agents or servants where such person is one unconcerned in and unrelated to and outside of the benefactions of such corporation, society or association; but nothing herein

contained shall be deemed to exempt the agent, employee or servant individually from their liability for any such negligence.

c. Nothing in this section shall be deemed to grant immunity to: (1) any trustee, director, officer, employee, agent, servant or volunteer causing damage by a willful, wanton or grossly negligent act of commission or omission, including sexual assault and other crimes of a sexual nature; (2) any trustee, director, officer, employee, agent, servant or volunteer causing damage as the result of the negligent operation of a motor vehicle; or (3) an independent contractor of a nonprofit corporation, society or association organized exclusively for religious, charitable, educational or hospital purposes.

2. This act shall take effect immediately and shall apply to all causes of action arising on or after the effective date.

Approved July 24, 1995.

CHAPTER 184

AN ACT to eliminate the sales and use tax on advertising space in telecommunications user or provider directories or indexes distributed in this State, and amending P.L.1966, c.30.

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

1. Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended to read as follows:

C.54:32B-2 Definitions.

2. Unless the context in which they occur requires otherwise, the following terms when used in this act shall mean:

(a) Person. Person includes an individual, partnership, society, association, joint stock company, corporation, public corporation or public authority, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

(b) Purchase at retail. A purchase by any person at a retail sale.

(c) Purchaser. A person who purchases property or who receives services.

(d) Receipt. The amount of the sales price of any property and the charge for any service taxable under this act, valued in money, whether received in money or otherwise, including any amount for which credit is allowed by the vendor to the purchaser, without any deduction for expenses or early payment discounts, but excluding any credit for property of the same kind that is not tangible personal property purchased for lease accepted in part payment and intended for resale, excluding the cost of transportation where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser, and excluding the amount of the sales price for which food stamps have been properly tendered in full or part payment pursuant to the federal Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. § 2011 et seq.).

(e) Retail sale. (1) A sale of tangible personal property to any person for any purpose, other than (A) for resale either as such or as converted into or as a component part of a product produced for sale by the purchaser, or (B) for use by that person in performing the services subject to tax under subsection (b) of section 3 where the property so sold becomes a physical component part of the property upon which the services are performed or where the property so sold is later actually transferred to the purchaser of the service in conjunction with the performance of the service subject to tax.

(2) For the purposes of this act, the term retail sales includes:

Sales of tangible personal property to all contractors, subcontractors or repairmen of materials and supplies for use by them in erecting structures for others, or building on, or otherwise improving, altering, or repairing real property of others.

(3) For the purposes of this act, the term retail sale includes the purchase of tangible personal property for lease.

(4) The term retail sales does not include:

(A) Professional, insurance, or personal service transactions which involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(B) The transfer of tangible personal property to a corporation, solely in consideration for the issuance of its stock, pursuant to a merger or consolidation effected under the laws of New Jersey or any other jurisdiction.

(C) The distribution of property by a corporation to its stockholders as a liquidating dividend.

(D) The distribution of property by a partnership to its partners in whole or partial liquidation.

(E) The transfer of property to a corporation upon its organization in consideration for the issuance of its stock.

(F) The contribution of property to a partnership in consideration for a partnership interest therein.

(G) The sale of tangible personal property where the purpose of the vendee is to hold the thing transferred as security for the performance of an obligation of the vendor.

(f) Sale, selling or purchase. Any transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor, including the rendering of any service, taxable under this act, for a consideration or any agreement therefor.

(g) Tangible personal property. Corporeal personal property of any nature.

(h) Use. The exercise of any right or power over tangible personal property by the purchaser thereof and includes, but is not limited to, the receiving, storage or any keeping or retention for any length of time, withdrawal from storage, any installation, any affixation to real or personal property, or any consumption of such property. Use also includes the exercise of any right or power over intrastate or interstate telecommunications.

(i) Vendor. (1) The term "vendor" includes:

(A) A person making sales of tangible personal property or services, the receipts from which are taxed by this act;

(B) A person maintaining a place of business in the State and making sales, whether at such place of business or elsewhere, to persons within the State of tangible personal property or services, the use of which is taxed by this act;

(C) A person who solicits business either by employees, independent contractors, agents or other representatives or by distribution of catalogs or other advertising matter and by reason thereof makes sales to persons within the State of tangible personal property or services, the use of which is taxed by this act;

(D) Any other person making sales to persons within the State of tangible personal property or services, the use of which is taxed by this act, who may be authorized by the director to collect the tax imposed by this act;

(E) The State of New Jersey, any of its agencies, instrumentalities, public authorities, public corporations (including a public corporation created pursuant to agreement or compact with

another state) or political subdivisions when such entity sells services or property of a kind ordinarily sold by private persons; and

(F) A person who purchases tangible personal property for lease, whether in this State or elsewhere. For the purposes of Title 54 of the Revised Statutes, the presence of leased tangible personal property in this State is deemed to be a place of business in this State.

(2) In addition, when in the opinion of the director it is necessary for the efficient administration of this act to treat any salesman, representative, peddler or canvasser as the agent of the vendor, distributor, supervisor or employer under whom he operates or from whom he obtains tangible personal property sold by him or for whom he solicits business, the director may, in his discretion, treat such agent as the vendor jointly responsible with his principal, distributor, supervisor or employer for the collection and payment over of the tax.

(j) Hotel. A building or portion of it which is regularly used and kept open as such for the lodging of guests. The term "hotel" includes an apartment hotel, a motel, boarding house or club, whether or not meals are served.

(k) Occupancy. The use or possession or the right to the use or possession, of any room in a hotel.

(l) Occupant. A person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

(m) Permanent resident. Any occupant of any room or rooms in a hotel for at least 90 consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

(n) Room. Any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly.

(o) Admission charge. The amount paid for admission, including any service charge and any charge for entertainment or amusement or for the use of facilities therefor.

(p) Amusement charge. Any admission charge, dues or charge of roof garden, cabaret or other similar place.

(q) Charge of a roof garden, cabaret or other similar place. Any charge made for admission, refreshment, service, or merchandise at a roof garden, cabaret or other similar place.

(r) Dramatic or musical arts admission charge. Any admission charge paid for admission to a theatre, opera house, concert hall

or other hall or place of assembly for a live, dramatic, choreographic or musical performance.

(s) Lessor. Any person who is the owner, licensee, or lessee of any premises or tangible personal property which he leases, subleases, or grants a license to use to other persons.

(t) Place of amusement. Any place where any facilities for entertainment, amusement, or sports are provided.

(u) Casual sale. Casual sale means an isolated or occasional sale of an item of tangible personal property by a person who is not regularly engaged in the business of making sales at retail where such property was obtained by the person making the sale, through purchase or otherwise, for his own use in this State.

(v) Motor vehicle. Motor vehicle shall include all vehicles propelled otherwise than by muscular power (excepting such vehicles as run only upon rails or tracks), trailers, semitrailers, housetrailers, or any other type of vehicle drawn by a motor-driven vehicle, and motorcycles, designed for operation on the public highways.

(w) "Persons required to collect tax" or "persons required to collect any tax imposed by this act" shall include: every vendor of tangible personal property or services; every recipient of amusement charges; every operator of a hotel; every lessor; and every vendor of telecommunications. Said terms shall also include any officer or employee of a corporation or of a dissolved corporation who as such officer or employee is under a duty to act for such corporation in complying with any requirement of this act and any member of a partnership. Provided, however, the vendor of tangible personal property to all contractors, subcontractors or repairmen, consisting of materials and supplies for use by them in erecting structures for others, or building on, or otherwise improving, altering or repairing real property of others, shall not be deemed a person required to collect tax, and the tax imposed by any section of this act shall be paid directly to the director by such contractors, subcontractors or repairmen.

(x) "Customer" shall include: every purchaser of tangible personal property or services; every patron paying or liable for the payment of any amusement charge; and every occupant of a room or rooms in a hotel.

(y) "Property and services the use of which is subject to tax" shall include: (1) all property sold to a person within the State, whether or not the sale is made within the State, the use of which property is subject to tax under section 6 or will become subject to tax when such property is received by or comes into the pos-

session or control of such person within the State; (2) all services rendered to a person within the State, whether or not such services are performed within the State, upon tangible personal property the use of which is subject to tax under section 6 or will become subject to tax when such property is received by or comes into possession or control of such person within the State; (3) intrastate or interstate telecommunications charged to a service address in this State; and (4) (Deleted by amendment, P.L.1995, c.184).

(z) Director. Director means the Director of the Division of Taxation of the State Department of the Treasury, or any officer, employee or agency of the Division of Taxation in the Department of the Treasury duly authorized by the director (directly, or indirectly by one or more redelegations of authority) to perform the functions mentioned or described in this act.

(aa) "Lease" means the possession or control of tangible personal property by an agreement, not transferring sole title, as may be evidenced by a contract, contracts, or by implication from other circumstances including course of dealing or usage of trade or course of performance, for a period of more than 28 days.

(bb) "The amount of the sales price" of tangible personal property purchased for lease means, at the election of the lessor, either (1) the amount of the lessor's purchase price or (2) the amount of the total of the lease payments attributable to the lease of such property. Tangible personal property purchased for lease is subject to the provisions of subsection (a) of section 3 of P.L.1966, c.30 (C.54:32B-3).

(cc) "Telecommunications" means the act or privilege of originating or receiving messages or information through the use of any kind of one-way or two-way communication; including but not limited to voice, video, facsimile, teletypewriter, computer, cellular mobile or portable telephone, specialized mobile or portable pager or paging service, or any other type of communication; using electronic or electromagnetic methods, and all services and equipment provided in connection therewith or by means thereof. "Telecommunications" shall not include:

(1) one-way radio or television broadcasting transmissions available universally to the general public without a fee;

(2) purchases of telecommunications by a telecommunications provider for use as a component part of telecommunications provided to an ultimate retail consumer who (A) originates or terminates the taxable end-to-end communications or (B) pays charges exempt from taxation pursuant to paragraph (5) of this subsection;

(3) services provided by a person, or by that person's wholly owned subsidiary, not engaged in the business of rendering or offering telecommunications services to the public, for private and exclusive use within its organization, provided however, that "telecommunications" shall include the sale of telecommunications services attributable to the excess unused telecommunications capacity of that person to another;

(4) charges in the nature of subscription fees paid by subscribers for cable television service; and

(5) charges subject to the local calling rate paid by inserting coins into a coin operated telecommunications device available to the public.

(dd) "Interstate telecommunication" means any telecommunication that originates or terminates inside this State, including international telecommunication.

(ee) "Intrastate telecommunication" means any telecommunication that originates and terminates within this State.

2. Section 3 of P.L.1966, c.30 (C.54:32B-3) is amended to read as follows:

C.54:32B-3 Imposition of sales tax.

3. There is imposed and there shall be paid a tax of 6% upon:

(a) The receipts from every retail sale of tangible personal property, except as otherwise provided in this act. If the lessor of tangible personal property purchased for lease elects to pay tax on the amount of the sales price as provided in paragraph (2) of subsection (bb) of section 2 of P.L.1966, c.30 (C.54:32B-2), any and each subsequent lease or rental is a retail sale, and a subsequent sale of such property is a retail sale.

(b) The receipts from every sale, except for resale, of the following services:

(1) Producing, fabricating, processing, printing or imprinting tangible personal property, performed for a person who directly or indirectly furnishes the tangible personal property, not purchased by him for resale, upon which such services are performed.

(2) Installing tangible personal property, or maintaining, servicing, repairing tangible personal property not held for sale in the regular course of business, whether or not the services are performed directly or by means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction therewith, except (i) such services rendered by an individual who is engaged directly by a

private homeowner or lessee in or about his residence and who is not in a regular trade or business offering his services to the public, (ii) such services rendered with respect to personal property exempt from taxation hereunder pursuant to section 13 of P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment, P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning, tailoring, weaving, pressing, shoe repairing and shoeshining and (v) services rendered in installing property which, when installed, will constitute an addition or capital improvement to real property, property or land.

(3) Storing all tangible personal property not held for sale in the regular course of business and the rental of safe deposit boxes or similar space.

(4) Maintaining, servicing or repairing real property, other than a residential heating system unit serving not more than three families living independently of each other and doing their cooking on the premises, whether the services are performed in or outside of a building, as distinguished from adding to or improving such real property by a capital improvement, but excluding services rendered by an individual who is not in a regular trade or business offering his services to the public, and excluding garbage removal and sewer services performed on a regular contractual basis for a term not less than 30 days.

(5) Advertising services, except advertising services for use directly and primarily for publication in newspapers and magazines and except for direct-mail advertising processing services in connection with distribution to out-of-State recipients.

(6) (Deleted by amendment, P.L.1995, c.184).

Wages, salaries and other compensation paid by an employer to an employee for performing as an employee the services described in this subsection are not receipts subject to the taxes imposed under this subsection (b).

Services otherwise taxable under paragraph (1) or (2) of this subsection (b) are not subject to the taxes imposed under this subsection, where the tangible personal property upon which the services were performed is delivered to the purchaser outside this State for use outside this State.

(c) Receipts from the sale of food and drink in or by restaurants, taverns, vending machines or other establishments in this State, or by caterers, including in the amount of such receipts any cover, minimum, entertainment or other charge made to patrons or customers:

(1) In all instances where the sale is for consumption on the premises where sold;

(2) In those instances where the vendor or any person whose services are arranged for by the vendor, after the delivery of the food or drink by or on behalf of the vendor for consumption off the premises of the vendor, serves or assists in serving, cooks, heats or provides other services with respect to the food or drink, except for meals especially prepared for and delivered to homebound elderly, age 60 or older, and to disabled persons, or meals prepared and served at a group-sitting at a location outside of the home to otherwise homebound elderly persons, age 60 or older, and otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private, nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization;

(3) In those instances where the sale is for consumption off the premises of the vendor, and consists of a meal, or food prepared and ready to be eaten, of a kind obtainable in restaurants as the main course of a meal, including a sandwich, except where food other than sandwiches is sold in an unheated state and is of a type commonly sold in the same form and condition in food stores other than those which are principally engaged in selling prepared foods; and

(4) Sales of food and beverages sold through coin-operated vending machines, at the wholesale price of such sale, which shall be defined as 70% of the retail vending machine selling price, except sales of milk, which shall not be taxed. Nothing herein contained shall affect other sales through coin-operated vending machines taxable pursuant to subsection (a) above or the exemption thereto provided by section 21 of P.L.1980, c.105 (C.54:32B-8.9).

The tax imposed by this subsection (c) shall not apply to food or drink which is sold to an airline for consumption while in flight.

(d) The rent for every occupancy of a room or rooms in a hotel in this State, except that the tax shall not be imposed upon (1) a permanent resident, or (2) where the rent is not more than at the rate of $2.00 per day.

(e) (1) Any admission charge, where such admission charge is in excess of $0.75 to or for the use of any place of amusement in the State, including charges for admission to race tracks, baseball, football, basketball or exhibitions, dramatic or musical arts performances, motion picture theatres, except charges for admission to boxing, wrestling, kick boxing or combative sports exhibitions, events, performances or contests which charges are taxed under any other law of this State or under section 20 of P.L.1985, c.83

(C.5:2A-20), and, except charges to a patron for admission to, or use of, facilities for sporting activities in which such patron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box or seat or lease or a license, other than a season ticket, for the use of a box or seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee or lessee, and shall be paid by the holder, licensee or lessee.

(2) The amount paid as charge of a roof garden, cabaret or other similar place in this State, to the extent that a tax upon such charges has not been paid pursuant to subsection (c) hereof.

(f) The receipts from every sale, except for resale, of intrastate or interstate telecommunications charged to an address in this State, regardless of where the services are billed or paid.

3. Section 6 of P.L.1966, c.30 (C.54:32B-6) is amended to read as follows:

C.54:32B-6 Imposition of compensating use tax.

6. Imposition of compensating use tax. Unless property or services have already been or will be subject to the sales tax under this act, there is hereby imposed on and there shall be paid by every person a use tax for the use within this State of 6%, except as otherwise exempted under this act, (A) of any tangible personal property purchased at retail, (B) of any tangible personal property manufactured, processed or assembled by the user, if items of the same kind of tangible personal property are offered for sale by him in the regular course of business, or if items of the same kind of tangible personal property are not offered for sale by him in the regular course of business and are used as such or incorporated into a structure, building or real property, (C) of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any taxable services described in paragraphs (1) and (2) of subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-3) have been performed, (D) of interstate or intrastate telecommunications described in subsection (f) of section 3 of P.L.1966, c.30, and (E) (Deleted by amendment, P.L.1995, c.184). For purposes of clause (A) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for such property or for the use of such property, but excluding any credit for property

of the same kind accepted in part payment and intended for resale, plus the cost of transportation, except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser. For the purposes of clause (B) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the price at which items of the same kind of tangible personal property are offered for sale by the user, or if items of the same kind of tangible personal property are not offered for sale by the user in the regular course of business and are used as such or incorporated into a structure, building or real property the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for the tangible personal property manufactured, processed or assembled by the user into the tangible personal property the use of which is subject to use tax pursuant to this section, and the mere storage, keeping, retention or withdrawal from storage of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him. For purposes of clause (C) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for the service, including the consideration for any tangible personal property transferred in conjunction with the performance of the service, plus the cost of transportation, except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser. For the purposes of clause (D) of this section, the tax shall be at the applicable rate on the charge made by the telecommunications service provider.

4. This act shall take effect April 1, 1996 and shall apply to directories or indexes distributed on or after that date.

Approved July 25, 1995.

CHAPTER 185

AN ACT concerning workers' compensation for surviving spouses and dependents and amending R.S.34:15-13.

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

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

Death benefits, burial expenses; computation and distribution.

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

a. For one dependent, 50% of wages.

b. For two dependents, 55% of wages.

c. For three dependents, 60% of wages.

d. For four dependents, 65% of wages.

e. For five or more dependents, 70% of wages.

f. The term "dependents" shall apply to and include any or all of the following who are dependent upon the deceased at the time of accident or the occurrence of occupational disease, or at the time of death, namely: husband, wife, parent, stepparents, grandparents, children, stepchildren, grandchildren, child in esse, posthumous child, illegitimate children, brothers, sisters, half brothers, half sisters, niece, nephew. Legally adopted children shall, in every particular, be considered as natural children. Dependency shall be conclusively presumed as to the decedent's spouse and to any natural child of a decedent under 18 years of age or, if enrolled as a full-time student, under 23 years of age, who was actually a part of the decedent's household at the time of the decedent's death. Every provision of this article applying to one class shall be equally applicable to the other. Should any dependent of a deceased employee die during the period covered by such weekly payments the right of such dependent to compensation under this section shall cease, but should the surviving spouse of a deceased employee remarry during such period and before the total compensation is paid, the spouse shall be entitled to receive the remainder of the compensation which would have been due the spouse had the spouse not remarried, or 100 times the amount of weekly compensation paid immediately preceding the remarriage, whichever is the lesser. The foregoing schedule applies only to persons wholly dependent, and in the case of persons only partially dependent, except in the case of the surviving spouse and children who were actually a part of the decedent's household at the time of death, the compensation shall be such proportion of the scheduled percentage as the amounts actually contributed to them by the deceased for their support constituted of his total wages and the provision as to a minimum of 20% of the average weekly wage as set forth in subsection a. of

R.S.34:15-12 shall not apply to such compensation. In determining the number of dependents, where the deceased employee was a minor, the number of persons dependent upon the deceased employee shall be determined in the same way as if the deceased employee were an adult, notwithstanding any rule of law as to the person entitled to a minor's wages.

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

h. If death results from the accident or occupational disease, whether there be dependents or not, expenses of the last sickness of the deceased employee shall be paid in accordance with the provisions for medical and hospital service as set forth in R.S.34:15-15. In addition, the cost of burial and of a funeral, not to exceed $3,500 shall be paid to the dependent or other person having paid the costs of burial and the funeral. In the event that the dependent or other person has paid less than $3,500 for the costs of burial and the funeral, the dependent or other person shall be reimbursed in the amount paid and, if the costs of burial and the funeral exceed the amount so paid, the difference between the said amount and $3,500 or so much thereof as may be necessary to pay the cost of burial and the funeral, shall be paid to the undertaker or embalmer or the dependent or other person having paid the costs of burial and the funeral. In the event that no part of the costs of burial and the funeral have been paid, the amount of such cost of burial and the funeral, not to exceed $3,500, shall be paid to the undertaker or embalmer or the dependent or other person who is to pay the costs of burial and the funeral.

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

j. The maximum compensation in case of death shall be subject to the maximum compensation as stated in subsection a. of

R.S.34:15-12 and a minimum of 20% of average weekly wages per week as set forth in subsection a. of R.S.34:15-12, except in the case of partial dependency as provided in this section. This compensation shall be paid, in the case of a surviving spouse, during the entire period of survivorship or until such surviving spouse shall remarry and, in the case of other dependents, during 450 weeks and if at the expiration of 450 weeks there shall be one or more dependents under 18 years of age, compensation shall be continued for such dependents until they reach 18 years of age, or 23 years of age while enrolled as a full-time student, at the schedule provided under subsections a. to e. of this section.

2. This act shall take effect immediately.

Approved July 25, 1995.

CHAPTER 186

AN ACT to amend and supplement the "New Jersey Public Employees' Occupational Safety and Health Act," approved January 17, 1984 (P.L.1983, c.516, C.34:6A-25 et seq.).

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

1. Section 5 of P.L.1983, c.516 (C.34:6A-29) is amended to read as follows:

C.34:6A-29 Plan for health and safety standards.

5. The commissioner shall, in consultation with the Commissioner of Health, the Commissioner of Community Affairs and the advisory board, promulgate a plan for the development and enforcement of occupational safety and health standards with respect to public employers and public employees, in accordance with section 18(c) of the "Occupational Safety and Health Act of 1970," Pub.L.91-596 (29 U.S.C.§651 et seq.). The Department of Labor shall be the sole agency responsible for administering and enforcing this plan throughout the State. The plan shall:

a. Provide for the development and enforcement of safety and health standards;

b. Provide for the right of entry and inspection in all workplaces by the commissioner;

c. Provide for the right of entry and inspection in all workplaces by the Commissioner of Health;

d. Prohibit advance notice of inspections;

e. Contain satisfactory assurances that the Department of Labor and the Department of Health have the legal authority and qualified personnel necessary to carry out their responsibilities under this act;

f. Give satisfactory assurances that the State will devote adequate funds to the administration and enforcement of the standards;

g. Contain satisfactory assurances that the State will, to the extent permitted by law, establish and maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivisions, which program is as effective as the corresponding provisions of the "Occupational Safety and Health Act of 1970," Pub.L.91-596 (29 U.S.C.§651 et seq.);

h. Provide that the Department of Labor shall make such reports to the secretary in the form and containing the information that the secretary from time to time requires; and

i. Provide for such cooperation with the Department of Community Affairs in implementing the plan as is consistent with the provisions of P.L.1983, c.516 (C.34:6A-25 et seq.) and the "Occupational Safety and Health Act of 1970," Pub.L.91-596 (29 U.S.C.§651 et seq.).

2. Section 6 of P.L.1983, c.516 (C.34:6A-30) is amended to read as follows:

C.34:6A-30 Adoption of standards.

6. a. The commissioner shall provide for the adoption of all applicable occupational health and safety standards, amendments or changes adopted or recognized by the secretary under the authority of the "Occupational Safety and Health Act of 1970." Whenever the United States Secretary of Labor adopts a standard pursuant to the provisions of the "Occupational Safety and Health Act of 1970" (29 U.S.C.§651 et seq.), the commissioner shall publish that federal standard in the New Jersey Register in accordance with the provisions of section 5 of P.L.1968, c.410 (C.52:14B-5) and, notwithstanding the provisions of section 4 of P.L.1968, c.410 (C.52:14B-4), that federal standard shall be deemed to be duly adopted as a State regulation upon its publication by the commissioner.

b. The commissioner shall not adopt any standard within the scope of the State uniform construction code adopted pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.) or the uniform fire safety code adopted pursuant to P.L.1983, c.383 (C.52:27D-192 et al.), unless the standard is a standard adopted pursuant to subsection a. of this section. If the Commissioner of Community Affairs determines that a standard for building or structural safety adopted by the commissioner pursuant to subsection a. of this section is more stringent than the applicable standards adopted into code pursuant to the State uniform construction code or the uniform fire safety code, he shall adopt a rule incorporating the more stringent standard into the relevant code. If the Commissioner of Community Affairs determines that there is a difference between a provision of any new or existing standard adopted pursuant to subsection a. of this section and a provision of the uniform construction code or the uniform fire safety code, and he determines that the provision of the code is as effective as the provision of the standard, he shall prepare and submit to the commissioner an application for submission to the Secretary of Labor seeking (1) the approval of that provision of the uniform construction code or the uniform fire safety code as being as effective as the provision of the standard and (2) the approval of the incorporation of the code provision into the State plan.

c. Where no federal standards are applicable or where standards more stringent than the federal standards are deemed advisable, the commissioner shall, in consultation with the Commissioner of Health and the Commissioner of Community Affairs and, with the advice of the advisory board, provide for the development of State standards as may be necessary in special circumstances.

d. The commissioner and the Commissioner of Health, or their designees, shall meet with the advisory board at each scheduled meeting for these purposes. The advisory board shall meet not less than four times each year.

e. The Commissioner of Health shall not adopt standards or issue orders to comply in any area but shall be charged with inspection, investigation and related activities in the following areas:

(1) Occupational health and environmental control;

(2) Medical and first aid;

(3) Toxic and hazardous substances;

(4) Respiratory protective equipment; and

(5) Sanitation.

The Commissioner of Labor shall be charged with inspection, investigation and related activities for all other regulated areas and

with adopting of standards and issuing orders to comply in all regulated areas.

3. Section 7 of P.L.1983, c.516 (C.34:6A-31) is amended to read as follows:

C.34:6A-31 Promotion of goals of the act.

7. The commissioner, in consultation with the Commissioner of Health and the Commissioner of Community Affairs and with the advice of the advisory board, shall:

a. Provide for a method of encouraging employers and employees in their efforts to reduce the number of safety and health hazards arising from undesirable, inappropriate, or unnecessarily hazardous or unhealthful working conditions at the workplace and of stimulating employers and employees to institute new, and to perfect existing, programs for providing safe and healthful working conditions;

b. Provide for the publication and dissemination to employers, employees, and labor organizations, and the posting, where appropriate, by employers of informational, educational and training materials calculated to aid and assist in achieving the objectives of this act;

c. Provide for the establishment of new, and for the perfection and expansion of existing, programs for occupational safety and health education for employers and employees and institute methods and procedures for the establishment of a program for voluntary compliance by employers and employees with the standards established pursuant to this act.

4. Section 8 of P.L.1983, c.516 (C.34:6A-32) is amended to read as follows:

C.34:6A-32 Promulgation of regulations.

8. The commissioner shall, in consultation with the Commissioner of Health and the Commissioner of Community Affairs and with the advice of the advisory board, promulgate all regulations which he deems necessary for the proper administration and enforcement of this act. A variance may be granted if the commissioner determines that the applicant is in compliance with the requirements for a permanent variance as set forth in subsection c. of section 15 of this act. The variance shall not be deemed to be a variation approved pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) or the

"Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et al.) or any other building or fire safety standard or code.

Space leased by a public employer shall be subject to current health or safety rules and regulations. Any deficiency, including a deficiency resulting either from occupant use or deferred maintenance by the lessor, shall be subject to correction in accordance with the governing rules and regulations at the time that the deficiency is cited by the commissioner or the Commissioner of Health. However, a lease of any duration may not be entered into unless the leased property is in conformance with such rules and regulations as are in effect at the time the lease is executed.

5. Section 9 of P.L.1983, c.516 (C.34:6A-33) is amended to read as follows:

C.34:6A-33 Responsibilities of employers.

9. Every employer shall:

a. Provide each of his employees with employment and a place of employment which are free from recognized hazards which may cause serious injury, physical harm or death to his employees; and

b. Comply with occupational safety and health standards promulgated under this act.

6. Section 11 of P.L.1983, c.516 (C.34:6A-35) is amended to read as follows:

C.34:6A-35 Inspections; compliance.

11. a. The commissioner and the Commissioner of Health shall be charged with making inspections in their jurisdictional areas as specified in section 6 of P.L.1983, c.516 (C.34:6A-30). The commissioner may call on the professional staff of other departments whenever he deems their assistance necessary.

b. Each commissioner shall have the right of immediate entry at reasonable hours and without advance notice into any workplace to conduct such investigations as he may deem necessary. Each commissioner shall maintain records of the results of any investigation under his jurisdiction, which, after a final agency or judicial action is taken regarding any order to comply which results from the inspection, shall be made available to the public upon request, except that any information which identifies an individual employee shall be confidential. The authority of each commissioner to inspect any premises for purposes of investigat-

ing an alleged violation under his jurisdiction shall not be limited to the alleged violation but shall extend to any other area of the premises in which he has reason to believe that a violation of any provision of this act under his jurisdiction exists. The Commissioner of Health shall make his inspection records available to the commissioner for purposes of enforcement.

c. If either commissioner concludes that conditions or practices in violation of any provision of this act under his jurisdiction exist in any workplace, he shall inform the affected employees and employers of the danger.

d. Each order to comply issued under this section, or a copy or copies thereof, shall be prominently posted at or near each place where a violation referred to in the order to comply occurred and the commissioner shall make the order available to employee representatives, affected employees and, upon request, to the public.

e. Any employee who accompanies either commissioner on an inspection shall receive payment of normal wages for the time spent during the inspection.

f. Where there is no authorized employee representative, each commissioner or his authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

g. Any person who gives advance notice of any inspection to be conducted under this act, without authority from the commissioner, the Commissioner of Health or their designees, shall, upon conviction, be punished by a fine of not more than $1,000 or by imprisonment for not more than six months, or by both.

7. Section 12 of P.L.1983, c.516 (C.34:6A-36) is amended to read as follows:

C.34:6A-36 Notice of safety violation.

12. a. Any employee, group of employees or employee representative who believes that a violation of a safety standard exists, or that an imminent danger exists, may request an inspection by giving notice to the commissioner of the violation or danger. The notice and request shall be in writing, shall set forth the grounds for the notice and shall be signed by the employee, a group of employees or an employee representative. Upon the request of the person giving the notice, his name or the name of any employee representative giving the notice shall be withheld. The commissioner shall conduct an appropriate inspection at the earliest time possible.

The commissioner shall so interpret and administer this section so as to encourage any employee, group of employees or employee representative who believes that a violation of a safety standard exists, or that an imminent danger exists, to report that violation or danger in the first instance to the employer's safety officer.

b. A representative of the employer, the employee or employees giving the notice and an employee representative shall be given the opportunity to accompany the commissioner during an inspection for the purpose of aiding in such inspection. Where there is no authorized employee representative, the commissioner shall consult with a reasonable number of employees concerning matters of safety in the workplace.

c. Any employee who accompanies the commissioner on an inspection shall receive payment of normal wages for the time spent during the inspection.

d. The information obtained by the commissioner under this section shall be obtained with a minimum burden upon the employer.

8. Section 14 of P.L.1983, c.516 (C.34:6A-38) is amended to read as follows:

C.34:6A-38 Notice of health standard violation.

14. a. Any employee, group of employees or employee representative who believes that a violation of a health standard exists, or that an imminent danger exists, may request an inspection by giving notice to the Commissioner of Health of the violation or danger. The notice and request shall be in writing, shall set forth the grounds for the notice and shall be signed by the employee, a group of employees or employee representative. Upon the request of the person giving the notice, his name or the name of any employee representative giving the notice shall be withheld. The Commissioner of Health shall conduct an appropriate inspection at the earliest time possible. In any case of a possible imminent hazard, the commissioner may request the assistance of other State agencies having appropriate expertise.

The Commissioner of Health shall so interpret and administer this section so as to encourage any employee, group of employees or employee representative who believes that a violation of a health standard exists, or that an imminent danger exists, to report that violation or danger in the first instance to the employer's safety officer.

b. A representative of the employer, an employee giving the notice and an employee representative shall be given the opportu-

nity to accompany the Commissioner of Health during an inspection for the purpose of aiding in such inspection. Where there is no authorized employee representative, the Commissioner of Health shall consult with a reasonable number of employees concerning matters of health in the workplace.

c. Any employee who accompanies the Commissioner of Health or the Commissioner of Community Affairs on an inspection shall receive payment of normal wages for the time spent during the inspection.

d. The information obtained by the Commissioner of Health under this section shall be obtained with a minimum burden upon the employer.

9. Section 15 of P.L.1983, c.516 (C.34:6A-39) is amended to read as follows:

C.34:6A-39 Variances.

15. a. Any employer may apply to the commissioner for a temporary order granting a variance from a standard or any provision thereof promulgated under this act. A temporary order shall be granted only if the employer files an application with the commissioner which meets the requirements of this section and establishes in a hearing conducted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and P.L.1978, c.67 (C.52:14F-1 et seq.) that:

(1) he is unable to comply with the standard by its effective date because of the unavailability of professional or technical personnel or of materials and equipment needed to comply with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date;

(2) he is taking all available steps to safeguard employees against the hazards covered by the standard; and

(3) he has an effective program for complying with the standard as quickly as practicable.

Any temporary order issued under this section shall prescribe the practices, means, methods, operations and processes which the employer shall adopt and use while the order is in effect and the order shall state in detail what the employer's program shall be for complying with the standard.

A temporary order may be granted only if notice to the employees is given; provided, however, that the commissioner may issue one interim order to be effective until a decision is made on the

basis of the hearing. An employee representative or, where one does not exist, the affected employees, may appear at the hearing, with or without counsel, and submit testimony concerning the employer's application for the variance. No temporary order may be in effect for longer than the period needed by the employer to achieve compliance with the standard or one year, whichever is shorter, except that such an order may be renewed no more than twice so long as the requirements of this section are met and if an application for renewal is filed at least 90 days prior to the expiration date of the order. No interim renewal of an order may remain in effect longer than 180 days.

b. An application for temporary variance shall contain:

(1) a specification of the standard or portion thereof from which the employer seeks a variance;

(2) a representation by the employer, supported by representations from qualified persons who have firsthand knowledge of the facts represented, that he is unable to comply with the standard or portion thereof and a detailed statement of the reasons therefor;

(3) a statement of the steps he has taken and will take, with specific dates, to protect employees against the hazard covered by the standard;

(4) a statement of when he expects to be able to comply with the standard and what steps he has taken and what steps he will take, with dates specified, to comply with the standard;

(5) a certification that he has informed his employees of the application by giving a copy thereof to their employee representative where one exists, and posting a statement at the place where notices to employees are normally posted, giving a summary of the application and specifying where a copy may be examined. A description of the notification procedure used by the employer shall be contained in the certification. The information to the employees shall also inform them of their right to appear and be heard, as set forth in subsection a. of this section, at the hearing on the variance application; and

(6) a statement, if appropriate, that such a variance is necessary to permit an employer to participate in an experiment approved by him designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

c. Any affected employer may apply to the commissioner for a rule or order for a permanent variance from a standard promulgated under this act. An employee representative or, where one does not exist, the affected employees, shall be given notice of each such application and shall be afforded an opportunity to par-

ticipate in a hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C. 52:14B-1 et seq.) and P.L.1978, c.67 (C.52:14F-1 et seq.) on the merits of the application, with or without counsel, and to submit testimony. The commissioner shall issue such rule or order if he determines on the record, after an opportunity for an inspection, where appropriate, that the proponent of the variance has demonstrated, by a preponderance of the evidence, that the conditions, practices, means, methods, operations or processes used or proposed to be used by an employer will provide workplaces which are as safe and healthful as those which would prevail if he complied with the standard. The rule or order so issued shall prescribe the conditions the employer shall maintain and the practices, means, methods, operations and processes which he shall adopt and utilize to the extent they differ from any standard adopted pursuant to this act. Such a rule or order may be modified or revoked upon application by an employer, any employee, group of employees or employee representative, or by the commissioner on his own motion, in the manner prescribed for its issuance under this section at any time after six months from its issuance.

d. In determining whether to grant a variance from a health standard, the commissioner shall consult with the Commissioner of Health.

10. Section 16 of P.L.1983, c.516 (C.34:6A-40) is amended to read as follows:

C.34:6A-40 Employer records; reports.

16. In accordance with the regulations which shall be adopted by the commissioner, each employer shall make, keep, preserve and make available the following records to the commissioner and the Commissioner of Health:

a. Records regarding the employer's activities relating to this act as the commissioner deems necessary or appropriate for the enforcement of this act or for developing information regarding the causes and prevention of occupational accidents and illness.

b. Records regarding work-related deaths, injuries and illnesses other than minor injuries which require only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or of motion, or transfer to another job.

c. Records regarding employee exposure to potentially toxic materials or other harmful physical agents which the regulations require to be monitored or measured. The regulations shall pro-

vide employees or their representatives with an opportunity to observe the monitoring or measurement and access to the records of the monitoring or measurement. Each employee or former employee shall be informed of and have access to all records which will indicate his own exposure to toxic materials or harmful physical agents and the properties, characteristics and effects thereof. Each employer shall promptly notify any employee who has been or is being exposed to toxic materials of harmful physical agents in concentrations or at levels which exceed those prescribed by any safety and health standard promulgated under this act, and shall inform any employee who is being exposed of the corrective action being taken and the time limit for compliance pursuant to subsection a. of section 17 of this act.

Each employer shall, in accordance with regulations which shall be adopted by the commissioner, file with the commissioner periodic reports based on the records kept pursuant to this section. The commissioner shall develop and maintain an effective program of collection, compilation, analysis and reporting to the public of statistics on work-related deaths, injuries and illnesses other than minor injuries which require only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or of motion, or transfer to another job, except that any information which identifies an individual employee shall be confidential. The commissioner shall promote, encourage or directly engage in programs of studies, information and communication concerning occupational safety and health statistics.

11. Section 17 of P.L.1983, c.516 (C.34:6A-41) is amended to read as follows:

C.34:6A-41 Compliance orders; violations; penalties.

17. a. If the commissioner determines that an employer has violated a provision of this act, or a safety standard or regulation promulgated under this act, if the commissioner receives a certification from the Commissioner of Health that an employer violation has been determined to exist within the Commissioner of Health's jurisdiction, or if the commissioner receives a report from the Department of Labor or the Department of Health, prepared as a result of the investigation of the death or serious injury of one or more firefighters, which indicates the existence of a violation of this act or of a safety standard promulgated under this act, he shall with reasonable promptness, and in no case more

than six months after his determination or the receipt of the certificate or report, issue to the employer a written order to comply which shall describe the nature of the violation, including a reference to the provision of the section, standard, regulation or order alleged to have been violated, the sanction therefor, where appropriate, and shall fix a reasonable time for compliance.

b. If the commissioner issues to an employer an order to comply, the employer shall post such order or a copy thereof at or near each location of the violation cited in the order so that it is clearly visible to affected employees. The commissioner shall make such order available to employee representatives and affected employees, and shall make the order available to the public upon request.

c. If no notice of intent to contest any provision of the order is filed with the commissioner by an employer, employee or employee representative within fifteen working days of the issuance of an order to comply, the order shall be deemed final and not subject to review by any court or agency. If, within fifteen working days of the issuance of an order to comply, any employer, employee or employee representative files a notice with the commissioner of intent to contest any provision of the order, the commissioner shall immediately advise the Occupational Safety and Health Review Commission of the notification, and the commission shall afford an opportunity for a hearing. The review commission shall thereafter issue an order, based on a finding of fact, affirming, modifying, or vacating the commissioner's order to comply or the proposed penalty, or directing other appropriate relief, and the order shall become final 45 days after its issuance. The rules of procedure prescribed by the review commission shall provide affected employers, employees, or representatives of affected employees an opportunity to participate as parties to hearings under this subsection.

d. If the time for compliance with an order of the commissioner issued pursuant to this section elapses, and the employer has not made a good faith effort to comply, the commissioner shall impose a civil administrative penalty of up to $7,000 per day for each violation of a provision of P.L.1983, c.516 (C.34:6A-25 et seq.), or of a standard or regulation promulgated under that act, or of an order to comply. Any employer who willfully or repeatedly violates the requirements of this section or any standard, rule, order or regulation promulgated under that act shall be assessed a civil administrative penalty of up to $70,000

for each violation. Penalties imposed under this section may be recovered with costs in a civil action commenced by the commissioner by a summary proceeding under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.) in the Superior Court or a municipal court, either of which shall have jurisdiction to enforce "the penalty enforcement law" in connection with this act. If the violation is of a continuing nature, each day during which it continues after the date given for compliance in accordance with the order of the commissioner shall constitute an additional separate and distinct offense.

e. The commissioner is authorized to compromise and settle any claim for a penalty under this section in such amount as, in the discretion of the commissioner, may appear appropriate and equitable under all of the circumstances. In any claim involving investigations conducted by the Department of Health, the commissioner shall make the determination as to the compromise or settlement of the claim in consultation with the Commissioner of Health.

12. Section 18 of P.L.1983, c.516 (C.34:6A-42) is amended to read as follows:

C.34:6A-42 Occupational Safety and Health Review Commission.

18. a. There is established an Occupational Safety and Health Review Commission within the Department of Labor to hear appeals regarding orders to comply and penalties issued under this act. The commission shall consist of three members appointed by the Governor from among persons who by reason of training, education or experience are qualified to carry out the functions of the commission. The Governor shall designate one of the members of the commission to serve as chairman.

b. Members of the review commission shall serve terms of four years and until their successors are appointed. The salaries, compensation and wages of the members of the commission shall be established by the commissioner. The Department of Labor shall provide the review commission with the support staff necessary for the review commission to perform its duties. The members and the support staff shall be reimbursed for necessary expenses incurred in the performance of their duties.

c. The review commission shall meet as often as is necessary to hear and rule on appeals regarding orders to comply and penalties issued under this act. The review commission shall adopt rules with respect to the procedural aspects of its hearings.

d. An employee or employee representative may participate as a party to any proceeding regarding the employees' employer before the review commission.

e. The review commission shall hear and make a determination upon any proceeding instituted before it, and shall make a report of the determination which shall constitute its final disposition of the proceedings. The report shall become the final order of the commission 45 days after the issuance of the report.

f. In the conduct of hearings the review commission may subpena and examine witnesses, require the production of evidence, administer oaths and take testimony and depositions.

g. After hearing an appeal the review commission may sustain, modify or dismiss a citation or penalty.

13. Section 21 of P.L.1983, c.516 (C.34:6A-45) is amended to read as follows:

C.34:6A-45 Retaliatory discrimination prohibited.

21. a. No person shall discharge, or otherwise discipline, or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this section or has testified or is about to testify in any such proceeding, or because of the exercise by such employee on behalf of himself or others of any right afforded by this section.

b. Any employee who believes that he has been discharged, disciplined or otherwise discriminated against by any person in violation of this section may, within 180 days after the employee first has knowledge such violation did occur, file a complaint with the commissioner alleging that discrimination. Upon receipt of the complaint, the commissioner shall cause an investigation to be made as he deems appropriate. If, upon that investigation, the commissioner or his designee determines that the provisions of this section have been violated, he shall, not more than 90 days after the receipt of the complaint, notify the employer and the employee of his determination, which shall include an order for all appropriate relief, including rehiring or reinstatement of the employee to his former position with back pay and reasonable legal costs. The notice shall become the commissioner's final determination, unless, within 15 days of receipt of the notice, the employer or employee requests a hearing before the commissioner or his designee, in which case the

commissioner shall issue his final determination not more than 45 days after the hearing report is issued.

c. Nothing in this section shall be deemed to diminish the rights of any employee under any law, rule or regulation or under any collective negotiation agreement.

d. Any waiver by an employee or applicant for employment of the benefits or requirements of this act shall be against public policy and be void and any employer's request or requirement that an employee waive any rights under this act as a condition of employment or continued employment shall constitute an act of discrimination.

14. Section 25 of P.L.1983, c.516 (C.34:6A-49) is amended to read as follows:

C.34:6A-49 Uniform codes not superseded, permits required.

25. Except as provided in section 6 of P.L.1983, c.516 (C.34:6A-30), nothing in this act shall be deemed to conflict with or supersede any provision of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) or the code promulgated thereunder or to affect or limit the powers, duties, authorities and responsibilities of the Commissioner of Community Affairs or any enforcing agency thereunder. Except as provided in section 6 of P.L.1983, c.516 (C.34:6A-30), nothing in this act shall be deemed to conflict with or supersede any provision of the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et al.), or the code promulgated thereunder, nor affect or limit the powers, duties, authorities and responsibilities of the Commissioner of Community Affairs or any enforcing agency thereunder.

Whenever an action taken to comply with the provisions of this act makes it necessary for a property owner or employer to obtain a permit pursuant to the State uniform construction code, the owner or employer shall obtain the permit from the enforcing agency having jurisdiction. The commissioner shall inform any owner or employer who is required to take an action to be in compliance that it is the responsibility of the owner or employer to contact the agency having jurisdiction to determine whether a permit is required and to obtain any required permit.

15. Section 27 of P.L.1983, c.516 is amended to read as follows:

27. This act shall take effect immediately.

C.34:6A-50 Annual report.

16. a. Not later than December 31 of the first full calendar year following the effective date of this 1995 amendatory and supplementary act and not later than December 31 of each subsequent year, the commissioner shall, in consultation with the Commissioners of Health and Community Affairs, issue to the Governor and the Legislature an annual report on the effects of this 1995 amendatory and supplementary act on the protections provided, State plan approval, and costs and benefits to public employees and employers.

b. The report issued pursuant to subsection a. of this section on the fifth full calendar year following the effective date of this 1995 amendatory and supplementary act shall include any recommendations the commissioner deems appropriate for amendments to, or the repeal of, this 1995 amendatory and supplementary act, provided that the recommendations shall include an implementation plan which includes measures to offset any loss of federal funding caused by any recommended amendments or repeal.

Repealer.

17. Section 13 of P.L.1983, c.516 (C.34:6A-37) is repealed.

18. This act shall take effect immediately.

Approved July 25, 1995.

CHAPTER 187

AN ACT establishing a Sexual Assault Nurse Examiner Model Project and making an appropriation therefor.

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

1. The Legislature finds and declares that sexual assault victims require sensitive and prompt treatment when they arrive at a hospital emergency room and that, oftentimes, victims wait indefinitely while other emergencies are given priority. In order to ensure more timely and accurate collection of forensic evidence for use in prosecuting suspected rapists and to create a compassionate way to treat sexual assault victims, there is a need to create a model project in which specially trained nurse examiners collect forensic evidence and restore the victim's dignity in a specially designated area used solely for sexual assault examinations.

2. a. The Chief of the Office of Victim-Witness Advocacy in the Division of Criminal Justice in the Department of Law and Public Safety shall establish a Sexual Assault Nurse Examiner Model Project in Monmouth county. The chief may contract with any agency, organization or other entity as appropriate to effectuate the purposes of this act; and that agency, organization or other entity shall seek, to the maximum extent practicable, to obtain funds from nongovernmental sources as a supplement to State funds appropriated to operate the model project.

b. The model project shall be designed to use forensic nurse sexual assault examiners, who shall be registered professional nurses or nurse practitioners/clinical nurse specialists licensed in this State and trained in forensic science, in accordance with regulations adopted by the New Jersey Board of Nursing with the approval of the Attorney General, to perform sexual assault examinations in an area of the hospital designated solely for sexual assault examinations. The project shall work cooperatively with the rape crisis center operated by the Women's Center of Monmouth County, Inc., in providing assistance to each victim. A representative of the county prosecutor's office or the Office of Victim-Witness Advocacy shall meet with each victim, and counseling and other appropriate services pursuant to subsection c. of section 6 of P.L.1985, c.404 (C.52:4B-44) shall be provided to each victim. The project shall provide the victim with the opportunity to tend to personal hygiene needs and to obtain fresh clothing, as appropriate.

3. The Chief of the Office of Victim-Witness Advocacy shall submit an interim report to the Governor and the Legislature no later than one year after the effective date of this act, and a final report no later than two years after the effective date of this act, on the success of the project in meeting its objectives and the feasibility of using this project as a model for other counties.

4. There is appropriated $90,000 from the General Fund to the Department of Law and Public Safety to carry out the provisions of this act.

5. The Attorney General, 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.

6. This act shall take effect immediately and shall expire two years after the effective date.

Approved July 27, 1995.

CHAPTER 188

AN ACT concerning air pollution, revising and reforming the air pollution control permit program, creating the Small Business Compliance Advisory Panel, amending P.L.1967, c.106, amending the title of P.L.1954, c.212, and amending and supplementing P.L.1954, c.212.

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

1. The title of P.L.1954, c.212 (C.26:2C-1 et seq.) is amended to read as follows:

Title amended.

An act concerning the control of air pollution and supplementing Title 26 of the Revised Statutes.

2. Section 2 of P.L.1954, c.212 (C.26:2C-2) is amended to read as follows:

C.26:2C-2 Definitions.

2. As used in this act:

"Air contaminant" means any substance, other than water or distillates of air, present in the atmosphere as solid particles, liquid particles, vapors, or gases.

"Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property throughout the State and in those areas of the State as shall be affected thereby, and excludes all aspects of an employer-employee relationship as to health and safety hazards.

"Commissioner" means the Commissioner of Environmental Protection.

"Construct" or "construction" means to fabricate or erect equipment or control apparatus at a facility where it is intended to be used, but shall not include the dismantling of existing equipment or control apparatus, site preparation, or the ordering, receiving, temporary storage, or installation of equipment or control apparatus. Unless otherwise prohibited by federal law, "construct" or "construction" shall also not include the pouring of

footings or placement of a foundation where equipment or control apparatus is intended to be used.

"Consumer Price Index" or "CPI" means the annual Consumer Price Index for a calendar year as determined year to year using the decimal increase in the September through August, 12-month average for the previous year of the Consumer Price Index for All Urban Consumers (CPI-U), as published by the United States Department of Labor.

"Control apparatus" means any device that prevents or controls the emission of any air contaminant.

"Council" means the Clean Air Council created pursuant to section 3 of P.L.1967, c.106 (C.26:2C-3.2).

"Department" means the Department of Environmental Protection.

"Emission fee" means an annual fee that is based on the emission of any regulated air contaminant.

"Emission statement" means an annual reporting of actual emissions of air contaminants as prescribed by rules and regulations therefor that shall be adopted by the department pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

"EPA" means the United States Environmental Protection Agency.

"Equipment" means any device capable of causing the emission of an air contaminant either directly or indirectly into the outdoor atmosphere, and any stack, chimney, conduit, flue, duct, vent, or similar device connected or attached to, or serving, the equipment, and shall include, but need not be limited to, any equipment in which the preponderance of the air contaminants emitted is caused by a manufacturing process.

"Facility" means the combination of all structures, buildings, equipment, control apparatus, storage tanks, source operations, and other operations that are located on a single site or on contiguous or adjacent sites and that are under common control of the same person or persons. Research and development facilities that are located with other facilities shall be considered separate and independent entities for the purposes of complying with the operating permit requirements of P.L.1954, c.212 (C.26:2C-1 et seq.) or any codes, rules, or regulations adopted pursuant thereto.

"Federal Clean Air Act" means the federal "Clean Air Act" (42 U.S.C. §7401 et seq.) and any subsequent amendments or supplements to that act.

"Grandfathered" means construction, reconstruction, or modification of equipment or control apparatus prior to the date of enactment of section 13 of P.L.1967, c.106 (C.26:2C-9.2) on June 15, 1967, or prior to the subsequent applicable revisions to rules

and regulations codified at N.J.A.C. 7:27-8.1 et seq. that occurred March 5, 1973, June 1, 1976, April 5, 1985, and October 31, 1994.

"HAP" or hazardous air pollutant" means any air pollutant listed in or pursuant to subsection (b) of section 112 of the federal Clean Air Act (42 U.S.C. §7412).

"Install" or "installation" means to carry out final setup activities necessary to provide equipment or control apparatus with the capacity for use or service, and shall include, but need not be limited to, connection of equipment or control apparatus, associated utilities, piping, duct work, or conveyor systems, but shall not include construction or reconfiguration of equipment or control apparatus to an alternate configuration specified in a permit application and approved by the department.

"Major facility" means a major source, as that term is defined by the EPA in rules and regulations adopted pursuant to the federal Clean Air Act at 40 CFR §70.2 or any subsequent amendments thereto, that has the potential to emit any of the air contaminants listed below in an amount that is equal to or exceeds the applicable major facility threshold levels as follows:

Air Contaminant	Threshold level
Carbon monoxide	100 tons per year
Particulate matter (PM-10)	100 tons per year
Total suspended particulates	100 tons per year
Sulfur dioxide	100 tons per year
Oxides of nitrogen	25 tons per year
VOC	25 tons per year
Lead	10 tons per year
Any HAP	10 tons per year
All HAPs collectively	25 tons per year
Any other air contaminant	100 tons per year

"Modify" or "modification" means any physical change in, or change in the method of operation of, existing equipment or control apparatus that increases the amount of any air contaminant emitted by that equipment or control apparatus or that results in the emission of any air contaminant not previously emitted, but shall not include normal repair and maintenance.

"Operating permit" means the permit described in Title V of the federal Clean Air Act (42 U.S.C. §7661 et seq.).

"Person" means an individual, public or private corporation, company, partnership, firm, association, society, joint stock com-

pany, international entity, institution, county, municipality, state, interstate body, the United States of America, or any agency, board, commission, employee, agent, officer, or political subdivision of a state, an interstate body, or the United States of America.

"Potential to emit" means the same as that term is defined by the EPA in rules and regulations adopted pursuant to the federal Clean Air Act at 40 CFR §70.2 or any subsequent amendments thereto.

"Process unit" means equipment assembled to produce intermediate or final products. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product. The storage and transfer of product or raw materials to and from the process unit shall be considered separate from the process unit for the purposes of making reconstruction determinations. Product recovery equipment shall be considered to be part of the process unit, not part of the control apparatus.

"Reconstruct" or "reconstruction" means the replacement of parts of equipment included in a process unit, or the replacement of control apparatus, if the fixed capital cost of replacing the parts exceeds both of the following amounts: (1) Fifty percent of the fixed capital cost that would be required to construct a comparable new process unit or control apparatus; and (2) $80,000 (in 1995 dollars) adjusted by the Consumer Price Index.

"Regulated air contaminant" means the same as the term "regulated air pollutant" as defined by the EPA in rules and regulations adopted pursuant to the federal Clean Air Act at 40 CFR §70.2 or any subsequent amendments thereto.

"Research and development facility" means any facility the primary purpose of which is to conduct research and development into new processes and products, including academic and technological research and development, provided that such a facility is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for commercial sale, except in a de minimis manner.

"VOC" or "volatile organic compound" means the same as that term is defined by the EPA in rules and regulations adopted pursuant to the federal Clean Air Act at 40 CFR §51.100 or any subsequent amendments thereto.

3. Section 9 of P.L.1954, c.212 (C.26:2C-9) is amended to read as follows:

C.26:2C-9 Department's duties relative to air pollution control; fees.

9. a. The department shall conduct ambient air quality tests, on at least a monthly basis and wherever possible in conjunction with the county college or other county facility, which are representative of every county of the State. The department shall report the results of these tests to the county health officers, the Legislature, and the news media.

b. The department shall control air pollution in accordance with the provisions of any applicable code, rule, or regulation promulgated by the department and for this purpose shall have power to:

(1) Conduct and supervise research programs for the purpose of determining the causes, effects, and hazards of air pollution;

(2) Conduct and supervise Statewide programs of air pollution control education including the preparation and distribution of information relating to air pollution control;

(3) Require the registration of persons engaged in operations that may result in air pollution and the filing of reports, including but not limited to emission statements, by them containing information relating to location, size of outlet, height of outlet, rate and period of emission and composition of effluent, and such other information as the department shall prescribe to be filed relative to air pollution, all in accordance with applicable codes, rules, or regulations established by the department;

(4) Enter and inspect any building or place, except private residences, for the purpose of investigating an actual or suspected source of air pollution and ascertaining compliance or noncompliance with any codes, rules, or regulations of the department. Any information, other than actual or allowable air contaminant emissions, relating to secret processes or methods of manufacture or production obtained in the course of an inspection, investigation, or determination, shall be kept confidential and shall not be admissible in evidence in any court or in any other proceeding except before the department. If samples are taken for analysis, a duplicate of the analytical report shall be furnished promptly to the person suspected of causing air pollution;

(5) Receive or initiate complaints of air pollution, hold hearings in connection with air pollution, and institute legal proceedings for the prevention of air pollution and for the recovery of penalties, in accordance with P.L.1954, c.212 (C.26:2C-1 et seq.);

(6) With the approval of the Governor, cooperate with, and receive funds or other assistance from, the federal government, the State government, any interstate body, or any county or

municipal government, or from private sources, for the study and control of air pollution;

(7) Charge, in accordance with a fee schedule that shall be adopted by the department pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), (a) reasonable annual emission fees for major facilities as provided in section 5 of P.L.1995, c.188 (C.26:2C-9.5), and (b) administrative fees for any of the services the department performs or provides in connection with administering P.L.1954, c.212 (C.26:2C-1 et seq.). The administrative fees charged by the department pursuant to this subsection shall not exceed $25,000 per application based on criteria contained in the fee schedule;

(8) Issue, renew, reopen, and revise operating permits, and require any person who is required to obtain an operating permit under the provisions of the federal Clean Air Act to obtain an operating permit and to certify compliance therewith for all air pollution sources; and

(9) Establish, implement, and operate a small business stationary source technical and environmental compliance assistance program as required pursuant to 42 U.S.C. §7661f of the federal Clean Air Act.

4. Section 13 of P.L.1967, c.106 (C.26:2C-9.2) is amended to read as follows:

C.26:2C-9.2 Regulation of equipment, control apparatus.

13. a. No person shall construct, reconstruct, install, or modify equipment or control apparatus and then use or cause to be used that equipment or control apparatus except in accordance with P.L.1954, c.212 (C.26:2C-1 et seq.) and the rules and regulations adopted pursuant thereto.

b. No operating permit, operating permit revision, or operating certificate or renewal thereof shall be issued unless the applicant demonstrates that the equipment or control apparatus will operate, or operates, in accordance with the provisions of P.L.1954, c.212 (C.26:2C-1 et seq.) and the rules and regulations adopted pursuant thereto.

c. Newly constructed, reconstructed, or modified equipment and control apparatus shall incorporate advances in the art of air pollution control as developed for the kind and amount of air contaminant emitted by the applicant's equipment and control apparatus as provided in this subsection.

(1) For equipment and control apparatus with a potential to emit any hazardous air pollutant equal to or greater than the de minimis levels specified by the EPA pursuant to subsection (g) of section 112 of the federal Clean Air Act (42 U.S.C. §7412) or with a potential to emit five tons per year or more of any other air contaminant, the applicant shall document advances in the art of air pollution control in accordance with the following criteria, as applicable:

(a) For an air contaminant subject to the prevention of significant deterioration technology requirement, advances in the art of air pollution control shall be the best available control technology (BACT) as set forth by the EPA at 40 CFR §52.21 (b)(12) or any subsequent amendments thereto;

(b) For an air contaminant subject to a significant emissions increase of a non-attainment air contaminant in a non-attainment area, advances in the art of air pollution control shall be the lowest achievable emission rate (LAER) as set forth by the EPA at 40 CFR §51.165(a)(1)(xiii) or any subsequent amendments thereto;

(c) For a hazardous air pollutant technology requirement, advances in the art of air pollution control shall be the maximum achievable control technology (MACT) as set forth at 42 U.S.C. §7412 or any subsequent amendments thereto; and

(d) For other air contaminants, advances in the art of air pollution control means up-to-date technology and methods, reflected in equipment, control apparatus, and procedures, that when applied to an emission source shall reasonably minimize air contaminant emissions. The technology shall have been demonstrated for similar air contaminant discharge parameters to be reliable and shall be available at reasonable cost commensurate with the reduction in air contaminant emissions.

(2) For equipment and control apparatus with a potential to emit hazardous air pollutants at less than the de minimis levels specified by the EPA pursuant to subsection (g) of section 112 of the federal Clean Air Act (42 U.S.C. §7412) and with a potential to emit less than five tons per year of any other air contaminant, the applicant need not document advances in the art of air pollution control, but shall document compliance with:

(a) reasonably available control technology as defined in rules and regulations that shall be adopted by the department pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.);

(b) applicable new source performance standards; and

(c) any other applicable State or federal standard, code, rule, or regulation.

(3) (a) In order to promote greater emissions reductions than would otherwise be achieved, the department may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations that offer a person the option of establishing in an operating permit a 15-year plan for reducing facility emissions beyond minimum air pollution control requirements in lieu of adhering to strict permit review schedules and complying with less effective State requirements. Such a plan shall include schedules setting forth milestones for reducing emissions at the facility. Milestones may be met by reducing emissions at the facility and by providing emissions reduction credits from non-facility sources pursuant to an emissions trading and banking program adopted pursuant to section 8 of P.L.1995, c.188 (C.26:2C-9.8).

(b) The department shall review the achievement of the milestones in the plan no less frequently than every five years when the operating permit is renewed. The department may require the person to submit, as part of the application for renewal of the operating permit, a summary and trend of the actual air contaminant emissions data reported in the facility's annual emission statements for the previous five years. If the department determines during the approval process for an operating permit renewal that the milestones in the plan have not been met at a facility and that there is no reasonable likelihood that the milestones can or will be met, the department may withdraw the opportunity for the facility to continue pursuant to the plan and shall require instead that the facility comply with the promulgated schedules for all applicable requirements.

(c) The department shall allow a person entering a 15-year plan the option of establishing in that person's operating permit reduced administrative application requirements for de minimis modifications of equipment and control apparatus at the facility, provided that: any increase in allowable emissions for any individual equipment and control apparatus is below de minimis levels defined by rule or regulation adopted by the department pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); and, as part of the five-year achievement review set forth in subparagraph (b) of paragraph (3) of this subsection, the person includes a demonstration that confirms no net emissions increases have occurred at the facility over the previous five years.

(d) The department shall involve in the development of the rules and regulations for the 15-year plan program adopted pursuant to this

paragraph representatives of the affected industry, environmental, and public interest groups as well as impacted governmental entities.

(4) Consistent with the provisions of P.L.1991, c.422 (C.13:1D-111 et seq.), the department shall periodically publish, with an opportunity provided for public comment, technology, methods, and performance levels with respect to air pollution control for use by applicants for demonstrating advances in the art of air pollution control.

(a) The department shall, within 18 months after the effective date of P.L.1995, c.188 (C.26:2C-9.5 et al.), publish the first technical manual containing technology, methods, and performance levels that can be used by applicants for demonstrating advances in the art of air pollution control. Public notice of the availability of each draft technical manual shall be published in the New Jersey Register, and each final technical manual shall consider any public comments thereon that are received by the department.

(b) Once the department has published a technical manual for advances in the art of air pollution pursuant to subparagraph (a) of paragraph (4) of this subsection, any application submitted that demonstrates compliance with that technical manual shall be considered to incorporate advances in the art of air pollution control for the source operations covered by the technical manual. The department shall periodically review and update each technical manual as necessary, after providing public notice and opportunity for public comment. If the department amends a technical manual, the new standard shall apply only to applications submitted after the final publication of the amended technical manual.

(c) Instead of relying on a technical manual for advances in the art of air pollution control, an applicant may propose "case-by-case" advances in the art of air pollution control applicable to a specific source operation. If the department determines that the proposal is consistent with the provisions of this subsection, the proposal shall be deemed to constitute advances in the art of air pollution control for that specific source operation.

(d) Advances in the art of air pollution control shall include new source performance standards adopted by the EPA on or after the effective date of P.L.1995, c.188 (C.26:2C-9.5 et al.) and those new source performance standards published as advances in the art of air pollution control pursuant to P.L.1954, c.212 (C.26:2C-1 et seq.).

(5) Before an operating permit, operating permit revision or operating certificate or any renewal thereof is issued, or as a condition of issuance, the department may require the applicant to

conduct such tests as are necessary to determine the kind or amount of the air contaminant emitted from the equipment or whether the equipment or fuel or the operation of the equipment is in violation of any of the provisions of P.L.1954, c.212 (C.26:2C-1 et seq.) or of any codes, rules, or regulations adopted pursuant thereto. The tests shall be made at the expense of the applicant and shall be conducted in a manner approved by the department, and the test results shall be reviewed and professionally certified.

(6) Grandfathered equipment or control apparatus shall not be subject to a demonstration of advances in the art of air pollution control.

(7) An operating permit and operating certificate or any renewal thereof shall be valid for a period of five years from the date of issuance, unless sooner revoked for cause by order of the department, and may be renewed upon application to the department.

(8) Upon receipt of an application for the issuance of an operating certificate or any renewal thereof, the department, in its discretion, may issue a temporary operating certificate valid for 90 days or until a five-year operating certificate has been issued or denied.

d. The following are exempt from the provisions of subsections a. and b. of this section:

(1) One or two family dwellings;

(2) A dwelling of six or less family units, one of which is owner occupied;

(3) Equipment or control apparatus that is subject to a general permit issued pursuant to subsection h. of this section; and

(4) Equipment and control apparatus that is de minimis in terms of size or emissions as prescribed in rules and regulations that shall be adopted by the department pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. Except as otherwise prohibited by the EPA pursuant to the federal Clean Air Act, any person who has received or receives a facility-wide permit issued pursuant to the "Pollution Prevention Act," P.L.1991, c.235 (C.13:1D-35 et seq.) shall be deemed to satisfy the requirement for an operating permit issued pursuant to P.L.1954, c.212 (C.26:2C-1 et seq.).

f. The department may establish policies and procedures for categories of operations that specify the procedures to be followed for obtaining any permit required pursuant to this section.

g. Any requirement solely related to an air contaminant regulated by the department that is not a federally regulated air pollutant or contaminant shall be identified in an operating permit as a State-only requirement that would not be federally enforceable.

h. Notwithstanding the provisions of any other law, rule, or regulation to the contrary, the department may issue a general permit in lieu of any permit issued pursuant to this section. Prior to issuing a general permit, the department shall provide public notice and opportunity for public comment.

i. The department may require the reporting and evaluation of emissions information for any air contaminant. However, prior to requiring that such information be included on a permit or regulating any air contaminant not regulated by the EPA pursuant to the federal Clean Air Act, the department shall first make a determination and advise the public of its conclusion that regulating that air contaminant is in the best interest of human health, welfare and the environment, and publish that determination and justification in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

j. Except as otherwise prohibited by federal law, any person who has submitted to the department an application for a permit to construct, reconstruct, install, or modify equipment or control apparatus may place that equipment or control apparatus on the footings or foundation where it is intended to be used during the pendency of the permit application review process. A person intending to take action authorized pursuant to this subsection shall notify the department, via certified mail, of the intent to undertake the action at least seven days prior to the commencement of the action.

A person who constructs equipment or control apparatus in accordance with this subsection that the department determines is not consistent with applicable State laws, codes, rules, or regulations shall not be subject to civil or criminal penalties for that inconsistent action provided that the person's actions do not result in the emission of any air contaminants. Any costs incurred by the applicant in connection with such construction may not be used by the applicant as grounds for an appeal of the department's decision on the permit application.

k. For the purposes of P.L.1954, c.212 (C.26:2C-1 et seq.), the use of VOCs not otherwise listed by the EPA as hazardous air pollutants, or specified by the department pursuant to subsection i. of this section, shall be considered as a single pollutant. These VOCs may be used interchangeably and such use shall not be considered new installation or modification of equipment or control apparatus.

C.26:2C-9.5 Emission fees.

5. a. (1) Each major facility shall pay to the department a fee or fees as calculated pursuant to this subsection and subsection b.,

c., or d. of this section, as appropriate. The per-ton emission fees shall be based on the actual annual emissions of each regulated air contaminant, except as set forth for carbon monoxide in subsections b., c., and d. of this section, reported in the emission statement for that major facility, or, in the absence of such information, on permitted emissions, or where a permit has not been issued, on the potential to emit.

(2) Emission fees for each State fiscal year shall be based on the information reported in the emission statement year two years prior thereto.

(3) The amount of any emission fee payable pursuant to this section shall be adjusted for each State fiscal year by the percentage, if any, by which the CPI exceeds the CPI for calendar year 1989.

b. For the State fiscal year 1995, each major facility shall pay the following fees:

(1) An emission fee of $25 (in 1989 dollars adjusted by the CPI) per ton only on the first 4,000 tons of each regulated air contaminant, excluding carbon monoxide, and an emission fee of $25 (in 1989 dollars adjusted by the CPI) per ton only on the first 8,000 tons of oxides of nitrogen and the first 8,000 tons of VOCs;

(2) An emission fee of $25 (in 1989 dollars adjusted by the CPI) per ton on one-half of the total tons of carbon monoxide;

(3) An initial operating permit application fee per facility not to exceed $25,000. For the purpose of calculating the initial operating permit application fee, the significant equipment listed in the operating permit application shall be assessed at $125 per piece of equipment. The operating permit application fee shall be submitted prior to the deadline for submittal of the operating permit application;

(4) A fee for any facility modification in an amount calculated using the fee schedule therefor set forth in rules and regulations adopted by the department, except that no fee for a modification review shall exceed $25,000; and

(5) Certificate fees assessed and collected in a manner established in rules and regulations adopted by the department.

c. (1) For the State fiscal years 1996 and 1997, each major facility shall pay the following fees:

(a) An emission fee of $25 (in 1989 dollars adjusted by the CPI) per ton only on the first 4,000 tons of each regulated air contaminant, excluding carbon monoxide, and an emission fee of $25 (in 1989 dollars adjusted by the CPI) per ton only on the first 8,000 tons of oxides of nitrogen and the first 8,000 tons of VOCs;

(b) An emission fee of $25 (in 1989 dollars adjusted by the CPI) per ton on one-half of the total tons of carbon monoxide;

(c) An initial operating permit application fee per facility not to exceed $25,000. For the purpose of calculating the initial operating permit application fee, the significant equipment listed in the operating permit application shall be assessed at $125 per piece of equipment. The operating permit application fee shall be submitted at the time of submission of the operating permit application; and

(d) A fee for any facility modification in an amount calculated using the fee schedule therefor set forth in rules and regulations adopted by the department. The fee for a significant modification review for source operations such as solid or hazardous waste treatment and disposal, reciprocating engines, and fuel combustion processes with heat input greater than 100 million BTU/hour or that burn solid fuel shall not exceed $25,000. All other modification fees shall be assessed based upon the amount of equipment modified and shall not exceed $500 per piece of equipment and $25,000 for an entire modification review.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, no major facility shall pay an emission fee less than $1,000 for each of the State fiscal years 1996 and 1997.

(3) Of the amount assessed and collected in fees pursuant to this subsection, not more than $9,510,000 shall be appropriated as provided in section 6 of P.L.1995, c.188 (C.26:2C-9.6). If the amount of fees collected pursuant to this subsection exceeds $9,510,000, the amount in excess of $9,510,000 shall be deposited into the Air Surcharge Reengineering Fund established pursuant to subsection f. of this section. If the amount of fees collected pursuant to this subsection is less than $9,510,000, the department, in consultation with the fee work group established pursuant to section 12 of P.L.1995, c.188 (C.26:2C-25.2), shall evaluate the reasons for the deficiency and make recommendations accordingly to the Governor, the Legislature, and the State Treasurer concerning any measures necessary to ensure that the operating permit program is adequately funded.

d. (1) For the State fiscal year 1998 and each fiscal year thereafter, each major facility shall pay the following fees:

(a) An emission fee of $25 (in 1989 dollars adjusted by the CPI) per ton of each regulated air contaminant, excluding carbon monoxide;

(b) An initial operating permit application fee per facility not to exceed $25,000. For the purpose of calculating the initial operating permit application fee, the significant equipment listed in

the operating permit application shall be assessed at $125 per piece of equipment. The operating permit application fee shall be submitted at the time of submission of the operating permit application; and

(c) A fee for any significant modification in an amount calculated using a fee schedule therefor to be set forth in rules and regulations to be adopted by the department, except that no fee for a significant modification review shall exceed $25,000.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, no major facility shall pay an emission fee less than $1,000 for each of the State fiscal years 1998 and thereafter.

e. (1) In addition to the fees assessed of major facilities pursuant to subsections b. and c. of this section, each major facility shall be assessed a supplemental surcharge for each of the State fiscal years 1995 and 1996 that shall be sufficient to raise $1.5 million per fiscal year in revenue. The supplemental surcharge shall be based on actual annual emissions of each regulated air contaminant, excluding carbon monoxide, reported in the emission statement for that major facility, or, in the absence of such information, on permitted emissions, or where a permit has not been issued, on the potential to emit, but in no case shall a supplemental surcharge assessed of a major facility exceed $20,000 per year per major facility.

(2) If the amount of revenue raised by the assessment of the supplemental surcharge pursuant to paragraph (1) of this subsection is less than $1,500,000 for either State fiscal years 1995 or 1996, the department, in consultation with the fee work group established pursuant to section 12 of P.L.1995, c.188 (C.26:2C-25.2), shall evaluate the reasons for the deficiency and the need for adjusting the supplemental surcharge to make up the difference.

(3) The supplemental surcharge assessed pursuant to this subsection shall not be collected after State fiscal year 1996. Any monies remaining in the Air Surcharge Reengineering Fund at the conclusion of State fiscal year 1997 shall be used by the department to reduce fees assessed of major facilities in State fiscal year 1998, whereupon the fund shall expire.

f. There is established in the department a dedicated fund to be known as the "Air Surcharge Reengineering Fund." All supplemental surcharges collected pursuant to paragraph (1) of subsection e. of this section shall be deposited into that fund. Monies in the fund shall be dedicated solely for use by the department in developing and implementing the air permit computerization system, publication of requirements for advances in the art of air pollution control, establishment of general per-

mits, and establishment of standard permit conditions. No monies from this fund shall be allocated, appropriated, or used for any purpose other than as set forth in this subsection. The department, in consultation with the fee work group established pursuant to section 12 of P.L.1995, c.188 (C.26:2C-25.2), shall develop a plan for the expenditure of monies in the fund, and shall maintain a detailed record of the expenditures and disbursements from the fund and publish it annually in the New Jersey Register.

g. The provisions of P.L.1993, c.361 (C.13:1D-120 et seq.) shall not apply to the assessment or payment of emission fees required pursuant to this section.

h. The department may not assess a major facility any fee to implement the provisions of P.L.1954, c.212 (C.26:2C-1 et seq.) other than the fees authorized pursuant to this section.

C.26:2C-9.6 Dedication, appropriation of revenues.

6. Pursuant to the mandate of the federal Clean Air Act, all revenues collected pursuant to section 5 of P.L.1995, c.188 (C.26:2C-9.5) shall be dedicated and appropriated annually solely for use by the department in administering the provisions of P.L.1954, c.212 (C.26:2C-1 et seq.) with regard to major facilities. Except as provided otherwise for the supplemental surcharge assessed pursuant to section 5 of P.L.1995, c.188 (C.26:2C-9.5), those monies shall be used only to hire personnel and fund positions, procure necessary equipment, and fund the functions of the department prescribed pursuant to P.L.1954, c.212 (C.26:2C-1 et seq.) with regard to major facilities and to fund implementation and operation of the small business stationary source technical and environmental compliance assistance program required pursuant to 42 U.S.C. §7661f of the federal Clean Air Act. Such program costs may also include, but need not be limited to, costs connected to or associated with: program planning; data collection; investigations; rule and regulation development; reviewing, issuing, and administering operating permits; monitoring and administratively enforcing compliance with laws, codes, rules, regulations, and permits; and any other activities with regard to major facilities required for State compliance with the federal Clean Air Act.

C.26:2C-9.7 Annual report on air quality.

7. On or before March 1, 1996, and annually thereafter, the department shall prepare and submit to the Governor and the Legislature an annual report on the status of New Jersey's air quality, New Jersey's progress toward attainment with the federal Clean Air Act, and the operating permit program created pursuant to

P.L.1954, c.212 (C.26:2C-1 et seq.). Notice of the preparation and submission of this report shall be published in the New Jersey Register. The report shall include:

a. An accounting of all direct and indirect costs incurred by the operating permit program; the revenues received from fees; a list of all fees still due; and the amount of penalties imposed and collected during the previous year; and

b. A staff and workload analysis of all components of the program to regulate, monitor, and control or prevent emissions of air contaminants.

The report shall also identify any need for legislative action to adjust the emission fee prescribed pursuant to section 5 of P.L.1995, c.188 (C.26:2C-9.5) to ensure that the fee is adequate to fund the air pollution control program in accordance with the mandates of the federal Clean Air Act, and discuss the advantages and disadvantages of setting higher emission fees for hazardous air pollutants.

C.26:2C-9.8 Rules, regulations.

8. a. Within 90 days after the effective date of this act, the department shall propose, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations that establish emissions trading and banking programs that use economic incentives to make progress toward the attainment or maintenance of the National Ambient Air Quality Standards (NAAQS), reduce or prevent emissions of air contaminants, ensure healthful air quality, or otherwise contribute to the protection of human health, welfare and the environment from air pollution. The department shall adopt those rules and regulations within 90 days after proposal.

b. The emissions trading rules and regulations shall be designed so that emissions reductions shall be realized earlier or at a more accelerated rate than would otherwise be achieved in accordance with applicable air quality mandates, and so that compliance with air quality mandates can be achieved with greater flexibility or at lower cost. The rules and regulations shall establish criteria for the generation and use of emissions reduction credits, including the use of emissions reduction credits in lieu of granting exemptions or waivers from compliance with emissions reduction requirements, and shall require that 10% of the emissions reduction credits gained shall be permanently retired for the public benefit when a trade occurs. The rules and regulations may include, but need not be limited to, provisions designating the

pollutants to be involved in the program, designating the persons who may participate in the program, establishing emissions limitations and methods for projecting and verifying emissions, and establishing enforcement mechanisms, including emissions tracking, periodic program audits, and penalties.

For any emissions trading program adopted for the purpose of making progress toward attaining the National Ambient Air Quality Standard (NAAQS) for ozone, the department may allow reductions of volatile organic compounds (VOCs) to be substituted for required reductions of oxides of nitrogen (NOx) or reductions of oxides of nitrogen (NOx) to be substituted for required reductions of volatile organic compounds (VOCs). Any such substitution shall occur at a ratio established by the department by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which shall be developed in recognition of the role of each pollutant in the formation of ground level ozone.

c. The emissions trading rules and regulations adopted by the department shall not conflict with applicable federal law and shall constitute, contribute to, or be consistent with one or more strategies that result in quantifiable emissions reductions and are creditable under the State Implementation Plan (SIP) required pursuant to the federal Clean Air Act. These may be emission limiting or market-response strategies for mobile, stationary, or area sources, and shall include the creation, trading, and use of emissions reduction credits.

d. The department may establish the emissions trading programs as State, multi-state, or regional programs as long as the programs contribute to the goal of improving the air quality in New Jersey.

e. The department shall involve in the development of the rules and regulations for emissions trading programs representatives of the affected industry, environmental, and public interest groups as well as governmental entities with affected or related jurisdictions.

f. The department shall consider the role of a third party in the banking, verification, validation of use, enforcement, and program audits associated with emissions reduction credits, and, to the maximum extent possible, create and preserve opportunities for private sector participation in any emissions trading program established by the department.

9. Section 19 of P.L.1954, c.212 (C.26:2C-19) is amended to read as follows:

C.26:2C-19 Actions to prohibit and prevent violations; civil administrative penalty; civil penalty; notice of release of air contaminants; penalties; alternative dispute resolution.

19. a. If any person violates any of the provisions of P.L.1954, c.212 (C.26:2C-1 et seq.) or any code, rule, regulation or order adopted or issued pursuant thereto, the department may institute a civil action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent such violation or violations and the court may proceed in the action in a summary manner.

b. Any person who violates the provisions of P.L.1954, c.212 (C.26:2C-1 et seq.) or any code, rule, regulation or order adopted or issued pursuant thereto shall be liable to a civil administrative penalty of not more than $10,000 for the first offense, not more than $25,000 for the second offense, and not more than $50,000 for the third and each subsequent offense. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. No civil administrative penalty shall be levied except upon an administrative order issued pursuant to section 14 of P.L.1954, c.212 (C.26:2C-14).

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

d. Any person who violates the provisions of P.L.1954, c.212 (C.26:2C-1 et seq.) or any code, rule, regulation, or order adopted or issued pursuant thereto, or a court order issued pursuant to subsection a. of this section, or who fails to pay a civil administrative penalty in full pursuant to section 9 of P.L.1962, c.215 (C.26:2C-14.1), is subject, upon order of the court, to a civil penalty of not more than $10,000 for the first offense, not more than $25,000 for the second offense, and not more than $50,000 for the third and each subsequent offense. If the violation is of a continuing nature, each day during which the violation continues, or each day in which the civil administrative penalty is not paid in full, constitutes an additional, separate and distinct offense. Any penalty imposed under this subsection may be recovered with costs in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Law Division of the Superior Court has jurisdiction to enforce "the penalty enforcement law."

e. A person who causes a release of air contaminants in a quantity or concentration which poses a potential threat to public health, welfare or the environment or which might reasonably result in citizen complaints shall immediately notify the department. A person who fails to so notify the department is liable to the penalties and procedures prescribed in this section.

f. Any person who:

(1) purposely or knowingly violates the provisions of P.L.1954, c.212 (C.26:2C-1 et seq.), or any code, rule, regulation, administrative order, or court order adopted or issued pursuant thereto, is guilty of a crime of the third degree;

(2) purposely or knowingly violates any federally mandated air pollution control requirement, any operating permit condition, or any fee or filing requirement imposed in connection with an operating permit is guilty of a crime of the third degree, the sentence for which may include, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, an enhanced fine of $10,000 per day per violation;

(3) purposely or knowingly makes any false material statement, representation, or certification in any form, notice, statement, or report required in connection with an operating permit, or who purposely or knowingly renders inaccurate any monitoring device or method required by an operating permit, is guilty of a crime of the third degree, the sentence for which may include, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, an enhanced fine of $10,000 per day per violation;

(4) recklessly violates the provisions of P.L.1954, c.212 (C.26:2C-1 et seq.), or any code, rule, regulation, administrative order, or court order adopted or issued pursuant thereto, is guilty of a crime of the fourth degree.

g. In determining whether an odor unreasonably interferes with the enjoyment of life or property in violation of P.L.1954, c.212 (C.26:2C-1 et seq.) or any code, rule, regulation or order adopted or issued pursuant thereto, the department shall consider all of the relevant facts and circumstances, including, but not limited to, the character, severity, frequency, and duration of the odor, and the number of persons affected thereby. In considering these and other relevant facts and circumstances, no one factor shall be dispositive, but each shall be considered relevant in determining whether an odor interferes with the enjoyment of life or property, and, if so, whether such interference is unreasonable considering all of the circumstances.

The department shall publish in the New Jersey Register the guidelines and procedures utilized by the department for the investigation of citizen complaints regarding odors.

h. The department shall establish procedures for alternative dispute resolution as an option for settlement of contested cases. Alternative dispute resolution shall be voluntary and shall not be mandated by the department.

10. Section 22 of P.L.1954, c.212 (C.26:2C-22) is amended to read as follows:

C.26:2C-22 Relation of local ordinances or regulations to State law.

22. a. (1) No ordinances of any governing body of a municipality or county or board of health more stringent than P.L.1954, c.212 (C.26:2C-1 et seq.) or any code, rules or regulations adopted pursuant thereto shall be superseded by P.L.1954, c.212 (C.26:2C-1 et seq.). After the effective date of P.L.1995, c.188 (C.26:2C-9.5 et al.), no municipality, county, local board of health, local health agency, regional health commission, or any other political subdivision of the State may enact any ordinance, pursuant to P.L.1954, c.212 (C.26:2C-1 et seq.), section 9 of P.L.1977, c.443 (C.26:3A2-27), or any other authority, concerning the subject matter covered by P.L.1954, c.212 (C.26:2C-1 et seq.), except as provided in subsection b. of this section, whether that subject matter is expressed by inclusion in or exclusion from that act.

Penalties for violations of ordinances of a governing body of a municipality or county or board of health shall not exceed $2,500.

Nothing set forth in the "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et al.), or any codes, rules or regulations adopted pursuant thereto, shall affect the validity of local ordinances adopted pursuant to this section prior to the effective date of P.L.1995, c.188 (C.26:2C-9.5 et al.) or amendments thereto adopted as authorized pursuant to subsection b. of this section.

b. Notwithstanding the provisions of subsection a. of this section to the contrary, no fee imposed upon any facility by the governing body of a municipality or county or board of health relating to the control of air pollution, which fee was imposed pursuant to this section, section 7 of P.L.1991, c.99 (C.26:3A2-34), or any other law, may be increased above the amount imposed upon that facility as of June 15, 1995. In no event may any such fee imposed upon any facility exceed a total of $1,000 per year over a given fee cycle and any such fee that exceeds that

amount shall be reduced to $1,000 after the effective date of P.L.1995, c.188 (C.26:2C-9.5 et al.). Ordinances adopted prior to the effective date of P.L.1995, c.188 (C.26:2C-9.5 et al.) that impose fees exceeding the $1,000 limit shall be amended to conform to the provisions of this subsection at or before the end of the present ordinance fee cycle. In order to prevent the pass through of fees capped by this section onto any facility engaging in activities not related to the control of air pollution, no fee imposed pursuant to section 7 of P.L.1991, c.99 (C.26:3A2-34) for such activities may be increased above the amount imposed upon that facility as of June 15, 1995.

c. Notwithstanding the provisions of subsection a. or b. of this section to the contrary, nothing in this section or in the "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et al.) shall be construed to authorize ordinances providing for the local regulation of, or collection of fees from, any facility required to obtain an operating permit pursuant to section 13 of P.L.1967, c.106 (C.26:2C-9.2) or any research and development facility. However, local inspections of such facilities or research and development facilities delegated pursuant to the "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et al.) may be conducted as necessary in response to citizen complaints.

C.26:2C-25.1 Small Business Compliance Advisory Panel.

11. For the purposes of complying with the federal Clean Air Act, there is created in the Department of Environmental Protection a Small Business Compliance Advisory Panel.

a. The Small Business Compliance Advisory Panel shall consist of seven members, as follows:

(1) two members, appointed by the Governor, who shall represent the general public and shall not be owners, or representatives of owners, of small business stationary sources;

(2) four members who shall own a small business stationary source or represent owners of small business stationary sources, of whom one each shall be appointed respectively by the President of the Senate, the Speaker of the General Assembly, the Senate Minority Leader, and the Assembly Minority Leader; and

(3) one member who shall be appointed by the Commissioner of Environmental Protection as the commissioner's representative.

b. (1) Members of the panel shall:

(a) serve for two-year terms;

(b) annually elect, by majority vote of the full membership of the panel, a chairperson and a vice-chairperson; and

(c) serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(2) The panel shall meet at least four times per year.

c. It shall be the responsibility of the panel to:

(1) render advisory opinions to the Commissioner of Environmental Protection concerning the effectiveness of the department's program for assisting small business stationary sources with technical and environmental compliance issues with respect to air pollution control, as required pursuant to 42 U.S.C. §7661f of the federal Clean Air Act, and concerning air pollution control requirements, permitting, and enforcement pertaining to small business;

(2) make periodic reports to the Commissioner of Environmental Protection and the Administrator of the United States Environmental Protection Agency concerning compliance of the State's air pollution control program with the requirements of the federal "Paperwork Reduction Act" (44 U.S.C. §3501 et seq.), the federal "Regulatory Flexibility Act" (5 U.S.C. §601 et seq.), and the federal "Equal Access to Justice Act" (5 U.S.C. §504 et seq. and 28 U.S.C. §2412 et seq.) as they relate to small business;

(3) review information and air pollution control permit applications provided to small business stationary sources to assure that the information and applications are understandable to the layperson; and

(4) determine if the department provides for the development and dissemination of those advisory opinions and reports issued in accordance with the provisions of this section.

C.26:2C-25.2 Industry, environmental work groups.

12. The department shall establish industry and environmental work groups as appropriate to consult on matters relating to the regulation of air pollution sources. The work groups shall consist of members of industry, environmental, and other interested and affected parties as may be deemed appropriate by the department.

Within 90 days after the effective date of P.L.1995, c.188 (C.26:2C-9.5 et al.), the department shall also establish an industry and environmental work group to evaluate the effects of emissions reductions on emission fee revenues and the resultant impact on the department's air pollution control program. As part of the 1997 annual report required pursuant to section 7 of P.L.1995, c.188 (C.26:2C-9.7), the fee work group shall present its evaluation and a recommendation on alternatives to funding

the department's air pollution control program other than through an increase in emission fees.

The fee work group shall also make such evaluations and recommendations concerning fee revenues and supplemental surcharge revenues as required pursuant to section 5 of P.L.1995, c.188 (C.26:2C-9.5).

13. Within 90 days of the effective date of P.L.1995, c.188 (C.26:2C-9.5 et al.), the commissioner shall establish a Privatization Review Task Force. The task force shall include representatives of the department, business and industry, the environmental community, and other members the commissioner may deem appropriate. The task force shall review privatization opportunities within the air pollution control program and issue a report to the commissioner within 180 days of its establishment, whereupon the task force shall dissolve.

14. This act shall take effect immediately.

Approved August 2, 1995.

CHAPTER 189

AN ACT appropriating $6,000,000 from the "Jobs, Education and Competitiveness Bond Act of 1988," P.L.1988, c.78, for the construction, reconstruction, development, extension, improvement and equipment of classrooms, academic buildings, libraries, computer facilities and other higher education buildings at New Jersey's public and private institutions of higher education.

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

1. There is appropriated to the Commission on Higher Education, in but not of, the Department of State from the "Jobs, Education and Competitiveness Fund" created pursuant to section 14 of the "Jobs, Education and Competitiveness Bond Act of 1988," P.L.1988, c.78, the sum of $6,000,000 for the purpose of

constructing, reconstructing, developing, extending, improving and equipping classrooms, academic buildings, libraries, computer facilities and other higher education buildings. The sum shall be allocated to the following institutions of higher education which shall provide funds to projects which have been approved by the Commission on Higher Education as provided below:

PROJECT	INSTITUTION FUNDS	P.L.1988, c.78 BOND FUNDS
CONSTRUCTION OF HIGHER EDUCATION BUILDINGS AT THE NEW JERSEY STATE COLLEGES		
Angelica and Russ Berrie Center for the Performing and Visual Arts at Ramapo College of New Jersey	$5,800,000	$6,000,000

2. The expenditure of the sums appropriated by this act are subject to the provisions and conditions of P.L.1988, c.78.

3. This act shall take effect immediately.

Approved August 2, 1995.

CHAPTER 190

AN ACT concerning the anatomical gift of body parts and amending P.L.1969, c.161.

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

1. Section 3 of P.L.1969, c.161 (C.26:6-59) is amended to read as follows:

C.26:6-59 Donees, gifts of bodies, parts.

3. The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

(1) Any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(2) Any accredited medical or dental school, college or university for education, research, advancement of medical or dental science, or therapy; or

(3) Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(4) Any specified individual for therapy or transplantation needed by him; or

(5) An accredited college program for the education of students of mortuary science.

2. This act shall take effect immediately.

Approved August 2, 1995.

CHAPTER 191

AN ACT concerning the placement of candidates for county executive on general election and primary election ballots and amending R.S.19:14-8, R.S.19:14-10 and R.S.19:23-24.

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

1. R.S.19:14-8 is amended to read as follows:

Arrangement of ballots.

19:14-8. In the columns of each of the political parties which made nominations at the next preceding primary election and in the personal choice column, within the space between the two-point hair line rules, there shall be printed the title of each office to be filled at such election, except as hereinafter provided.

Such titles of office shall be arranged in the following order: electors of President and Vice-President of the United States; member of the United States Senate; Governor; member of the House of Representatives; member of the State Senate; members of the General Assembly; county executive, in counties that have

adopted the county executive plan of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.); sheriff; county clerk; surrogate; register of deeds and mortgages; county supervisor; members of the board of chosen freeholders; coroners; mayor and members of municipal governing bodies, and any other titles of office. Above each of such titles of office, except the one at the top, shall be printed a two-point diagram rule in place of the two-point hair line rule. Below the titles of such offices shall be printed the names of the candidates for the offices.

The arrangement of the names of candidates for any office for which more than one are to be elected shall be determined in the manner hereinafter provided, as in the case of candidates nominated by petition.

When no nomination for an office has been made the words "No Nomination Made" in type large enough to fill the entire space or spaces below the title of office shall be printed upon the ballot.

Immediately to the left of the name of each candidate, at the extreme left of each column, including the personal choice column, shall be printed a square, one-quarter of an inch in size, formed by two-point diagram rules. In the personal choice column no names of candidates shall be printed.

To the right of the title of each office in the party columns and the personal choice column shall be printed the words "Vote for," inserting in words the number of persons to be elected to such office.

2. R.S.19:14-10 is amended to read as follows:

Nominations by petition.

In the column or columns designated as nominations by petition, within the space between the two-point hair line rules, there shall be printed the title of each office for which nominations by petition have been made.

Such titles of office shall be arranged in the following order: electors of President and Vice-President of the United States; member of the United States Senate; Governor; member of the House of Representatives; member of the State Senate; members of the General Assembly; county executive, in counties that have adopted the county executive plan of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.); sheriff; county clerk; surrogate; register of deeds and mortgages; county supervisor; members of the board of chosen freeholders; coroners; mayor and members of municipal governing bodies, and any other titles of office.

Above each of the titles of office, except the one on the top, shall be printed a two-point diagram rule in place of the two-point hair line rule. Below the titles of each of the offices shall be printed the names of each of the candidates for each of such offices followed by the designation or designations mentioned in the petitions filed.

Immediately to the left of the name of each candidate, at the extreme left of the column, shall be printed a square, one-quarter of an inch in size formed by two-point diagram rules.

The names of candidates for any office for which more than one are to be elected shall be arranged in groups as presented in the several certificates of nominations or petitions, which groups shall be separated from other groups and candidates by two two-point hair line rules.

To the right of the title of each office shall be printed the words "Vote for "inserting in words the number of candidates to be elected to such office.

3. R.S.19:23-24 is amended to read as follows:

Primary election ballots; position.

19:23-24. The position which the candidates and bracketed groups of names of candidates for the primary for the general election shall have upon the primary election ballots, in the case of candidates for nomination for members of the United States Senate, Governor, members of the House of Representatives, members of the State Senate, members of the General Assembly, choice for President, delegates and alternates-at-large to the national conventions of political parties, district delegates and alternates to conventions of political parties, candidates for party positions, and county offices or party positions which are to be voted for by the voters of the entire county or a portion thereof greater than a single municipality, including a congressional district which is wholly within a single municipality, shall be determined by the county clerks in their respective counties; and, excepting in counties where R.S.19:49-2 applies, the position on the primary ballots in the case of candidates for nomination for office or party position wherein the candidates for office or party position to be filled are to be voted for by the voters of a municipality only, or a subdivision thereof (excepting in the case of members of the House of Representatives) shall be determined by the municipal clerk in such municipalities, in the following manner: The county clerk, or his deputy, or the municipal clerk or his deputy, as the case may be, shall at his office on the 47th day prior to the primary election at three o'clock in the afternoon draw

from the box, as hereinafter described, each card separately without knowledge on his part as to which card he is drawing. Any legal voter of the county or municipality, as the case may be, shall have the privilege of witnessing such drawing. The person making the drawing shall make public announcement at the drawing of each name, the order in which same is drawn, and the office for which the drawing is made. When there is to be but one person nominated for the office, the names of the several candidates who have filed petitions for such office shall be written upon cards (one name on a card) of the same size, substance and thickness. The cards shall be deposited in a box with an aperture in the cover of sufficient size to admit a man's hand. The box shall be well shaken and turned over to thoroughly mix the cards, and the cards shall then be withdrawn one at a time. The first name drawn shall have first place, the second name drawn, second place, and so on; the order of the withdrawal of the cards from the box determining the order of arrangement in which the names shall appear upon the primary election ballot. Where there is more than one person to be nominated to an office where petitions have designated that certain candidates shall be bracketed, the position of such bracketed names on the ballot (each bracket to be treated as a single name), together with individuals who have filed petitions for nomination for such office, shall be determined as above described. Where there is more than one person to be nominated for an office and there are more candidates who have filed petitions than there are persons to be nominated, the order of the printing of such names upon the primary election ballots shall be determined as above described.

The county clerk in certifying to the municipal clerk the offices to be filled and the names of candidates to be printed upon the primary election ballots, shall certify them in the order as drawn in accordance with the above described procedure, and the municipal clerk shall print the names upon the ballots as so certified and in addition shall print the names of such candidates as have filed petitions with him in the order as determined as a result of the drawing as above described. Candidates for the office of the county executive in counties that have adopted the county executive plan of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), shall precede the candidates for other county offices for which there are candidates on the primary election ballot.

4. This act shall take effect immediately and shall first apply to the primary or general election occurring not less than 90 days after the effective date of this act.

Approved August 2, 1995.

CHAPTER 192

AN ACT requiring continuing education for practitioners of mortuary science, supplementing P.L.1952, c.340 (C.45:7-32 et seq.) and repealing section 41 of P.L.1952, c.340.

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

C.45:7-72.1 Continuing education requirements.

1. The State Board of Mortuary Science of New Jersey shall require each person licensed to practice mortuary science, embalming or funeral directing, as a condition for biennial license renewal pursuant to section 23 of P.L.1952, c.340 (C.45:7-54), to complete any continuing education requirements imposed by the board pursuant to section 2 of this act.

C.45:7-72.2 Regulation of continuing education.

2. a. The board shall implement a program of continuing education as a condition of license renewal for licensees under its jurisdiction and may, in its discretion, waive all or part of the continuing education requirement for any biennial licensing period. The board shall establish standards for continuing education, including the subject matter and content of courses of study, the selection of instructors, and the number and type of continuing education credits required of a licensee as a condition for biennial license renewal.

b. The board may establish a system for reviewing and approving private sponsors of continuing education courses, seminars or programs which may be utilized to provide continuing education to licensees in satisfaction of the requirements imposed by this act.

Repealer.

3. Section 41 of P.L.1952, c.340 (C.45:7-72) is repealed.

4. This act shall take effect immediately and shall apply to licenses renewed on or after the 180th day following enactment.

Approved August 2, 1995.

CHAPTER 193

AN ACT concerning the compensation of members of district boards of election and of school election officers and amending R.S.19:45-6 and N.J.S.18A:14-8.

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

1. R.S 19:45-6 is amended to read as follows:

Members of district boards; compensation.

19:45-6. The compensation of each member of the district boards for all services performed by them under the provisions of this Title shall be as follows:

In all counties, for all services rendered including the counting of the votes, and in counties wherein voting machines are used, the tabulation of the votes registered on the voting machines, and the delivery of the returns, registry binders, ballot boxes and keys for the voting machines to the proper election officials, $75 each time the primary election, the general election or any special election is held under this Title, except that the governing body of a county may, by ordinance or resolution as appropriate, provide that such amount shall be $100 for the members of each district board within the county performing those services at such an election; provided, however, that:

a. (1) The member of the board charged with the duty of obtaining and signing for the signature copy registers shall receive an additional $12.50 per election, such remuneration being limited to only one board member per election, or $6.25 to each of two board members if they share such responsibility for the signature copy registers, and (2) the member of the board charged with the duty of returning the signature copy registers shall receive an additional $12.50 per election, such remuneration being limited to only one board member per election, or $6.25 to each of two board members if they share such responsibility for the signature copy registers;

b. In the case of any member of the board who is required under R.S.19:50-1 to attend in a given year a training program for district board members, but who fails to attend such a training program in that year, that compensation shall be $50.00 for each of those elections; and

c. In counties wherein voting machines are used no compensation shall be paid for any services rendered at any special election held at the same time as any primary or general election. Such compensation shall be in lieu of all other fees and payments.

Compensation due each member shall be paid within 30 days but not within 20 days after each election; provided, however, that no compensation shall be paid to any member of any such district board who may have been removed from office or application for the removal of whom is pending under the provisions of R.S.19:6-4.

2. N.J.S.18A:14-8 is amended to read as follows:

Compensation.

18A:14-8. a. Each election officer shall be paid by the board for his services in conducting each election at an hourly rate not to exceed the maximum hourly rate established pursuant to subsection b. of this section for each hour actually worked, as may be fixed by the board of education.

b. The maximum hourly rate to be paid to school election officers at school elections within a county shall be equal to 1/13 of the daily compensation payable to members of district boards of elections within the county pursuant to R.S.19:45-6, exclusive of any adjustments to that compensation which may be made pursuant to subsection a., b. or c. of that section.

3. This act shall take effect immediately.

Approved August 2, 1995.

CHAPTER 194

AN ACT concerning joint candidates committees and amending P.L.1973, c.83.

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

1. Section 3 of P.L.1973, c.83 (C.19:44A-3) is amended to read as follows:

C.19:44A-3 Definitions.

3. As used in this act, unless a different meaning clearly appears from the context:

a. (Deleted by amendment, P.L.1993, c.65.)

b. (Deleted by amendment, P.L.1993, c.65.)

c. The term "candidate" means: (1) an individual seeking election to a public office of the State or of a county, municipality or school district at an election; except that the term shall not include an individual seeking party office; and (2) an individual who shall have been elected or failed of election to an office, other than a party office, for which he sought election and who receives contributions and makes expenditures for any of the purposes authorized by section 17 of P.L.1993, c.65 (C.19:44A-11.2) during the period of his service in that office.

d. The terms "contributions" and "expenditures" include all loans and transfers of money or other thing of value to or by any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee and all pledges or other commitments or assumptions of liability to make any such transfer; and for purposes of reports required under the provisions of this act shall be deemed to have been made upon the date when such commitment is made or liability assumed.

e. The term "election" means any election described in section 4 of this act.

f. The term "paid personal services" means personal, clerical, administrative or professional services of every kind and nature including, without limitation, public relations, research, legal, canvassing, telephone, speech writing or other such services, performed other than on a voluntary basis, the salary, cost or consideration for which is paid, borne or provided by someone other than the committee, candidate or organization for whom such services are rendered. In determining the value, for the purpose of reports required under this act, of contributions made in the form of paid personal services, the person contributing such services shall furnish to the treasurer through whom such contribution is made a statement setting forth the actual amount of compensation paid by said contributor to the individuals actually performing said services for the performance thereof. But if any individual or individuals actually performing such services also performed for the contributor other services during the same period, and the manner of payment was such that payment for the

services contributed cannot readily be segregated from contemporary payment for the other services, the contributor shall in his statement to the treasurer so state and shall either (1) set forth his best estimate of the dollar amount of payment to each such individual which is attributable to the contribution of his paid personal services, and shall certify the substantial accuracy of the same, or (2) if unable to determine such amount with sufficient accuracy, set forth the total compensation paid by him to each such individual for the period of time during which the services contributed by him were performed. If any candidate is a holder of public office to whom there is attached or assigned, by virtue of said office, any aide or aides whose services are of a personal or confidential nature in assisting him to carry out the duties of said office, and whose salary or other compensation is paid in whole or part out of public funds, the services of such aide or aides which are paid for out of public funds shall be for public purposes only; but they may contribute their personal services, on a voluntary basis, to such candidate for election campaign purposes.

g. (Deleted by amendment, P.L.1983, c.579.)

h. The term "political information" means any statement including, but not limited to, press releases, pamphlets, newsletters, advertisements, flyers, form letters, or radio or television programs or advertisements which reflects the opinion of the members of the organization on any candidate or candidates for public office, on any public question, or which contains facts on any such candidate, or public question whether or not such facts are within the personal knowledge of members of the organization.

i. The term "political committee" means any two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association which is organized to, or does, aid or promote the nomination, election or defeat of any candidate or candidates for public office, or which is organized to, or does, aid or promote the passage or defeat of a public question in any election, if the persons, corporation, partnership or incorporated or unincorporated association raises or expends $1,000.00 or more to so aid or promote the nomination, election or defeat of a candidate or candidates or the passage or defeat of a public question; provided that for the purposes of this act, the term "political committee" shall not include a "continuing political committee," as defined by subsection n. of this section, a "political party committee," as defined by subsection p. of this section, a "candidate committee," as defined by subsection q. of

this section, a "joint candidates committee," as defined by subsection r. of this section or a "legislative leadership committee," as defined by subsection s. of this section.

j. The term "public solicitation" means any activity by or on behalf of any candidate, political committee, continuing political committee, candidate committee, joint candidates committee, legislative leadership committee or political party committee whereby either (1) members of the general public are personally solicited for cash contributions not exceeding $20.00 from each person so solicited and contributed on the spot by the person so solicited to a person soliciting or through a receptacle provided for the purpose of depositing contributions, or (2) members of the general public are personally solicited for the purchase of items having some tangible value as merchandise, at a price not exceeding $20.00 per item, which price is paid on the spot in cash by the person so solicited to the person so soliciting, when the net proceeds of such solicitation are to be used by or on behalf of such candidate, political committee, continuing political committee, candidate committee, joint candidates committee, legislative leadership committee or political party committee.

k. The term "testimonial affair" means an affair of any kind or nature including, without limitation, cocktail parties, breakfasts, luncheons, dinners, dances, picnics or similar affairs directly or indirectly intended to raise campaign funds in behalf of a person who holds, or who is or was a candidate for nomination or election to a public office in this State, or directly or indirectly intended to raise funds in behalf of any political party committee or in behalf of a political committee, continuing political committee, candidate committee, joint candidates committee or legislative leadership committee.

l. The term "other thing of value" means any item of real or personal property, tangible or intangible, but shall not be deemed to include personal services other than paid personal services.

m. The term "qualified candidate" means:

(1) Any candidate for election to the office of Governor whose name appears on the general election ballot; who has deposited and expended $150,000.00 pursuant to section 7 of P.L.1974, c.26 (C.19:44A-32); and who, not later than September 1 preceding a general election in which the office of Governor is to be filled, (a) notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for general election campaign expenses

under subsection b. of section 8 of P.L.1974, c.26 (C.19:44A-33), and (b) signs a statement of agreement, in a form to be prescribed by the commission, to participate in two interactive gubernatorial election debates under the provisions of sections 9 through 11 of P.L.1989, c.4 (C.19:44A-45 through C.19:44A-47); or

(2) Any candidate for election to the office of Governor whose name does not appear on the general election ballot; who has deposited and expended $150,000.00 pursuant to section 7 of P.L.1974, c.26 (C.19:44A-32); and who, not later than September 1 preceding a general election in which the office of Governor is to be filled, (a) notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for general election campaign expenses under subsection b. of section 8 of P.L.1974, c.26 (C.19:44A-33), and (b) signs a statement of agreement, in a form to be prescribed by the commission, to participate in two interactive gubernatorial election debates under the provisions of sections 9 through 11 of P.L.1989, c.4 (C.19:44A-45 through C.19:44A-47); or

(3) Any candidate for nomination for election to the office of Governor whose name appears on the primary election ballot; who has deposited and expended $150,000.00 pursuant to section 7 of P.L.1974, c.26 (C.19:44A-32); and who, not later than the last day for filing petitions to nominate candidates to be voted upon in a primary election for a general election in which the office of Governor is to be filled, (a) notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for primary election campaign expenses under subsection a. of section 8 of P.L.1974, c.26 (C.19:44A-33), and (b) signs a statement of agreement, in a form to be prescribed by the commission, to participate in two interactive gubernatorial primary debates under the provisions of sections 9 through 11 of P.L.1989, c.4 (C.19:44A-45 through C.19:44A-47); or

(4) Any candidate for nomination for election to the office of Governor whose name does not appear on the primary election ballot; who has deposited and expended $150,000.00 pursuant to section 7 of P.L.1974, c.26 (C.19:44A-32); and who, not later than the last day for filing petitions to nominate candidates to be voted upon in a primary election for a general election in which the office of Governor is to be filled, (a) notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for

monies for primary election campaign expenses under subsection a. of section 8 of P.L.1974, c.26 (C.19:44A-33), and (b) signs a statement of agreement, in a form to be prescribed by the commission, to participate in two interactive gubernatorial primary debates under the provisions of sections 9 through 11 of P.L.1989, c.4 (C.19:44A-45 through C.19:44A-47).

n. The term "continuing political committee" means any 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 may be expected to make contributions toward such aid or promotion or passage or defeat during a subsequent election, provided that the group, corporation, partnership, association or other organization has been determined to be a continuing political committee under subsection b. of section 8 of P.L.1973, c.83 (C.19:44A-8); provided that for the purposes of this act, the term "continuing political committee" shall not include a "political party committee," as defined by subsection p. of this section, or a "legislative leadership committee," as defined by subsection s. of this section.

o. The term "statement of agreement" means a written declaration, by a candidate for nomination for election or for election to the office of Governor who intends that application will be made on that candidate's behalf to receive monies for primary election or general election campaign expenses under subsection a. or subsection b., respectively, of section 8 of P.L.1974, c.26 (C.19:44A-33), that the candidate undertakes to abide by the terms of any rules established by any private organization sponsoring a gubernatorial primary or general election debate, as appropriate, to be held under the provisions of sections 9 through 11 of P.L.1989, c.4 (C.19:44A-45 through C.19:44A-47) and in which the candidate is to participate. The statement of agreement shall include an acknowledgment of notice to the candidate who signs it that failure on that candidate's part to participate in any of the gubernatorial debates may be cause for the termination of the payment of such monies on the candidate's behalf and for the imposition of liability for the return to the commission of such monies as may previously have been so paid.

p. The term "political party committee" means the State committee of a political party, as organized pursuant to R.S.19:5-4, any county committee of a political party, as organized pursuant to R.S.19:5-3, or any municipal committee of a political party, as organized pursuant to R.S.19:5-2.

q. The term "candidate committee" means a committee established pursuant to subsection a. of section 9 of P.L.1973, c.83 (C.19:44A-9) for the purpose of receiving contributions and making expenditures.

r. The term "joint candidates committee" means a committee established pursuant to subsection a. of section 9 of P.L.1973, c.83 (C.19:44A-9) by at least two candidates for the same elective public offices in the same election in a legislative district, county, municipality or school district, but not more candidates than the total number of the same elective public offices to be filled in that election, for the purpose of receiving contributions and making expenditures. For the purpose of this subsection: the offices of member of the Senate and members of the General Assembly shall be deemed to be the same elective public offices in a legislative district; the offices of member of the board of chosen freeholders and county executive shall be deemed to be the same elective public offices in a county; and the offices of mayor and member of the municipal governing body shall be deemed to be the same elective public offices in a municipality.

s. The term "legislative leadership committee" means a committee established, authorized to be established, or designated by the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly or the Minority Leader of the General Assembly pursuant to section 16 of P.L.1993, c.65 (C.19:44A-10.1) for the purpose of receiving contributions and making expenditures.

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. 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).

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. This act shall take effect immediately.

Approved August 2, 1995.

CHAPTER 195

AN ACT concerning certain absentee ballots and amending and supplementing P.L.1976, c.23.

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

1. Section 4 of P.L.1976, c.23 (C.19:59-4) is amended to read as follows:

C.19:59-4 Request for application; qualification to vote.

4. a. Requests for an application to vote in a federal election as an overseas federal election voter may be made by or on behalf of an applicant to the county clerk of the county in which the applicant was formerly domiciled or to the Secretary of State of New Jersey if the applicant does not know the county of his former domicile. All such applications shall be forwarded to such voters by air mail or by fax, if so requested by the voter. Any overseas Federal election voter requesting that an application for a ballot be sent to that voter by fax shall supply to the Secretary of State or the county clerk, as is appropriate, the telephone number and location to which the application is to be sent. To qualify an applicant to be sent a ballot by air mail in order to vote in an election, the applicant's completed application shall be received by the appropriate county clerk on or before the thirtieth day preceding the election. To qualify an applicant to be sent a ballot by fax in order to vote in an election, the applicant's completed application shall be received by the appropriate county clerk on or before the fourth day preceding the election.

b. An overseas federal election voter may use a federal postcard application form to register to vote or to apply for an overseas federal election voter ballot. The voter may send the form by air mail or by fax to either the appropriate county clerk or the Secretary of State and, in the case of an application for a ballot, may request that the ballot be sent by air mail or by fax. Any voter sending the form by fax shall also mail simultaneously the federal postcard application form to the appropriate county clerk or the Secretary of State. Any federal postcard application for a ballot sent by an overseas federal election voter and received by a county clerk or the Secretary of State shall also be considered a request for registration if that voter is not already registered.

2. Section 10 of P.L.1976, c.23 (C.19:59-10) is amended to read as follows:

C.19:59-10 Completion and mailing of ballot.

10. a. For overseas federal election voter ballots other than such ballots sent to the voter by fax, the procedure for completing the ballot shall be as follows:

Upon completion of the ballot by indicating his choice of candidates for the offices named, the ballot shall be placed in the

inner envelope and sealed. Upon completion and signing in his handwriting the certificate attached to the inner envelope, the inner envelope shall be placed in the outer envelope which when sealed shall be mailed postage prepaid to the county board of elections whose address is printed thereon.

b. For overseas federal election voter ballots sent to the voter by fax, the procedure for completing the ballot shall be as follows:

After the ballot is received and completed by the voter by indicating that person's choice of candidates for the offices named, the ballot shall be placed in a secure envelope. Upon completion and signing in the voter's handwriting of the certificate sent to the voter pursuant to section 8 of P.L.1976, c.23 (C.19:59-8), it shall be placed in the same envelope as the voted ballot. The envelope shall then be sealed securely and sent immediately by air mail to the appropriate county board of elections in this State.

c. Notwithstanding the provisions of subsections a. and b. of this section, a copy of a voted overseas federal election voter ballot may be transmitted by fax to the appropriate county board of elections in this State. Such a ballot shall be subject to the provisions of sections 3 and 4 of P.L.1995, c.195 (C.19:59-14 and C.19:59-15).

C.19:59-14 Validity of faxed overseas, absentee ballot.

3. Notwithstanding any law, rule or regulation to the contrary, a copy of a voted overseas federal election voter ballot or of a voted federal write-in absentee ballot which is transmitted by fax to the appropriate county board of elections in this State shall be considered valid and counted if it:

a. is from a qualified voter;

b. has been transmitted to the appropriate county board of elections no later than the time designated by law for the closing of the polls on that day; and

c. is accompanied by the following statement, which shall be certified by the voter's signature: "I understand that by faxing a copy of my voted ballot I am voluntarily waiving my right to a secret ballot. At the same time, I pledge to place the original voted ballot in a secure envelope, together with any other required certification, and send the documents immediately by air mail to the appropriate county board of elections."

C.19:59-15 Procedure relative to faxed ballots.

4. a. Immediately after a copy of the voted overseas federal election voter ballot or federal write-in absentee ballot has been faxed to the appropriate county board of elections, as permitted

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pursuant to section 3 of P.L.1995, c.195 (C.19:59-14), the overseas federal election voter shall place the original voted ballot in a secure envelope, together with a certificate substantially the same as provided for in section 9 of P.L.1976, c.23 (C.19:59-9), and send the documents by air mail to the appropriate county board of elections.

b. All copies of voted ballots received by fax shall be approved, disapproved, processed and counted, and disputes in connection therewith shall be handled, in the same manner as is applicable to other absentee ballots. No ballot received after the time designated for the closing of the polls shall be counted.

c. The county board of elections shall take all necessary precautions to preserve the security of the ballot materials and specifically shall ensure that the vote cast by a voter using a faxed ballot is not revealed, except to the extent necessary by law or judicial determination. Upon the completion of all inspections of a faxed ballot required by law, the board or any employee thereof acting under its direction shall promptly separate the waiver certification from the faxed ballot. Any person handling a faxed ballot shall not identify the votes cast by any voter, except upon judicial determination.

d. Prior to certification of the results of the election, the county board shall:

(1) compare the information on the faxed copy of each voted ballot with the same on the original voted ballot sent by air mail by the voter who faxed to the county board a copy of the voted ballot, and the signature on the statement received by fax with the signature on the certificate received by air mail; and

(2) ascertain whether an original voted ballot has been received for each faxed copy of a voted ballot received and counted.

Whenever the particulars of the faxed copy of a voted ballot of a voter do not conform exactly with the particulars of the original voted ballot sent by air mail to the county board afterwards by that voter and whenever an original voted ballot has not been received which corresponds to a faxed copy of a voted ballot which has been received and counted by the county board, those ballots and all other pertinent documents and information relative to those ballots shall be turned over to the superintendent of elections in counties having a superintendent and the prosecutor in all other counties for further investigation and action.

e. Within 30 days after the election, the county board shall gather and keep together the faxed copy of the voted ballot, the certified statement and the original voted ballot sent by air mail of each voter who transmitted a copy of a voted ballot by fax.

Those ballots needed for an investigation conducted by the superintendent of elections or the county prosecutor, as the case may be, or by any other law enforcement official shall be returned to the county board as soon as practicable after the conclusion of the investigation. All ballots and documents relative to a faxed copy of a voted ballot received by the county board shall be retained by it for a period of one year following the day of the election. The superintendent of elections in counties having a superintendent and the prosecutor in all other counties shall have the authority to impound all such documents whenever he shall deem such action necessary.

5. This act shall take effect on January 1st following enactment.

Approved August 2, 1995.

CHAPTER 196

AN ACT establishing procedures to convert a health service corporation to a domestic mutual insurer, amending P.L.1992, c.162, amending and supplementing P.L.1992, c.161 and supplementing P.L.1985, c.236.

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

C.17:48E-45 Definitions relative to conversion.

1. As used in sections 2 through 4 of this act:

"Commissioner" means the Commissioner of Insurance.

"Conversion" means the conversion of a health service corporation to a domestic mutual insurer in accordance with the provisions of sections 2 through 4 of P.L.1995, c.196 (C.17:48E-46 through C.17:48E-48).

"Domestic mutual insurer" means an insurer as defined pursuant to N.J.S.17B:18-3.

"Health maintenance organization" means a health maintenance organization as defined pursuant to section 2 of P.L.1973, c.337 (C.26:2J-2).

C.17:48E-46 Conversion of health service corporation to domestic mutual insurer.

2. A health service corporation which is organized pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.) may convert to a domestic

mutual insurer by complying with the provisions of sections 2 through 4 of this act.

a. The board of directors of a health service corporation shall adopt a resolution to become a domestic mutual insurer at a meeting of the board by a two-thirds affirmative vote of the total number of directors of the health service corporation. A copy of the minutes of the meeting at which that resolution is adopted shall be filed with the commissioner. The resolution shall include a plan for conversion to domestic mutual insurer, including a proposed certificate of incorporation and bylaws. The plan shall include:

(1) the purpose of the conversion;

(2) the effect of conversion on existing subscriber contracts issued by the health service corporation;

(3) a business plan;

(4) a provision that each policyholder shall receive any rights with respect to the mutual insurer as may be prescribed by the commissioner, provided that such rights shall not exceed the rights provided to policyholders of other domestic mutual insurers authorized to transact the business of health insurance;

(5) a provision that each policyholder shall be notified of the conversion, which notification process shall be approved by the commissioner; and

(6) a provision incorporating the recovery plan established pursuant to section 5 of P.L.1988, c.71 (C.17:48E-17.1).

b. No director, officer, agent or employee of any health service corporation shall receive any fee, commission, compensation or other valuable consideration for aiding, promoting or assisting in the conversion of the health service corporation to a domestic mutual insurer except as set forth in the plan for such conversion as required pursuant to subsection a. of this section and as approved by the commissioner.

C.17:48E-47 Filing, approval of conversion plan.

3. a. Upon the affirmative vote of the board of directors, the plan for conversion to domestic mutual insurer shall be filed with the commissioner for approval. A public hearing thereon shall be held within 30 days after the filing, with notice provided by publication in a manner satisfactory to the commissioner. At the expiration of 30 days after the public hearing, the commissioner shall approve the plan for filing or disapprove the plan. The commissioner shall approve the plan unless he finds the plan:

(1) is contrary to law;

(2) would be detrimental to the safety or soundness of the proposed domestic mutual insurer; or

(3) prejudices the interests of the subscribers of the health service corporation or treats them inequitably.

The commissioner shall set forth his decision in writing and shall state the reasons therefor. A disapproval shall be subject to judicial review.

b. Upon approval of such a plan by the commissioner and the issuance of a certificate of authority to transact the business of health insurance as a domestic mutual insurer, the health service corporation shall be deemed to be a domestic mutual insurer subject to the provisions of Title 17B of the New Jersey Statutes. All the rights, franchises and interests of the health service corporation in and to every species of property, real, personal and mixed, and choses in action thereunto belonging, shall be deemed transferred to and vested in the domestic mutual insurer, without another deed or transfer and simultaneously therewith the domestic mutual insurer shall be deemed to have assumed all of the obligations and liabilities of the health service corporation and shall hold and enjoy the same to the same extent as if the health service corporation had continued to retain title and transact business.

c. No action or proceedings pending at the time of the conversion of the health service corporation to a domestic mutual insurer to which the health service corporation may be a party shall be abated or discontinued by reason of such conversion, but the same may be prosecuted to final judgment in the same manner as if the conversion had not taken place, or the domestic mutual insurer may be substituted in place of such health service corporation by order of the court in which the action or proceedings may be pending.

d. The contracts of the health service corporation shall be converted to the policies of the domestic mutual insurer without any further action on the part of the domestic mutual insurer. The conversion to a domestic mutual insurer shall not cause any individual health benefits plan issued prior to November 30, 1992 and still in effect to be subject to the provisions of sections 3 through 8 of P.L.1992, c.161 (C.17B:27A-4 through 17B:27A-9), except as specified in those sections, or any small employer health benefits plan issued prior to November 30, 1992 and still in effect to be subject to the provisions of section 3 of P.L.1992, c.162 (C.17B:27A-19).

e. A domestic mutual insurer that has converted from a health service corporation may apply to the commissioner for a temporary waiver of the capital and surplus requirements pursuant to

sections 2 through 6 of P.L.1993, c.235 (C.17B:18-68 through 17B:18-72). The commissioner may grant such a waiver for a period not to extend beyond December 31, 1999.

C.17:48E-48 Directors and officers, terms.

4. a. Public members of the board of directors of the health service corporation shall serve as directors of the domestic mutual insurer to the end of the term for which they were appointed and thereafter may be elected as directors of the domestic mutual insurer in accordance with the provisions of N.J.S.17B:18-11 through 17B:18-17. Members of the board of directors of the health service corporation, other than such public members, shall be designated in the proposed certificate of incorporation and upon expiration of their designated terms may be elected in accordance with the provisions of N.J.S.17B:18-11 through 17B:18-17.

b. The bylaws of the domestic mutual insurer shall provide for the appointment of officers, and may provide that the officers of the health service corporation serve to the end of the term to which they were appointed under the bylaws of the health service corporation.

C.17B:27A-16.5 Hospital, medical insurance policy renewals; filing of rates.

5. A domestic mutual insurer which has converted from a health service corporation pursuant to the provisions of sections 2 through 4 of P.L.1995, c.196 (C.17:48E-46 through C.17:48E-48) shall not renew individual hospital or medical insurance policies or health service contracts originally issued prior to November 30, 1992, until it has made an informational filing with the New Jersey Individual Health Coverage Program Board, of a full schedule of rates which are to apply to those contracts. The New Jersey Individual Health Coverage Program Board shall forward a copy of such filing to the commissioner. The rates shall be formulated so that the anticipated minimum loss ratio for such policy or contract form shall not be less than 75% of the premium. Such domestic mutual insurer shall submit with its rate filing supporting data and a certification that the insurer is in compliance with the anticipated loss ratio requirement. The content and form of the supporting data and certification required pursuant to subsection e. of section 8 of P.L.1992, c.161 (C.17B:27A-9) shall satisfy the requirements of this section. Any other insurer may irrevocably elect to become subject to the provisions of this section by written notice to the commissioner, except that such informational filing by any other insurer shall be in a format specified by the commissioner and shall

be made directly to the commissioner and not to the New Jersey Individual Health Coverage Program Board.

6. Section 9 of P.L.1992, c.161 (C.17B:27A-10) is amended to read as follows:

C.17B:27A-10 New Jersey Individual Health Coverage Program; board of directors.

9. a. There is created the New Jersey Individual Health Coverage Program. All carriers subject to the provisions of this act shall be members of the program.

b. Within 30 days of the effective date of this act, the commissioner shall give notice to all members of the time and place for the initial organizational meeting, which shall take place within 60 days of the effective date. The board shall consist of nine representatives. The commissioner or his designee shall serve as an ex officio member on the board. Four members of the board shall be appointed by the Governor, with the advice and consent of the Senate: one of whom shall be a representative of an employer, appointed upon the recommendation of a business trade association, who is a person with experience in the management or administration of an employee health benefit plan; one of whom shall be a representative of organized labor, appointed upon the recommendation of the A.F.L.-C.I.O., who is a person with experience in the management or administration of an employee health benefit plan; and two of whom shall be consumers of a health benefits plan who are reflective of the population in the State. Four board members who represent carriers shall be elected by the members, subject to the approval of the commissioner, as follows: to the extent there is one licensed in this State that is willing to have a representative serve on the board, a representative from each of the following entities shall be elected:

(1) until December 31, 1999, a health service corporation or a domestic mutual insurer which converted from a health service corporation in accordance with the provisions of sections 2 through 4 of P.L.1995, c.196 (C.17:48E-46 through C.17:48E-48). After that date, a domestic mutual insurer which, either directly or through a subsidiary health maintenance organization, is primarily engaged in the business of issuing health benefits plans;

(2) a health maintenance organization;

(3) a mutual health insurer of this State subject to Subtitle 3 of Title 17B of the New Jersey Statutes; and

(4) a foreign health insurance company authorized to do business in this State.

In approving the selection of the carrier representatives of the board, the commissioner shall assure that all members of the program are fairly represented.

Initially, two of the Governor's appointees and two of the carrier representatives shall serve for a term of three years; one of the Governor's appointees and one of the carrier representatives shall serve for a term of two years; and one of the Governor's appointees and one of the carrier representatives shall serve for a term of one year. Thereafter, all board members shall serve for a term of three years. Vacancies shall be filled in the same manner as the original appointments.

c. If the initial carrier representatives to the board are not elected at the organizational meeting, the commissioner shall appoint those members to the initial board within 15 days of the organizational meeting.

d. Within 90 days after the appointment of the initial board, the board shall submit to the commissioner a plan of operation and thereafter, any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the program. The commissioner may disapprove the plan of operation, if the commissioner determines that it is not suitable to assure the fair, reasonable, and equitable administration of the program, and that it does not provide for the sharing of program losses on an equitable and proportionate basis in accordance with the provisions of section 11 of this act. The plan of operation or amendments thereto shall become effective unless disapproved in writing by the commissioner within 45 days of receipt by the commissioner.

e. If the board fails to submit a suitable plan of operation within 90 days after its appointment, the commissioner shall adopt a temporary plan of operation pursuant to section 9 of P.L.1993, c.164 (C.17B:27A-16.2). The commissioner shall amend or rescind a temporary plan adopted under this subsection, at the time a plan of operation is submitted by the board.

f. The plan of operation shall establish procedures for:

(1) the handling and accounting of assets and moneys of the program, and an annual fiscal reporting to the commissioner;

(2) collecting assessments from members to provide for sharing program losses in accordance with the provisions of section 11 of this act and administrative expenses incurred or estimated to be incurred during the period for which the assessment is made;

(3) approving the coverage, benefit levels, and contract forms for individual health benefits plans in accordance with the provisions of section 3 of this act;

(4) the imposition of an interest penalty for late payment of an assessment pursuant to section 11 of this act; and

(5) any additional matters at the discretion of the board.

g. The board shall appoint an insurance producer licensed to sell health insurance pursuant to P.L.1987, c.293 (C.17:22A-1 et seq.) to advise the board on issues related to sales of individual health benefits plans issued pursuant to this act.

7. Section 13 of P.L.1992, c.162 (C.17B:27A-29) is amended to read as follows:

C.17B:27A-29 Meetings, organization of board; terms.

13. a. Within 60 days of the effective date of this act, the commissioner shall give notice to all members of the time and place for the initial organizational meeting, which shall take place within 90 days of the effective date. The members shall elect the initial board, subject to the approval of the commissioner. The board shall consist of 10 elected public members and two ex officio members who include the Commissioner of Health and the commissioner or their designees. Initially, three of the public members of the board shall be elected for a three-year term, three shall be elected for a two-year term, and three shall be elected for a one-year term. Thereafter, all elected board members shall serve for a term of three years. The following categories shall be represented among the elected public members:

(1) Two carriers whose principal health insurance business is in the small employer market;

(2) One carrier whose principal health insurance business is in the large employer market;

(3) Until December 31, 1999, a health, hospital or medical service corporation or a domestic mutual insurer which converted from a health service corporation in accordance with the provisions of sections 2 through 4 of P.L.1995, c.196 (C.17:48E-46 through C.17:48E-48). After that date, a health, hospital or medical service corporation or a domestic mutual insurer which, either directly or through a subsidiary health maintenance organization, is primarily engaged in the business of issuing health benefits plans;

(4) A health maintenance organization;

(5) A risk-assuming carrier;

(6) A reinsuring carrier utilizing the excess coverage provided for in this act; and

(7) Three persons representing small employers, at least one of whom represents minority small employers.

No carrier shall have more than one representative on the board.

In addition to the 10 elected public members, the board shall include six public members appointed by the Governor with the advice and consent of the Senate who shall include:

Two insurance producers licensed to sell health insurance pursuant to P.L.1987, c.293 (C.17:22A-1 et seq.);

One representative of organized labor;

One physician licensed to practice medicine and surgery in this State; and

Two persons who represent the general public and are not employees of a health benefits plan provider.

The public members shall be appointed for a term of three years, except that of the members first appointed, two shall be appointed for a term of one year, two for a term of two years and two for a term of three years.

A vacancy in the membership of the board shall be filled for an unexpired term in the manner provided for the original election or appointment, as appropriate.

b. If the initial board is not elected at the organizational meeting, the commissioner shall appoint the public members within 15 days of the organizational meeting, in accordance with the provisions of paragraphs (1) through (7) of subsection a. of this section.

c. The board shall determine the Statewide average payment per insured for each benefit plan provided for under this act. Each carrier who satisfies the efficiency and risk management standards promulgated by the board pursuant to subsection f. of section 15 of this act and whose average cost of insuring individuals covered by small employer health benefits plans exceeds the Statewide average cost of insuring such individuals by 20%, shall be reimbursed by the program for 80% of its costs in excess thereof.

d. All meetings of the board shall be subject to the requirements of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

e. At least two copies of the minutes of every meeting of the board shall be delivered forthwith to the commissioner.

8. This act shall take effect immediately.

Approved August 2, 1995.

CHAPTER 197

AN ACT concerning the employment of personnel at certain State correctional facilities and amending P.L.1983, c.280.

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

1. Section 1 of P.L.1983, c.280 (C.11:9-2.1) is amended to read as follows:

C.11:9-2.1 Residents' preference in employment.

1. Notwithstanding any provisions of law relating to required residence for State employees in Title 11 of the Revised Statutes, the appointing authority of any State correctional facility located in a county with a population of more than 135,000 but less than 175,000 inhabitants, according to the 1990 federal decennial census, shall appoint to positions of employment with the facility residents of the county in which the facility is located and residents of any adjoining county with a population of less than 100,000, according to the 1990 federal decennial census, and shall give first preference in appointments to positions of employment to residents of the municipality in which the facility is located and second preference in appointments to positions of employment (1) to residents of the county in which the facility is located; (2), in the case of any such State correctional facility in operation on the effective date of P.L.1995, c.197, to residents of any adjoining county of the sixth class having a population of less than 100,000, according to the 1990 federal decennial census; and (3), in the case of any such State correctional facility which becomes operational after the effective date of P.L.1995, c.197, to residents of any adjoining county of the third class having a population of less than 70,000, according to the 1990 federal decennial census, provided that:

a. The residents permanently appointed possess at least the minimum qualifications required by Civil Service specifications for the available positions, have lived in the county for at least six months and have complied with other requirements of Title 11 of the Revised Statutes; and

b. A sufficient number of qualified residents exists for permanent appointment to available positions.

Except as otherwise provided in this section, third preference in appointments to positions of employment shall be given to resi-

dents of any adjoining county with a population of less than 100,000, according to the 1990 federal decennial census, who have lived in the adjoining county for at least six months and who otherwise meet the requirements of subsections a. and b. of this section.

2. This act shall take effect immediately.

Approved August 2, 1995.

CHAPTER 198

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 Assembly Bill No. 47 (First Reprint) (Corrected Copy), dated August 3, 1995.

AN ACT appropriating $32,000,000 from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, for the acquisition of lands by the State for recreation and conservation purposes, and appropriating certain interest earnings and reappropriating certain unexpended balances for the acquisition and development of lands by the State for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection from the "1992 New Jersey Green Acres Fund," established pursuant to section 21 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the sum of $32,000,000 for the acquisition of lands by the State for recreation and conservation purposes. This sum shall include administrative costs and shall be allocated as follows:

Project	County	Estimated Cost
Additions to State Pks. & WMA	Statewide	$750,000
Cooperative Projects	Statewide	$2,250,000
Delaware Bay Greenway	Cape May/ Cumberland/ Salem	$2,250,000
Delaware River Greenway	Various	$500,000
D & R Canal Greenway	Various	$250,000
Farny Highlands	Morris	$3,250,000

Great Egg Harbor/Tuckahoe Greenway	Various	$1,250,000
Historic Resource Areas	Statewide	$750,000
Jenny Jump State Forest	Warren	$1,000,000
Musconetcong River Greenway	Hunterdon/ Morris/Warren	$2,250,000
Natural Areas/ Critical Resources	Statewide	$2,700,000
Nonprofit Camps	Statewide	$1,500,000
Norvin Green/ Long Pond Connector	Passaic	$1,500,000
Paulinskill River Greenway	Sussex/Warren	$1,750,000
Pequest River Greenway	Warren	$800,000
Pinelands	Various	$3,000,000
Recreational Trails	Statewide	$1,000,000
Ringwood/Ramapo Additions	Bergen/Passaic	$500,000
Stokes/High Point Additions	Sussex	$500,000
Swartswood State Park Additions	Sussex	$500,000
Technical Costs	Statewide	$250,000
Water Access Sites	Statewide	$1,500,000
Watershed Lands	Statewide	$1,000,000
Wawayanda Additions	Passaic	$500,000
Contingency	Statewide	$500,000

b. Any transfer of any funds listed in this section, section 1 of P.L.1993, c.386, section 1 of P.L.1993, c.217, section 1 of P.L.1991, c.522, or section 1 of P.L.1991, c.13, shall require the approval of the Joint Budget Oversight Committee or its successor.

c. There is reappropriated to the Department of Environmental Protection the unexpended balances of the amounts appropriated for State projects pursuant to (1) section 1 of P.L.1993, c.386, and section 1 of P.L.1993, c.217, from the "1992 New Jersey Green Acres Fund" established pursuant to section 21 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and (2) section 1 of P.L.1991, c.522, and section 1 of P.L.1991, c.13, from the "1989 New Jersey Green Acres Fund," established pursuant to section 18 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, for the State projects listed in this section, section 1 of P.L.1993, c.386, section 1 of P.L.1993, c.217, section 1 of P.L.1991, c.522, and section 1 of P.L.1991, c.13, for the acquisition and development of lands by the State for recreation and conservation purposes and for the purpose of administrative costs associated

with any such projects, to the extent such funds are available as a result of project cancellations or cost savings.

d. There is appropriated to the Department of Environmental Protection such sums as may be or become available on or before June 30, 1996, due to interest earnings in the "1992 New Jersey Green Acres Fund" established pursuant to section 21 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and in the "1989 New Jersey Green Acres Fund" established pursuant to section 18 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, for the State projects listed in this section, section 1 of P.L.1993, c.386, section 1 of P.L.1993, c.217, section 1 of P.L.1991, c.522, and section 1 of P.L.1991, c.13, for the acquisition and development of lands by the State for recreation and conservation purposes and for the purpose of administrative costs associated with any such projects.

2. The expenditure of the sums appropriated by section 1 of this act is subject to the provisions and conditions of P.L.1992, c.88, and P.L.1989, c.183, as appropriate.

3. This act shall take effect immediately.

Approved August 3, 1995.

CHAPTER 199

AN ACT appropriating $31,469,375 from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and reappropriating $10,608,375 from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, $10,000,000 from the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, $806,250 from the "New Jersey Green Acres Bond Act of 1978," P.L.1978, c.118, and $1,000,000 from the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974," P.L.1974, c.102, and authorizing the use of unexpended balances, interest earnings, and loan repayments from certain Green Acres bond acts, to assist local government units to acquire and develop lands for recreation and conservation purposes; and approving projects of certain local government units in southern New Jersey as eligible for funding with moneys made available from certain Green Acres bond acts.

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

1. There is appropriated to the Department of Environmental Protection from the "1992 New Jersey Green Trust Fund" established pursuant to section 22 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the sum of $31,469,375, and there is reappropriated to the department from the "1989 New Jersey Green Trust Fund" established pursuant to section 19 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the sum of $10,608,375, from the "Green Trust Fund" established pursuant to section 16 of the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, the sum of $10,000,000, from the "State Land Acquisition and Development Fund" established pursuant to section 15 of the "New Jersey Green Acres Bond Act of 1978," P.L.1978, c.118, the sum of $806,250, and from the "State Recreation and Conservation Land Acquisition and Development Fund" established pursuant to section 15 of the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974," P.L.1974, c.102, the sum of $1,000,000, to provide loans or grants, or both, to assist local government units to acquire and develop lands for recreation and conservation purposes, which sums shall include administrative costs, for projects approved as eligible for such funding pursuant to section 5 of this act, section 1 of P.L.1995, c.200, section 1 of P.L.1995, c.201, section 1 of P.L.1995, c.202, and section 1 of P.L.1995, c.203.

2. a. There is reappropriated to the Department of Environmental Protection the unexpended balances of the amounts appropriated pursuant to P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, P.L.1991, c.522, P.L.1993, c.200, P.L.1993, c.201, P.L.1993, c.266, P.L.1993, c.267, P.L.1994, c.37, P.L.1994, c.45, P.L.1994, c.51, and P.L.1994, c.52 from the "Green Trust Fund" established pursuant to the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, from the "Green Trust Fund" established pursuant to the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, from the "1989 New Jersey Green Trust Fund" established pursuant to the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and from

the "1992 New Jersey Green Trust Fund" established pursuant to the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, for the purpose of making loans or grants, or both, to local government units for the projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, P.L.1991, c.522, P.L.1993, c.200, P.L.1993, c.201, P.L.1993, c.266, P.L.1993, c.267, P.L.1994, c.37, P.L.1994, c.45, P.L.1994, c.51, P.L.1994, c.52, section 5 of this act, section 1 of P.L.1995, c.200, section 1 of P.L.1995, c.201, section 1 of P.L.1995, c.202, and section 1 of P.L.1995, c.203, and for the purpose of administrative costs associated with any such projects, to the extent such funds are available as a result of project withdrawals or cost savings.

b. There is appropriated to the Department of Environmental Protection such sums as may be or become available on or before June 30, 1996, due to interest earnings or loan repayments, in (1) the "Green Trust Fund" established pursuant to the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, (2) the "Green Trust Fund" established pursuant to the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, (3) the "1989 New Jersey Green Trust Fund" established pursuant to the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and (4) the "1992 New Jersey Green Trust Fund" established pursuant to the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, for the purpose of making loans or grants, or both, to local government units for the projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, P.L.1991, c.522, P.L.1993, c.200, P.L.1993, c.201, P.L.1993, c.266, P.L.1993, c.267, P.L.1994, c.37, P.L.1994, c.45, P.L.1994, c.51, P.L.1994, c.52, section 5 of this act, section 1 of P.L.1995, c.200, section 1 of P.L.1995, c.201, section 1 of P.L.1995, c.202, and section 1 of P.L.1995, c.203, and for the purpose of administrative costs associated with any such projects.

3. Pursuant to the provisions of subsection c. of section 7 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, subsection c. of section 9 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, subsection c. of section 9 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987,"

P.L.1987, c.265, and subsection d. of section 4 of the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, as appropriate, all loans made to local government units with moneys appropriated or reappropriated pursuant to this act shall bear interest of not more than 2% per year and shall be for a term of not more than 20 years. All principal and interest payments repaid by the local government units shall be deposited into the respective "Green Trust Fund" from which the moneys were appropriated or reappropriated in accordance with the terms of a written loan agreement. The terms of the loan agreement shall be completed and executed on a form approved by the State Treasurer or his designee.

4. The expenditure of the sums appropriated or reappropriated by this act is subject to the provisions and conditions of P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, P.L.1983, c.354, P.L.1978, c.118, and P.L.1974, c.102, as appropriate.

5. a. The following projects are eligible for funding with the moneys appropriated or reappropriated pursuant to sections 1 and 2 of this act:

Local Government Unit	County	Project	Approved Amount
Absecon City	Atlantic	Absecon Recreation Dev.	$150,000
Margate City	Atlantic	Margate Waterfront Park Acq.	$350,000
Mansfield Twp.	Burlington	Mansfield Rec. Dev.	$150,000
Mount Holly Twp.	Burlington	Monroe St. Park Dev.	$330,000
Palmyra Boro	Burlington	Legion Park Dev.	$150,000
Pemberton Twp.	Burlington	Multi-Site Ph II Dev.	$300,000
Shamong Twp.	Burlington	Shamong Rec. Complex II Dev.	$150,000
Springfield Twp.	Burlington	Twp. Rec. Area Dev.	$150,000
Willingboro Twp.	Burlington	Olympia Lakes Acq.	$1,900,000
Camden City	Camden	Cooper River Park Acq.	$250,000
Gibbsboro Boro	Camden	Greenway Acq.	$1,261,000
Haddon Heights Boro	Camden	Devon Ave.Tennis Dev.	$137,000
Haddon Twp.	Camden	Crystal Lake Dev.	$223,000
Pine Hill Boro	Camden	Charles Bowen Rec. II Dev.	$134,000
Bridgeton City	Cumberland	Cohansey River-front III Dev.	$225,000
Bridgeton City	Cumberland	Cohansey River-front Adds Acq.	$70,000
Vineland City	Cumberland	Vineland Multi Parks Dev.	$677,000

Mantua Twp.	Gloucester	Chestnut Branch Park II Dev.	$296,000
Monroe Twp.	Gloucester	Earling E. Owens Park VII Dev.	$150,000
Washington Twp.	Gloucester	Washington Lake Park II Dev.	$400,000
Washington Twp.	Gloucester	Grenloch Lake Ph. II Acq.	$358,000
Manchester Twp.	Ocean	Harry Wright Lake Pk. Dev.	$475,000
Plumsted Twp.	Ocean	Recreation Park Dev.	$100,000
Point Pleasant Boro	Ocean	McKenna Lake Park Add. Acq.	$305,000
Seaside Park Boro	Ocean	Bayview Ave. Walkway Dev.	$330,000
Ship Bottom Boro	Ocean	Multi Waterfront Park Dev.	$425,000
Ship Bottom Boro	Ocean	Municipal Land Acq.	$445,000
Stafford Twp.	Ocean	Rudder Park Dev.	$500,000
Stafford Twp.	Ocean	Buccaneer Park Acq.	$1,500,000
Stafford Twp.	Ocean	Rudder Park Addition Acq.	$250,000

b. Any transfer of any funds or project sponsor, or change in project site, listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, the local government unit projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, P.L.1991, c.522, P.L.1993, c.200, P.L.1993, c.201, P.L.1993, c.266, P.L.1993, c.267, P.L.1994, c.37, P.L.1994, c.45, P.L.1994, c.51, P.L.1994, c.52, section 1 of P.L.1995, c.200, section 1 of P.L.1995, c.201, section 1 of P.L.1995, c.202, and section 1 of P.L.1995, c.203, shall be eligible for funding or additional funding, including administrative costs, in a sequence consistent with the priority system established by the Department of Environmental Protection, and shall require the approval of the Joint Budget Oversight Committee or its successor.

6. This act shall take effect immediately.

Approved August 3, 1995.

CHAPTER 200

AN ACT approving projects of certain local government units in Middlesex county as eligible for funding with moneys made available from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, the "New Jersey Green Acres Bond Act of 1978," P.L.1978, c.118, or the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974," P.L.1974, c.102.

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

1. a. The following projects are eligible for funding with moneys made available from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, the "New Jersey Green Acres Bond Act of 1978," P.L.1978, c.118, or the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974," P.L.1974, c.102, and which moneys are appropriated or reappropriated pursuant to sections 1 and 2 of P.L.1995, c.199:

Local Government Unit	County	Project	Approved Amount
Middlesex County	Middlesex	Old Bridge County Park Acq.	$5,000,000
Old Bridge Twp.	Middlesex	Rose Tract Acq.	$3,000,000
South Amboy City	Middlesex	Waterfront Park Dev.	$500,000
South Plainfield Boro	Middlesex	Environmental Ed. Reserve Acq.	$556,000

b. Any transfer of any funds or project sponsor, or change in project site, listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, the local government unit projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991,

c.15, P.L.1991, c.16, P.L.1991, c.522, P.L.1993, c.200, P.L.1993, c.201, P.L.1993, c.266, P.L.1993, c.267, P.L.1994, c.37, P.L.1994, c.45, P.L.1994, c.51, P.L.1994, c.52, section 5 of P.L.1995, c.199, section 1 of P.L.1995, c.201, section 1 of P.L.1995, c.202, and section 1 of P.L.1995, c.203, shall be eligible for funding or additional funding, including administrative costs, in a sequence consistent with the priority system established by the Department of Environmental Protection, and shall require the approval of the Joint Budget Oversight Committee or its successor.

2. This act shall take effect immediately.

Approved August 3, 1995.

CHAPTER 201

AN ACT approving projects of certain local government units in central New Jersey as eligible for funding with moneys made available from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, the "New Jersey Green Acres Bond Act of 1978," P.L.1978, c.118, or the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974," P.L.1974, c.102.

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

1. a. The following projects are eligible for funding with moneys made available from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, the "New Jersey Green Acres Bond Act of 1978," P.L.1978, c.118, or the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974," P.L.1974, c.102, and which moneys are appropriated or reappropriated pursuant to sections 1 and 2 of P.L.1995, c.199:

Local Government Unit	County	Project	Approved Amount
Hopewell Boro	Mercer	Hopewell Park Acq.	$3,000,000
Mercer County	Mercer	Mercer County Waterfront Dev.	$1,000,000
Mercer County	Mercer	Mercer Co. Pk. Facilities Dev.	$500,000
Princeton Twp.	Mercer	Woodfield Reserv. Add. Acq.	$900,000
Trenton City	Mercer	Mercer Co. Water-Front Pk. Dev.	$1,000,000
Trenton City	Mercer	Assunpink Creek Greenway Acq.	$1,800,000
Trenton City	Mercer	Chambers/Locust Garden Acq.	$45,000
Freehold Twp.	Monmouth	Open Space Acq.	$2,000,000
Keansburg Boro	Monmouth	Waterfront Park Acq.	$130,000
Middletown Twp.	Monmouth	Croyden Hall Dev.	$300,000
Monmouth County	Monmouth	Seven Presidents Park Add. Acq.	$500,000
Red Bank Boro	Monmouth	Riverside Gardens Dev.	$500,000

b. Any transfer of any funds or project sponsor, or change in project site, listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, the local government unit projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, P.L.1991, c.522, P.L.1993, c.200, P.L.1993, c.201, P.L.1993, c.266, P.L.1993, c.267, P.L.1994, c.37, P.L.1994, c.45, P.L.1994, c.51, P.L.1994, c.52, section 5 of P.L.1995, c.199, section 1 of P.L.1995, c.200, section 1 of P.L.1995, c.202, and section 1 of P.L.1995, c.203, shall be eligible for funding or additional funding, including administrative costs, in a sequence consistent with the priority system established by the Department of Environmental Protection, and shall require the approval of the Joint Budget Oversight Committee or its successor.

2. This act shall take effect immediately.

Approved August 3, 1995.

CHAPTER 202

AN ACT approving projects of certain local government units in northern New Jersey as eligible for funding with moneys made available from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, the "New Jersey Green Acres Bond Act of 1978," P.L.1978, c.118, or the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974," P.L.1974, c.102.

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

1. a. The following projects are eligible for funding with moneys made available from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, the "New Jersey Green Acres Bond Act of 1978," P.L.1978, c.118, or the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974," P.L.1974, c.102, and which moneys are appropriated or reappropriated pursuant to sections 1 and 2 of P.L.1995, c.199:

Local Government Unit	County	Project	Approved Amount
Carlstadt Boro	Bergen	Zimmermann Park Dev.	$150,000
Garfield City	Bergen	20th Century Field II Dev.	$800,000
Lyndhurst Twp.	Bergen	Landells Field Dev.	$150,000
Lyndhurst Twp.	Bergen	Riverfront Park Acq.	$385,000
Hunterdon County	Hunterdon	Mountain Preserve Acq.	$3,000,000
Mine Hill Twp.	Morris	Canfield Ave. Acq.	$3,000,000
Roxbury Twp.	Morris	Horseshoe Lake II Dev.	$175,000
Roxbury Twp.	Morris	AT&T Site/Mooney Mt.Acq.	$3,000,000
Passaic City	Passaic	Third Ward Park Dev.	$500,000
Bedminster Twp.	Somerset	River Road Park II Dev.	$175,000
Bridgewater Twp.	Somerset	Studdiford Farm Dev.	$400,000
Andover Twp.	Sussex	Hillside Park II Dev.	$100,000
Vernon Twp.	Sussex	Glenwood Mountain II Dev.	$500,000
Wantage Twp.	Sussex	Wantage Recreation Acq.	$400,000
Hope Twp.	Warren	Swayze Mill Park Dev.	$150,000

b. Any transfer of any funds or project sponsor, or change in project site, listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, the local government unit projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, P.L.1991, c.522, P.L.1993, c.200, P.L.1993, c.201, P.L.1993, c.266, P.L.1993, c.267, P.L.1994, c.37, P.L.1994, c.45, P.L.1994, c.51, P.L.1994, c.52, section 5 of P.L.1995, c.199, section 1 of P.L.1995, c.200, section 1 of P.L.1995, c.201, and section 1 of P.L.1995, c.203, shall be eligible for funding or additional funding, including administrative costs, in a sequence consistent with the priority system established by the Department of Environmental Protection, and shall require the approval of the Joint Budget Oversight Committee or its successor.

2. This act shall take effect immediately.

Approved August 3, 1995.

CHAPTER 203

AN ACT approving projects of certain local government units in northeastern New Jersey as eligible for funding with moneys made available from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, the "New Jersey Green Acres Bond Act of 1978," P.L.1978, c.118, or the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974," P.L.1974, c.102.

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

1. a. The following projects are eligible for funding with moneys made available from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992,

c.88, the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, the "New Jersey Green Acres Bond Act of 1978," P.L.1978, c.118, or the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974," P.L.1974, c.102, and which moneys are appropriated or reappropriated pursuant to sections 1 and 2 of P.L.1995, c.199:

Local Government Unit	County	Project	Approved Amount
City of Orange Twp.	Essex	Military Commons Restor. Dev.	$126,000
East Orange City	Essex	A.D.A. Multi-Parks Dev.	$96,000
East Orange City	Essex	Rowley Park Expansion Acq.	$30,000
East Orange City	Essex	Rowley Park Dev.	$780,000
East Newark Boro	Hudson	Municipal Park Acq.	$400,000
Harrison Town	Hudson	Passaic River Park Dev.	$500,000
Hoboken City	Hudson	L.L. Fld/North Park II Dev.	$1,000,000
Kearny Town	Hudson	Gunnell Oval Dev.	$250,000
North Bergen Twp.	Hudson	River View Park Dev.	$275,000
Secaucus Town	Hudson	Buchmuller Park Dev.	$470,000
Weehawken Twp.	Hudson	Municipal Stadium II Dev.	$500,000
Elizabeth City	Union	Vet. Mem. Waterfront Park Dev.	$575,000
Elizabeth City	Union	Rec. Pool Center Rehab. II Dev.	$425,000
Linden City	Union	Linden Waterfront Park Dev.	$500,000
Union Twp.	Union	Voorhees Park Acq.	$2,200,000

b. Any transfer of any funds or project sponsor, or change in project site, listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, the local government unit projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, P.L.1991, c.522, P.L.1993, c.200, P.L.1993, c.201, P.L.1993, c.266, P.L.1993, c.267, P.L.1994, c.37, P.L.1994, c.45, P.L.1994, c.51, P.L.1994, c.52, section 5 of P.L.1995, c.199, section 1 of P.L.1995, c.200, section 1 of P.L.1995, c.201, and section 1 of P.L.1995, c.202, shall be eligible for funding or additional funding,

including administrative costs, in a sequence consistent with the priority system established by the Department of Environmental Protection, and shall require the approval of the Joint Budget Oversight Committee or its successor.

2. This act shall take effect immediately.

Approved August 3, 1995.

CHAPTER 204

AN ACT authorizing the creation of a debt of the State of New Jersey by the issuance of bonds of the State in an aggregate principal amount of $340,000,000 to provide moneys for acquisition and development of lands for public recreation and conservation purposes, for farmland development easement and fee simple acquisitions, for soil and water conservation projects, for historic preservation projects, and for coastal and inland Blue Acres projects; providing the ways and means to pay and discharge the principal of and interest on the bonds; providing for the submission of this act to the people at a general election; and making an appropriation therefor.

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

1. This act shall be known and may be cited as the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995."

2. The Legislature finds and declares that:

a. The provision of lands for public recreation and the conservation of natural resources promote the public health, prosperity, and general welfare and are proper responsibilities of State government; that lands now dedicated to these purposes will not be adequate to meet the needs of an expanding population in years to come; that such lands as are available and appropriate for these purposes will gradually disappear as their cost correspondingly increases; that it is necessary and desirable to provide assistance in the form of grants and loans to local government units and

matching grants to qualifying tax exempt nonprofit organizations to acquire lands that have significant recreation and conservation attributes; that it is also necessary and desirable to provide funds to assure that lands that have been or may hereafter be acquired for recreation and conservation purposes are developed to provide public recreation, preserve historic resources, and provide conservation opportunities and to implement the New Jersey Statewide Comprehensive Outdoor Recreation Plan; and that Liberty State Park is a magnificent State resource and a key part of the State park system that is worthy of a substantial allocation of State funds to ensure that it is properly preserved and developed for all generations to enjoy both now and in the future;

b. Agriculture plays an integral role in the prosperity and well-being of the State as well as providing a fresh and abundant supply of food and fiber for its citizens; that agricultural land resources face an imminent threat of permanent conversion to non-farm uses; that the retention and development of an economically viable agricultural industry is of high public priority for New Jersey; and that the issuance of bonds is necessary and desirable to provide funds to (1) acquire, in cooperation with counties and municipalities, development easements on farmland, (2) purchase fee simple titles to farmland for the purpose of offering the farmland for resale with agricultural deed restrictions, and (3) assist, through cost-sharing with landowners, the long-term conservation and management of farmland and the State's natural resources through soil and water conservation projects and programs;

c. Throughout the State there are properties, structures, facilities, and sites of historic character and importance that are owned or leased on a long-term basis by the State, county or municipal governments, or tax exempt nonprofit organizations and that are in need of restoration and preservation; that unless this need is met, an important element of our historic heritage will be lost; that a significant number of these historic properties, structures, facilities, and sites are located in urban centers, where their restoration and preservation can play an important part in the overall strategy of the State and of local government to encourage urban revitalization; and that the issuance of bonds is necessary and desirable to provide funds for such historic preservation purposes;

d. The coastal area of New Jersey is a major natural and scenic resource providing innumerable recreational, cultural, economic, aesthetic, and environmental benefits important to the health, safety, and welfare of the citizens of, and visitors to, the State; that certain portions of the coastal area are occasionally

subjected to major storms and resulting flooding that cause significant damage; that although it is the policy of the State to preserve and protect the entire coastline for the use and benefit of its citizens, and to promote private ownership of land, there are certain instances where it is in the public interest for municipalities and counties to acquire, from willing sellers and for recreation and conservation purposes, real property in the coastal area that has been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage; and that the issuance of bonds is necessary and desirable to provide funds for such purposes;

e. The Passaic river basin periodically has been subject to serious flooding over the years, causing on some occasions loss of life and significant property damage; that unwise land use decisions in the floodway of the Passaic river and its tributaries have contributed to the problem; that to best ensure the public health, safety, and welfare while also accomplishing the desired objectives of (1) restoring, enhancing, and preserving the water quality as well as the ecosystem of the Passaic river basin for the public benefit, and (2) utilizing public funds in the most economical manner, it behooves the State to establish a program to acquire from willing sellers those properties in the floodway of the Passaic river and its tributaries that are prone to flooding and to dedicate those lands that are purchased for recreation and conservation; and that the issuance of bonds is necessary and desirable to provide funds for such purposes; and

f. The expenditures authorized pursuant to this act would support implementation of the Statewide policies, goals, and strategies, as expressed in the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), concerned with and emphasizing the importance of preserving open space, critical ecological areas, farmland, and historic resources, as well as protecting areas that are potentially subject to flooding.

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

"Beach" means the same as that term is defined pursuant to section 3 of P.L.1973, c.185 (C.13:19-3).

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

"Coastal area" means the area defined and delineated pursuant to section 4 of P.L.1973, c.185 (C.13:19-4).

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

"Coastal Blue Acres project" means any project to acquire, for recreation and conservation purposes, lands in the coastal area that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage, and which is funded with moneys made available pursuant to section 11 of this act.

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

"Commissioner" means the Commissioner of Environmental Protection.

"Cost" means the expenses incurred in connection with: all things deemed necessary or useful and convenient in connection with the acquisition and development of lands in New Jersey by or with the assistance of the State, for recreation and conservation purposes, the purchase and monitoring of development easements or fee simple titles to farmland, the monitoring of development easements or fee simple titles to farmland purchased with funds made available pursuant to P.L.1992, c.88, P.L.1989, c.183 or P.L.1981, c.276, or the funding of soil and water conservation projects; the execution of any agreements and franchises deemed by the Department of Environmental Protection or the State Agriculture Development Committee, as the case may be, to be necessary or useful and convenient in connection with any project authorized by this act; the procurement or provision of engineering, inspection, relocation, legal, financial, planning, geological, hydrological, or other professional services, estimates, studies, reports, or advice, including the services of a bond registrar or an authenticating agent; feasibility studies; the issuance of bonds, or any interest or discount thereon; organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses and for the payment or security of principal or interest on bonds, as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys which may have been transferred or advanced therefrom to any applicable fund created by this act, or any moneys which may have been expended therefrom for, or in connection with, this act.

"Development" means any improvement to land or water areas designed to expand and enhance their utilization for recreation and conservation purposes, including, but not limited to, site preparation, landscaping, and structures or facilities which are substantially consistent with the natural setting and topographical conditions. These structures and facilities may include, but are not limited to, access roads, interpretative facilities, parking areas, utilities, comfort facilities, and any ramps, structures, or facilities that would provide access to the land or water area for handicapped or disabled persons. "Development" also means, but is not limited to, any work relating to the stabilization, repair, rehabilitation, renovation, restoration, improvement, protection, or preservation of any historic property, structure, facility, or site

acquired for recreation and conservation purposes, including but not limited to museums and abandoned historic mines; renovating or repairing structures or facilities; expansion of trails for any purpose; upgrading of campsites, cabins, and other outdoor structures and facilities; repairing roads; providing access to beach and bay areas; and constructing and repairing septic, sewer, and bathing facilities.

"Development easement" means an interest in land, less than fee simple title thereto, which interest represents the right to develop such lands for all nonagricultural purposes and which interest may be transferred under laws authorizing the transfer of development potential; and shall include limited term development easements authorized pursuant to law.

"Dune" means the same as that term is defined pursuant to section 3 of P.L.1973, c.185 (C.13:19-3).

"Farmland" means land in New Jersey identified as prime, unique or of Statewide importance according to criteria adopted by the New Jersey State Soil Conservation Committee, and land of local importance as identified by local agricultural preservation agencies established by law in cooperation with local soil conservation districts, and which qualifies for lower property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), and any other land on the farm which is necessary to accommodate farm practices as determined by the State Agriculture Development Committee.

"Farmland preservation program" means any program authorized by law which shall have as its principal purpose the long-term preservation of significant masses of reasonably contiguous agricultural land and the maintenance and support of increased agricultural production as the first priority use of that land.

"Floodway" means the same as that term is defined pursuant to section 2 of P.L.1962, c.19 (C.58:16A-51).

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

"Historic" means, as applied to any property, structure, facility, or site, and except as used in this act in connection with the defi-

nition of "recreation and conservation purposes" as set forth in this act, any area, site, structure, or object approved for inclusion, or which meets the criteria for inclusion, in the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.).

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

"Historic preservation project cost" means the expenses incurred in connection with: all things deemed necessary or useful and convenient in connection with historic preservation projects; the execution of any agreements and franchises deemed by the Trustees of the New Jersey Historic Trust to be necessary or useful and convenient in connection with any historic preservation project; the procurement or provision of engineering, architectural, design, inspection, relocation, legal, financial, planning, archaeological, historic research, geological, hydrological, or other professional services, estimates, studies, reports, or advice, including the services of a bond registrar or an authenticating agent; feasibility studies; the issuance of bonds, or any interest or discount thereon; organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses and for the payment or security of principal or interest on bonds, as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys which may have been transferred or advanced therefrom to any applicable fund created by this act, or any moneys which may have been expended therefrom for, or in connection with, this act.

"Inland Blue Acres cost" means the expenses incurred in connection with: all things deemed necessary or useful and convenient in connection with the acquisition by the State for recreation and conservation purposes of lands in the floodway of the Passaic river and its tributaries that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage; the execution of any agreements and franchises deemed by the Department of Environmental Protection to be necessary or useful and convenient in connection with any inland

Blue Acres project authorized by this act; the procurement or provision of engineering, inspection, relocation, legal, financial, planning, geological, hydrological, or other professional services, estimates, studies, reports, or advice, including the services of a bond registrar or an authenticating agent; feasibility studies; the demolition of structures, the removal of debris, and the restoration of lands to a natural state or to a state useful for recreation and conservation purposes; financial and other relocation assistance for property owners whose lands have been acquired by the State as part of an inland Blue Acres project; the issuance of bonds, or any interest or discount thereon; organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses and for the payment or security of principal or interest on bonds, as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys which may have been transferred or advanced therefrom to any applicable fund created by this act, or any moneys which may have been expended therefrom for, or in connection with, this act.

"Inland Blue Acres project" means any project of the State to acquire, for recreation and conservation purposes, lands in the floodway of the Passaic river and its tributaries that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage, and which is funded with moneys made available pursuant to section 13 of this act.

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

"Local government unit" means: (1) a county, municipality or other political subdivision of this State authorized to administer, protect, develop and maintain lands for recreation and conservation purposes, or any agency thereof, the primary purpose of which is to administer, protect, develop and maintain lands for recreation and conservation purposes; (2) with respect to historic preservation projects, a county, municipality or other political subdivision of this State, or any agency thereof, that owns or leases on a long-term basis an historic property, structure, facil-

ity, or site; or (3) with respect to coastal Blue Acres projects, a municipality or a county, or any agency thereof.

"Qualifying tax exempt nonprofit organization" means a tax exempt nonprofit organization that qualifies for a matching grant pursuant to subsection d. of section 7 of this act or, in the case of historic preservation projects, a matching grant pursuant to section 10 of this act.

"Recreation and conservation purposes" means the use of lands in New Jersey for parks, natural areas, ecological and biological study, historic areas, historic buildings or structures, forests, camping, fishing, water reserves, wildlife preserves, hunting, boating, winter sports and similar uses for either public outdoor recreation or conservation of natural resources, or both.

"Secretary" means the Secretary of Agriculture.

"Soil and water conservation project" means any project designed for the control and prevention of soil erosion and sediment damages, the control of nonpoint source pollution on agricultural lands, the impoundment, storage and management of water for agricultural purposes, or the improved management of land and soil to achieve maximum agricultural productivity.

4. a. The commissioner shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this act, including rules and regulations governing the awarding and use of grants and loans including, but not limited to, eligibility requirements, procedures for the submission of applications, standards for the evaluation of applications, requirements for the reporting by the recipients of the expenditure of funds, and any limitations, restrictions or requirements concerning the use of a grant or loan as the commissioner may prescribe.

b. The secretary shall adopt, pursuant to the "Administrative Procedure Act," rules and regulations necessary to implement the provisions of this act.

c. The commissioner and the secretary shall review and consider the findings and recommendations of the commission in the administration of the provisions of this act.

5. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $250,000,000 for the purposes of: providing moneys to meet the cost of public acquisition and development of lands by the State for recreation and conservation purposes; providing State grants and loans to assist

local government units to meet the cost of acquiring and developing lands for recreation and conservation purposes; and providing State matching grants to assist qualifying tax exempt nonprofit organizations to meet the cost of acquiring lands for recreation and conservation purposes, to be allocated as follows:

a. $105,000,000 for the acquisition and development of lands by the State for recreation and conservation purposes, of which amount:

(1) $40,000,000 shall be for the development of lands by the State for recreation and conservation purposes, and a minimum of $1,250,000 of those moneys allocated for development pursuant to this paragraph shall be for the development of lands for recreation and conservation purposes in keeping with the requirements, standards, and policies of State and federal law concerning handicapped or disabled persons, including, but not limited to, the provisions of the "Americans with Disabilities Act of 1990," 42 U.S.C.§12101 et al.;

(2) $60,000,000 shall be for the acquisition of lands by the State for recreation and conservation purposes, of which amount at least $20,000,000 shall be for the acquisition by the State for recreation and conservation purposes of lands located in highly populated counties of the State with population densities of at least 1,000 persons per square mile according to the latest federal decennial census; and

(3) $5,000,000 shall be for (a) the acquisition, from willing sellers, of lands in accordance with, and that qualify for acquisition pursuant to, the limited practical use program for the pinelands area as set forth in section 502(k)(2)(C) of the "National Parks and Recreation Act of 1978," Pub.L.95-625 (16 U.S.C. §471i(k)(2)(C)), or any corresponding limited practical use program for the acquisition of lands in the pinelands area established by State law, rule, or regulation, or (b) the acquisition of any other lands in the pinelands area, as defined pursuant to section 3 of P.L.1979, c.111 (C.13:18A-3), for recreation and conservation purposes. Funding for the purposes of subparagraph (a) of this paragraph shall be given priority over funding for the purposes of subparagraph (b) of this paragraph. The provisions of this paragraph shall not preclude or limit the expenditure of other funds authorized pursuant to this subsection for the acquisition or development of lands by the State for recreation and conservation purposes in the pinelands area;

b. $120,000,000 for State grants and loans to assist local government units to acquire and develop lands for recreation and conservation purposes, of which amount:

(1) $18,000,000 shall be for grants to local government units for up to 50% of the cost of acquisition or development of lands located in municipalities eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.); and

(2) a minimum of $2,000,000 shall be for grants and loans to assist local government units to develop lands for recreation and conservation purposes in keeping with the requirements, standards, and policies of State and federal law concerning handicapped or disabled persons, including, but not limited to, the provisions of the "Americans with Disabilities Act of 1990," 42 U.S.C.§12101 et al.;

c. $15,000,000 for State grants, on an up to 50% matching basis, to qualifying tax exempt nonprofit organizations to acquire lands for recreation and conservation purposes; and

d. $10,000,000 for the development by the State for recreation and conservation purposes of Liberty State Park in Hudson county, but such moneys shall not be used for the construction of a golf course.

To the end that municipalities may not suffer a loss of taxes by reason of the acquisition and ownership by the State of New Jersey of property under the provisions of this section, or the acquisition and ownership under the provisions of this section by qualifying tax exempt nonprofit organizations of property that becomes certified exempt from property taxes pursuant to P.L.1974, c.167 (C.54:4-3.63 et seq.) or similar laws, the State shall pay annually on October 1 to each municipality in which property is so acquired, for a period of 13 years following an acquisition the following amounts: in the first year a sum of money equal to the tax last assessed and last paid by the taxpayer upon this land and the improvements thereon for the taxable year immediately prior to the time of its acquisition and thereafter the following percentages of the amount paid in the first year: second year, 92%; third year, 84%; fourth year, 76%; fifth year, 68%; sixth year, 60%; seventh year, 52%; eighth year, 44%; ninth year, 36%; 10th year, 28%; 11th year, 20%; 12th year, 12%; 13th year, 4%. In the event that land acquired by the State pursuant to this act was assessed at an agricultural and horticultural use valuation in accordance with provisions of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), at the time of its acquisition by the State, no rollback tax pursuant to section 8 of P.L.1964, c.48 (C.54:4-23.8) shall be imposed as to this land nor shall this rollback tax be applicable in determining the annual payments to be made by the State to the municipality in which this land is located.

All sums of money received by the respective municipalities as compensation for loss of tax revenue pursuant to this section shall be applied to the same purposes as is the tax revenue from the assessment and collection of taxes on real property of these municipalities, and to accomplish this end the sums shall be apportioned in the same manner as the general tax rate of the municipality for the tax year preceding the year of receipt.

6. a. Moneys provided to the State for lands to be acquired or developed by the State for recreation and conservation purposes using the proceeds of bonds issued by the State under this act shall include 100% of the costs of acquisition or development of these lands, as the case may be.

b. The commissioner shall take into consideration the requirements, standards, and policies of State and federal law concerning handicapped or disabled persons, including, but not limited to, the provisions of the "Americans with Disabilities Act of 1990," 42 U.S.C.§12101 et al., when expending moneys for the development of lands by the State for recreation and conservation purposes using the proceeds of bonds issued by the State under this act.

c. In making decisions concerning the acquisition or development of lands by the State for recreation and conservation purposes using the proceeds of bonds issued by the State under this act, the commissioner shall give special consideration to increasing public access to waterfront areas and to protecting stream corridors, water supplies, and water recharge areas.

d. The State shall not use the power of eminent domain in any manner to acquire lands for recreation and conservation purposes using the proceeds of bonds issued by the State under this act unless a concurrent resolution approving such use has been introduced in either or both Houses of the Legislature and referred to the Senate Natural Resources, Trade and Economic Development Committee and the Assembly Environment and Energy Committee, or their successors as designated respectively by the President of the Senate and the Speaker of the General Assembly, and after having been reported by those committees, is approved by both Houses of the Legislature; except that, without the need for such a concurrent resolution, the State may use the power of eminent domain to the extent necessary to establish a value for lands to be acquired for recreation and conservation purposes from a willing seller using the proceeds of bonds issued by the State under this act.

7. a. Except for those grants to local government units eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) as provided for in subsection b. of section 5 of this act, a grant by the State for lands acquired or developed by a local government unit for recreation and conservation purposes shall include up to 25% of the cost of acquisition or development of these lands by a local government unit; provided, however, that at such times as the balance of the "1995 New Jersey Green Trust Fund" established pursuant to section 23 of this act in combination with the balance of the "Green Trust Fund" established pursuant to P.L.1983, c.354 and P.L.1987, c.265, the "1989 New Jersey Green Trust Fund" established pursuant to P.L.1989, c.183, and the "1992 New Jersey Green Trust Fund" established pursuant to P.L.1992, c.88, exclusive of the moneys for grants to local government units eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), exceeds $100,000,000, the commissioner, in consultation with the State Treasurer, may increase the State's share of the cost of acquisition to a maximum of 50%.

b. A loan by the State for lands to be acquired or developed by a local government unit shall include up to 100% of the cost of acquisition or development of these lands by a local government unit.

c. Loans made to local government units from the "1995 New Jersey Green Trust Fund" established pursuant to section 23 of this act shall bear interest of not more than 2% per year, and shall be for a term of not more than 20 years.

d. A grant by the State for lands to be acquired by a qualifying tax exempt nonprofit organization for recreation and conservation purposes shall include up to 50% of the cost of acquisition of these lands by a qualifying tax exempt nonprofit organization. To qualify to receive a matching grant, the board of directors or governing body of the applying tax exempt nonprofit organization shall:

(1) demonstrate to the commissioner that it qualifies as a charitable conservancy for the purposes of P.L.1979, c.378 (C.13:8B-1 et seq.);

(2) demonstrate that it has the resources to match the grant requested;

(3) agree to make and keep the lands accessible to the public, unless the commissioner determines that public accessibility would be detrimental to the lands or any natural resources associated therewith;

(4) agree not to sell, lease, exchange, or donate the lands except to the federal government, the State, a local government unit, or another qualifying tax exempt nonprofit organization for recreation and conservation purposes; and

(5) agree to execute and donate to the State at no charge a conservation restriction or historic preservation restriction, as the case may be, pursuant to P.L.1979, c.378 (C.13:8B-1 et seq.), on the lands to be acquired utilizing the matching grant.

e. The local government unit or qualifying tax exempt nonprofit organization share of the cost of an acquisition of lands, if any, may be reduced (1) by the fair market value, as determined by the commissioner, of any portion of the lands to be acquired which have been donated to, or otherwise received without cost by, any of the local government units or qualifying tax exempt nonprofit organizations concerned; or (2) in the case of a conveyance of the lands, or any portion thereof, to any of the local government units or qualifying tax exempt nonprofit organizations concerned at less than fair market value, by the difference between fair market value thereof at the time of the conveyance and the conveyance price thereof to the local government unit or units or to the qualifying tax exempt nonprofit organization or organizations.

f. The commissioner shall take into consideration the requirements, standards, and policies of State and federal law concerning handicapped or disabled persons, including, but not limited to, the provisions of the "Americans with Disabilities Act of 1990," 42 U.S.C.§12101 et al., when awarding grants or loans to local government units for the development of lands for recreation and conservation purposes using the proceeds of bonds issued by the State under this act.

g. (1) In making decisions concerning the awarding of grants or loans to assist local government units to meet the cost of acquisition or development of lands for recreation and conservation purposes, and concerning the awarding of grants to assist qualifying tax exempt nonprofit organizations to meet the cost of acquisition of lands for recreation and conservation purposes, using the proceeds of bonds issued by the State under this act, the commissioner shall give special consideration to increasing public access to waterfront areas and to protecting stream corridors, water supplies, and water recharge areas.

(2) In making decisions concerning the awarding of grants or loans to assist local government units to meet the cost of acquisition or development of lands for recreation and conservation purposes using the proceeds of bonds issued by the State under this act, the commissioner shall give special consideration to applications submitted by local government units that have previously acquired or developed lands for recreation and conservation purposes without any financial assistance from the State.

8. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $50,000,000 for the purpose of the preservation of farmland for agricultural use and production. The proceeds from the sale of the bonds shall be for appropriation to the State Agriculture Development Committee established pursuant to section 4 of P.L.1983, c.31 (C.4:1C-4):

a. to provide grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland, provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements;

b. for up to 100% of the cost of acquisition of development easements, under such emergency conditions as the State Agriculture Development Committee determines;

c. for the cost of acquisition of fee simple titles to farmland which shall be offered for resale with agricultural deed restrictions; and

d. to provide grants to landowners for up to 50% of the cost of soil and water conservation projects.

All acquisitions or grants made pursuant to this section shall be with respect to land devoted to farmland preservation under programs established by law.

Of the amount authorized pursuant to this section, not more than $5,000,000 may be utilized for the purposes of subsection c. of this section, and not more than $1,500,000 may be utilized for the purposes of subsection d. of this section.

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

9. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $10,000,000 for the purpose of providing State matching grants to assist State agencies or entities, local government units, and qualifying tax exempt nonprofit organizations to meet the historic preservation project cost of historic preservation projects for historic properties, structures, facilities, or sites owned or leased on a long-term basis by those agencies, entities, units, or organizations.

10. a. Historic preservation project matching grants shall be awarded by the Trustees of the New Jersey Historic Trust in the

Department of Environmental Protection on a competitive basis based upon the following criteria:

(1) Submission of specific plans for the preservation of the architectural and historical integrity of the structure;

(2) Demonstration by the applicant of administrative capabilities to carry out the preservation plans required pursuant to paragraph (1) of this subsection;

(3) Evidence of ability to meet the eligibility standards for historic preservation project matching grants set forth in subsection b. of this section;

(4) Submission of financial plans for the continued preservation of the historic property, structure, facility, or site after the expenditure of the grant moneys; and

(5) Evidence that the historic property, structure, facility, or site is and shall remain accessible to the public, or if it is not accessible to the public at the time of application, that it shall be made, and shall remain, accessible to the public.

b. To be eligible for an historic preservation project matching grant, the head official of an applying State agency or entity, the governing body of an applying local government unit, or the board of directors or governing body of an applying tax exempt nonprofit organization, as the case may be, shall:

(1) Certify that the property, structure, facility, or site is approved for, or meets the criteria for, inclusion in the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.); and

(2) Demonstrate the ability to match the grant applied for.

c. Moneys raised within two years prior to the enactment of this act for ongoing historic preservation projects may be utilized by an applicant to meet the matching requirements of this section, but moneys raised prior thereto may not be utilized for that purpose.

d. (1) Not more than 25% of the moneys made available for historic preservation projects pursuant to this act shall be awarded to State agencies or entities.

(2) Of the amount authorized pursuant to section 9 of this act, up to 10% may be awarded by the New Jersey Historic Trust to be utilized for historic preservation projects or programs that aid designated districts, municipalities, or geographic areas, including, but not limited to, certified local governments pursuant to 16 U.S.C.§470a et seq. and Main Street New Jersey communities. The New Jersey Historic Trust shall administer all such awards authorized pursuant to this paragraph.

e. No historic preservation project may receive a matching grant pursuant to this act that exceeds $1,250,000.

f. Recipients of historic preservation project matching grants awarded pursuant to this act shall reflect the racial, ethnic and geographic diversity of the State.

g. The New Jersey Historic Trust shall establish an advisory committee composed of individuals with the requisite professional expertise to evaluate the historic preservation project matching grant applications submitted pursuant to this section and to advise the trustees on the merits of each application received.

h. The New Jersey Historic Trust shall require as a condition of any historic preservation project matching grant awarded to a qualifying tax exempt nonprofit organization that the historic property, structure, facility, or site for which the grant was received shall not be sold, leased, or otherwise conveyed to an individual or organization that does not have tax exempt non-profit or governmental status.

i. Any work on an historic preservation project funded with a historic preservation project matching grant awarded pursuant to this act shall commence within two years of the effective date of the appropriation by law of the funds for the grant, or the grant for that historic preservation project shall lapse into the "1995 Historic Preservation Fund" established pursuant to section 26 of this act.

11. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $15,000,000 for the purposes of providing State grants and loans to assist local government units to meet the coastal Blue Acres cost of acquiring, for recreation and conservation purposes, lands in the coastal area that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage, to be allocated as follows:

a. $9,000,000 for State grants and loans to assist local government units to acquire, for recreation and conservation purposes, lands in the coastal area that have been damaged by storms or storm-related flooding; and

b. $6,000,000 for State grants and loans to assist local government units to acquire, for recreation and conservation purposes, unimproved or largely unimproved lands in the coastal area that may be prone to incurring damage caused by storms or storm-related flooding, or that may buffer or protect other lands from such damage.

12. a. (1) For a coastal Blue Acres project funded pursuant to subsection a. of section 11 of this act, a local government unit shall receive a grant of 50% and a loan of up to 50% of the coastal Blue Acres cost of acquisition of the lands.

(2) For a coastal Blue Acres project funded pursuant to subsection b. of section 11 of this act, a local government unit shall receive a grant of up to 75% and a loan for up to the remaining percentage of the coastal Blue Acres cost of acquisition of the lands.

(3) Loans made to local government units for coastal Blue Acres projects from the "1995 New Jersey Coastal Blue Acres Trust Fund" established pursuant to section 27 of this act shall bear interest of not more than 2% per year, and shall be for a term of not more than 20 years.

(4) Local government units in the coastal area eligible to apply for, or that have received, funding pursuant to the coastal Blue Acres bond program shall remain eligible to apply, and shall be considered, for funding pursuant to the Green Acres bond program in the same manner and according to the same criteria as other local government units located outside of the coastal area. Participation of a local government unit in the coastal Blue Acres bond program shall not be reason to deny funding to that local government unit under the Green Acres bond program.

b. The local government unit share of the coastal Blue Acres cost of an acquisition of lands may be reduced (1) by the fair market value, as determined by the commissioner, of any portion of the lands to be acquired which have been donated to, or otherwise received without cost by, the local government unit; or (2) in the case of a conveyance of the lands, or any portion thereof, to the local government unit at less than fair market value, by the difference between fair market value thereof at the time of the conveyance and the conveyance price thereof to the local government unit.

c. (1) Only the following lands in the coastal area shall be eligible for acquisition by a local government unit utilizing funds made available pursuant to the coastal Blue Acres bond program: lands anywhere on a coastal barrier island, or elsewhere any lands within 150 feet landward of the mean high water line of any tidal waters or the landward limit of a beach or dune, whichever is most landward. If only a portion of a parcel being considered for acquisition lies within the 150-foot boundary, the entire parcel, including that portion lying outside of the 150-foot boundary, shall be eligible for acquisition.

(2) No lands with improvements upon them shall be eligible to be acquired utilizing funds made available pursuant to subsection a. of section 11 of this act unless the value of the improvements thereon shall have been reduced by at least 50% due to damage caused by a storm or storm-related flooding.

d. (1) A local government unit shall not utilize the power of eminent domain in any manner to acquire lands utilizing funds made available pursuant to the coastal Blue Acres bond program; such lands shall be acquired only from willing sellers. A local government applying for funds made available pursuant to the coastal Blue Acres bond program shall provide written proof to the commissioner that the lands to be acquired are being offered willingly by the seller to the local government unit.

(2) The commissioner shall establish an expedited review procedure for applications for funds made available pursuant to subsection a. of section 11 of this act.

e. (1) Decisions concerning the awarding of grants or loans to assist local government units to meet the coastal Blue Acres cost of acquisition of lands using the proceeds of bonds issued by the State under this act shall be based upon priority ranking criteria to be established by the commissioner, including, but not limited to, the extent and feasibility of public access and parking, the extent of damage caused by a storm or storm-related flooding, proximity to other lands already protected or likely to be protected in the future for recreation and conservation purposes, proximity to other lands already acquired or under consideration for acquisition pursuant to the coastal Blue Acres bond program, ease of maintenance of the property, and the extent to which acquisition of the lands will likely help avoid future public costs resulting from storms and storm-related flooding.

(2) Expenditure of any funds made available pursuant to subsection a. of section 11 of this act for a particular coastal Blue Acres project shall require the approval of the Joint Budget Oversight Committee or its successor.

f. Upon a finding by the Governor that a major catastrophic storm event has occurred, the Governor, with the approval of the Joint Budget Oversight Committee or its successor, may authorize use of any or all of the unexpended funds allocated pursuant to subsection b. of section 11 of this act for the purposes of subsection a. of section 11 of this act.

g. (1) The Office of Green Acres in the Department of Environmental Protection shall administer the coastal Blue Acres bond program.

(2) Except as otherwise provided pursuant to this act or any other law, or any rules or regulations adopted pursuant thereto, acquisitions of lands by local government units pursuant to the coastal Blue Acres bond program shall be regarded and regulated by the State in the same manner as lands acquired by local government units pursuant to the Green Acres bond program, and shall be subject to the provisions of P.L.1961, c.45 (C.13:8A-1 et seq.), P.L.1971, c.419 (C.13:8A-19 et seq.), and P.L.1975, c.155 (C.13:8A-35 et seq.), and any rules or regulations adopted pursuant thereto.

13. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $15,000,000 for the purposes of providing moneys to meet the inland Blue Acres cost of acquisition by the State, for recreation and conservation purposes, of lands in the floodway of the Passaic river and its tributaries that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage.

b. To the end that municipalities may not suffer a loss of taxes by reason of the acquisition and ownership by the State of New Jersey of property under the provisions of this section, the State shall pay annually on October 1 to each municipality in which property is so acquired, for a period of 13 years following an acquisition the following amounts: in the first year a sum of money equal to the tax last assessed and last paid by the taxpayer upon this land and the improvements thereon for the taxable year immediately prior to the time of its acquisition and thereafter the following percentages of the amount paid in the first year: second year, 92%; third year, 84%; fourth year, 76%; fifth year, 68%; sixth year, 60%; seventh year, 52%; eighth year, 44%; ninth year, 36%; 10th year, 28%; 11th year, 20%; 12th year, 12%; 13th year, 4%. In the event that land acquired by the State pursuant to this act was assessed at an agricultural and horticultural use valuation in accordance with provisions of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), at the time of its acquisition by the State, no rollback tax pursuant to section 8 of P.L.1964, c.48 (C.54:4-23.8) shall be imposed as to this land nor shall this rollback tax be applicable in determining the annual payments to be made by the State to the municipality in which this land is located.

All sums of money received by the respective municipalities as compensation for loss of tax revenue pursuant to this section shall be applied to the same purposes as is the tax revenue from the

assessment and collection of taxes on real property of these municipalities, and to accomplish this end the sums shall be apportioned in the same manner as the general tax rate of the municipality for the tax year preceding the year of receipt.

c. Moneys provided to the State for lands to be acquired pursuant to this section using the proceeds of bonds issued by the State under this act shall include 100% of the inland Blue Acres costs of acquisition of these lands.

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

e. An advisory committee composed of experts and appropriate interested parties concerned with flood management in the floodway of the Passaic river and its tributaries through land acquisition and preservation efforts shall be established pursuant to law to advise the Department of Environmental Protection with respect to the acquisition of lands by the State utilizing funds made available pursuant to the inland Blue Acres bond program.

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

14. The bonds authorized under this act shall be serial bonds, term bonds, or a combination thereof, and shall be known as "1995 New Jersey Green Acres, Farmland and Historic Preservation, and Blue Acres Bonds." They shall be issued from time to time as the issuing officials herein named shall determine and may be issued in coupon form, fully-registered form or book-entry form. The bonds may be subject to redemption prior to maturity and shall mature and be paid not later than 35 years from the respective dates of their issuance.

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

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

17. The bonds shall be signed in the name of the State by means of the manual or facsimile signature of the Governor under the Great Seal of the State, which seal may be by facsimile or by way of any other form of reproduction on the bonds, and attested by the manual or facsimile signature of the Secretary of State, or an Assistant Secretary of State, and shall be countersigned by the facsimile signature of the Director of the Division of Budget and Accounting in the Department of the Treasury and may be manually authenticated by an authenticating agent or bond registrar, as the issuing officials shall determine. Interest coupons, if any, attached to the bonds shall be signed by the facsimile signature of the Director of the Division of Budget and Accounting in the Department of the Treasury. The bonds may be issued notwithstanding that an official signing them or whose manual or facsimile signature appears on the bonds or coupons has ceased to hold office at the time of issuance, or at the time of the delivery of the bonds to the purchaser thereof.

18. a. The bonds shall recite that they are issued for the purposes set forth in section 5, 8, 9, 11, or 13 of this act, that they are issued pursuant to this act, that this act was submitted to the people of the State at the general election held in the month of November, 1995, and that this act was approved by a majority of the legally qualified voters of the State voting thereon at the election. This recital shall be conclusive evidence of the authority of the State to issue the bonds and their validity. Any bonds containing this recital shall, in any suit, action or proceeding involving their validity, be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith and with all other provisions of law applicable hereto, and shall be incontestable for any cause.

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

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

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

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

22. The State Treasurer shall establish a fund, to be known as the "1995 New Jersey Green Acres Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of the bonds issued by the State under this act for State acquisitions and developments as set forth in subsections a. and d. of section 5 of this act. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in subsections a. and d. of section 5 of this act. Such grants, contributions, donations, and reimbursements from federal aid programs as may be lawfully used for the purposes set forth in subsections a. and d. of section 5 of this act shall also be held in

the "1995 New Jersey Green Acres Fund." Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys. Any act appropriating moneys from the "1995 New Jersey Green Acres Fund" shall identify the particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

23. The State Treasurer shall establish a revolving, nonlapsing fund to be known as the "1995 New Jersey Green Trust Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of the bonds issued by the State under this act for grants and loans as set forth in subsections b. and c. of section 5 of this act. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in subsections b. and c. of section 5 of this act. Moneys derived from the payment of interest and principal on the loans to local government units authorized in subsection b. of section 5 of this act, and such grants, contributions, donations, and reimbursements from federal aid programs as may lawfully be used for the purposes of making grants and loans to local government units or qualifying tax exempt nonprofit organizations for recreation and conservation purposes, shall also be held in the "1995 New Jersey Green Trust Fund." Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys. Any act appropriating moneys from the "1995 New Jersey Green Trust Fund" shall identify the particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

24. Notwithstanding any law, rule, or regulation to the contrary:

a. any proceeds from the sale or conveyance of lands acquired or developed by the State for recreation and conservation pur-

poses with funds made available pursuant to P.L.1961, c.46; P.L.1971, c.165; P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1989, c.183; P.L.1992, c.88; or this act, shall be deposited in the "1995 New Jersey Green Acres Fund," or in any similar fund established in any subsequent bond act enacted for similar purposes;

b. any proceeds returned to the State from the sale or conveyance of lands acquired or developed by a local government unit or a qualifying tax exempt nonprofit organization for recreation and conservation purposes with funds made available pursuant to P.L.1961, c.46; P.L.1971, c.165; P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987, c.265; P.L.1989, c.183; P.L.1992, c.88; or this act, shall be deposited in the "1995 New Jersey Green Trust Fund," or in any similar fund established in any subsequent bond act enacted for similar purposes.

25. a. The State Treasurer shall establish a fund to be known as the "1995 Farmland Preservation Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of bonds issued by the State under this act for the acquisition of development easements or fee simple titles on farmland and for soil and water conservation projects, all as set forth in section 8 of this act. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in section 8 of this act. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys.

b. Any act appropriating moneys from the "1995 Farmland Preservation Fund" shall identify the particular project or projects to be funded with such moneys, except the provisions of this subsection shall not apply to any appropriation of moneys from the fund for the cost of acquisition of fee simple titles to farmland or for the cost of providing grants to landowners for up to 50% of the cost of soil and water conservation projects. Any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

26. The State Treasurer shall establish a fund to be known as the "1995 Historic Preservation Fund," and the moneys therein

are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of bonds issued by the State under this act for the funding of historic preservation projects as set forth in section 9 of this act. The moneys in the fund are specifically dedicated and shall be applied to the historic preservation project cost of the purposes set forth in section 9 of this act. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys. Any act appropriating moneys from the "1995 Historic Preservation Fund" shall identify the particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

27. a. The State Treasurer shall establish a revolving, nonlapsing fund to be known as the "1995 New Jersey Coastal Blue Acres Trust Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of the bonds issued by the State under this act for grants and loans as set forth in section 11 of this act. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in section 11 of this act. Moneys derived from the payment of interest and principal on the loans to local government units authorized in section 11 of this act, and such grants, contributions, donations, and reimbursements from federal aid programs as may lawfully be used for the purposes of making grants and loans to local government units for the purposes set forth in section 11 of this act, shall also be held in the "1995 New Jersey Coastal Blue Acres Trust Fund." Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys. Any act appropriating moneys from the "1995 New Jersey Coastal Blue Acres Trust Fund" for the purposes of subsection b. of section 11 of this act shall identify the particular project or projects to be funded by the moneys, and any expenditure for a project for

which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor. Any act appropriating moneys from the "1995 New Jersey Coastal Blue Acres Trust Fund" for the purposes of subsection a. of section 11 of this act need not identify the particular project or projects to be funded by the moneys.

b. Notwithstanding any law, rule, or regulation to the contrary, any proceeds returned to the State from the sale or conveyance of lands acquired by a local government unit with funds made available pursuant to section 11 of this act, shall be deposited in the "1995 New Jersey Coastal Blue Acres Trust Fund," or in any similar fund established in any subsequent bond act enacted for similar purposes.

28. a. The State Treasurer shall establish a fund, to be known as the "1995 New Jersey Inland Blue Acres Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of the bonds issued by the State under this act for State acquisitions as set forth in section 13 of this act. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in section 13 of this act. Such grants, contributions, donations, and reimbursements from federal aid programs as may be lawfully used for the purposes set forth in section 13 of this act shall also be held in the "1995 New Jersey Inland Blue Acres Fund." Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys. Any act appropriating moneys from the "1995 New Jersey Inland Blue Acres Fund" shall identify the particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

b. Notwithstanding any law, rule, or regulation to the contrary, any proceeds from the sale or conveyance of lands acquired by the State with funds made available pursuant to section 13 of this act, shall be deposited in the "1995 New Jersey Inland Blue Acres Fund," or in any similar fund established in any subsequent bond act enacted for similar purposes.

29. a. At any time prior to the issuance and sale of bonds under this act, the State Treasurer is authorized to transfer from any available moneys in any fund of the treasury of the State to the credit of the "1995 New Jersey Green Acres Fund," the "1995 New Jersey Green Trust Fund," the "1995 Farmland Preservation Fund," the "1995 Historic Preservation Fund," the "1995 New Jersey Coastal Blue Acres Trust Fund," or the "1995 New Jersey Inland Blue Acres Fund," those sums as the State Treasurer may deem necessary. The sums so transferred shall be returned to the same fund of the treasury of the State by the State Treasurer from the proceeds of the sale of the first issue of bonds.

b. Pending their application to the purposes provided in the applicable provisions of this act, the moneys in the "1995 New Jersey Green Acres Fund," the "1995 New Jersey Green Trust Fund," the "1995 Farmland Preservation Fund," the "1995 Historic Preservation Fund," the "1995 New Jersey Coastal Blue Acres Trust Fund," and the "1995 New Jersey Inland Blue Acres Fund," may be invested and reinvested as are other trust funds in the custody of the State Treasurer, in the manner provided by law. Net earnings received from the investment or deposit of moneys in these funds shall be redeposited therein and become part of the respective funds.

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

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

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

33. Any bond or bonds issued hereunder, which are subject to the "Refunding Bond Act of 1985," P.L.1985, c.74 as amended by P.L.1992, c.182 (C.49:2B-1 et seq.), shall no longer be deemed to be outstanding, shall no longer constitute a direct obligation of the State of New Jersey, and the faith and credit of the State shall no longer be pledged to the payment of the principal of, redemption premium, if any, and interest on the bonds, and the bonds shall be secured solely by and payable solely from moneys and government securities deposited in trust with one or more trustees or escrow agents, which trustees and escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, as provided herein, whenever there shall be deposited in trust with the trustees or escrow agents, as provided herein, either moneys or government securities, including government securities issued or held in book-entry form on the books of the Department of the Treasury of the United States, the principal of and interest on which when due will provide money which, together with the moneys, if any, deposited with the trustees or escrow agents at the same time, shall be sufficient to pay when due the principal of, redemption premium, if any, and interest due and to become due on the bonds on or prior to the redemption date or maturity date thereof, as the case may be; provided the government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. The State of New Jersey hereby covenants with the holders of any bonds for which government securities or moneys shall have been deposited in trust with the trustees or escrow agents as provided in this section that, except as otherwise provided in this section, neither the government securities nor moneys so deposited with the trustees or escrow agents shall be withdrawn or used by the State for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest to become due on the bonds;

provided that any cash received from the principal or interest payments on the government securities deposited with the trustees or escrow agents, to the extent the cash will not be required at any time for that purpose, shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien, pledge or assignment securing the bonds; and to the extent the cash will be required for that purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to become due on the bonds on and prior to the redemption date or maturity date thereof, as the case may be, and interest earned from the reinvestments shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien or pledge securing the bonds. Notwithstanding anything to the contrary contained herein: a. the trustees or escrow agents shall, if so directed by the issuing officials, apply moneys on deposit with the trustees or escrow agents pursuant to the provisions of this section, and redeem or sell government securities so deposited with the trustees or escrow agents, and apply the proceeds thereof to (1) the purchase of the bonds which were refinanced by the deposit with the trustees or escrow agents of the moneys and government securities and immediately thereafter cancel all bonds so purchased, or (2) the purchase of different government securities; provided however, that the moneys and government securities on deposit with the trustees or escrow agents after the purchase and cancellation of the bonds or the purchase of different government securities shall be sufficient to pay when due the principal of, redemption premium, if any, and interest on all other bonds in respect of which the moneys and government securities were deposited with the trustees or escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and b. in the event that on any date, as a result of any purchases and cancellations of bonds or any purchases of different government securities, as provided in this sentence, the total amount of moneys and government securities remaining on deposit with the trustees or escrow agents is in excess of the total amount which would have been required to be deposited with the trustees or escrow agents on that date in respect of the remaining bonds for which the deposit was made in order to pay when due the principal of, redemption premium, if any, and interest on the remaining bonds, the trustees or escrow

agents shall, if so directed by the issuing officials, pay the amount of the excess to the State, free and clear of any trust, lien, pledge or assignment securing the refunding bonds.

34. Refunding bonds issued pursuant to P.L.1985, c.74 as amended by P.L.1992, c.182 (C.49:2B-1 et seq.) may be consolidated with bonds issued pursuant to section 5, 8, 9, 11, or 13 of this act or with bonds issued pursuant to any other act for purposes of sale.

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

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

b. If, at any time, funds necessary to meet the interest, redemption premium, if any, and principal payments on outstanding bonds issued under this act are insufficient or not available, there shall be assessed, levied and collected annually in each of the municipalities of the counties of this State, a tax on the real and personal property upon which municipal taxes are or shall be assessed, levied and collected, sufficient to meet the interest on all outstanding bonds issued hereunder and on the bonds proposed to be issued under this act in the calendar year in which the tax is to be raised and for the payment of bonds falling due in the year following the year for which the tax is levied. The tax shall be assessed, levied and collected in the same manner and at the same time as other taxes upon real and personal property. The governing body of each municipality shall pay to the county treasurer of the county in which the municipality is located, on or before December 15 in each year, the amount of tax herein directed to be assessed and levied, and the county treasurer shall pay the amount of the tax to the State Treasurer on or before December 20 in each year.

If on or before December 31 in any year, the issuing officials, by resolution, determine that there are moneys in the General Fund beyond the needs of the State, sufficient to pay the principal of bonds falling due and all interest and redemption premium, if any, payable in the ensuing calendar year, the issuing officials shall file the resolution in the office of the State Treasurer, whereupon the State Treasurer shall transfer the moneys to a separate fund to be designated by the State Treasurer, and shall pay the principal, redemption premium, if any, and interest out of that

fund as the same shall become due and payable, and the other sources of payment of the principal, redemption premium, if any, and interest provided for in this section shall not then be available, and the receipts for the year from the tax specified in subsection a. of this section shall be considered and treated as part of the General Fund, available for general purposes.

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

37. For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people at the general election to be held in the month of November, 1995. To inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section takes effect, and at least 60 days prior to the election, to cause this act to be published at least once in one or more newspapers of each county, if any newspapers be published therein and to notify the clerk of each county of this State of the passage of this act; and the clerks respectively, in accordance with the instructions of the Secretary of State, shall have printed on each of the ballots the following:

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

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

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

	Yes.	GREEN ACRES, FARMLAND AND HISTORIC PRESERVATION, AND BLUE ACRES BOND ISSUE Shall the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," which authorizes the State to issue bonds in the amount of $340,000,000 to provide moneys for (1) acquiring and developing lands for recreation and conservation purposes, (2) acquiring farmland development easements and funding farmland soil and water conservation projects, (3) funding historic preservation projects, (4) acquiring, for recreation and conservation purposes, coastal properties that are prone to or have incurred flood or storm damage, and (5) acquiring, for recreation and conservation purposes, properties in the floodway of the Passaic river and its tributaries that are prone to or have incurred flood or storm damage; and providing the ways and means to pay the interest on the debt and also to pay and discharge the principal thereof, be approved?

	No.	INTERPRETIVE STATEMENT Approval of this act will authorize the sale of $340 million in State general obligation bonds to be used for acquiring and developing lands for recreation and conservation purposes, purchasing farmland development easements and funding farmland soil and water conservation projects, and funding historic preservation projects and coastal and inland "Blue Acres" projects. Of the total sum authorized: (1) $250 million will be used for acquiring and developing lands for public recreation and conservation purposes; (2) $50 million will be used for farmland preservation purposes and for farmland soil and water conservation projects; (3) $10 million will be used for historic preservation purposes; (4) $15 million will be used to fund a new "coastal Blue Acres" bond program that will provide grants and low-interest loans to local governments to purchase from willing sellers, for recreation and conservation purposes, coastal properties that are prone to or have incurred flood or storm damage; and (5) $15 million will be used to fund a new "inland Blue Acres" bond program by which the State may purchase from willing sellers, for recreation and conservation purposes, properties in the Passaic river basin floodway that are prone to or have incurred flood or storm damage.

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

The votes cast for and against the approval of this act, by ballot or voting machine, shall be counted and the result thereof

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

38. There is appropriated the sum of $5,000 to the Department of State for expenses in connection with the publication of notice pursuant to section 37 of this act.

39. The commissioner and the secretary, as appropriate, shall submit to the Governor, the Legislature, the State Treasurer, and the commission with the respective department's annual budget request a plan for the expenditure of funds from the "1995 New Jersey Green Acres Fund," the "1995 New Jersey Green Trust Fund," the "1995 Farmland Preservation Fund," the "1995 Historic Preservation Fund," the "1995 New Jersey Coastal Blue Acres Trust Fund," and the "1995 New Jersey Inland Blue Acres Fund" for the upcoming fiscal year. Each plan shall include the following information: a performance evaluation of the expenditures made from the particular fund to date; a description of programs planned during the upcoming fiscal year; a copy of the regulations in force governing the operation of programs that are financed, in part or in whole, by moneys from the particular fund; and an estimate of expenditures for the upcoming fiscal year.

40. Immediately following the submission to the Legislature of the Governor's annual budget message, the commissioner and the secretary, as appropriate, shall submit to the relevant standing committees of the Legislature, as designated by the President of the Senate and the Speaker of the General Assembly, and to the Joint Budget Oversight Committee, or its successor, a copy of each plan called for under section 39 of this act, together with such changes therein as may have been required by the Governor's budget message. An update of each such plan shall be submitted to those committees six months thereafter.

41. Not less than 30 days prior to entering into any contract, lease, obligation, or agreement to effectuate the purposes of this act, the

commissioner or the secretary, as appropriate, shall report to and consult with the Joint Budget Oversight Committee, or its successor.

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

43. Notwithstanding any other provision of this act to the contrary, of the $290 million authorized pursuant to sections 5, 9, 11, and 13 of this act, not more than $14.5 million in total shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials, necessary to administer and implement the provisions of the various components of this act other than those pertaining to farmland preservation as authorized pursuant to section 8 of this act. The Department of Environmental Protection shall have the discretion to determine the portion or amount of that total sum of up to $14.5 million to be allocated for such costs to each of the components of this act under the jurisdiction of, or in but not of, the department.

44. This section and sections 37 and 38 of this act shall take effect immediately and the remainder of this act shall take effect as and when provided in section 37.

Approved August 3, 1995.