ACTS

OF THE

Second Annual Session

OF THE

Two Hundred and Eighth Legislature

OF THE

STATE OF NEW JERSEY

1999

CHAPTER 159

AN ACT concerning bank trusts and revising various parts of the Statutory law.

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

C.17:9A-20.4 Short title.

1. This act shall be known as and may be cited as the "Trust Modernization Act of 1999."

2. Section 1 of P.L.1948, c.67 (C.17:9A-1) is amended to read as follows:

C.17:9A-1 Definitions.

1. As used in this act, and except as otherwise expressly provided in this act:

(1) "Bank" shall include the following:

(a) Every corporation heretofore organized pursuant to the act entitled "An act concerning banks and banking (Revision of 1899)," approved March 24, 1899;

(b) Every corporation heretofore organized pursuant to the act entitled "An act concerning trust companies (Revision of 1899)," approved March 24, 1899;

(c) Every corporation heretofore organized pursuant to chapter 4 of Title 17 of the Revised Statutes;

(d) Every corporation, other than a savings bank, heretofore authorized by any general or special law of this State to transact business as a bank or as a trust company, or as both;

(e) Every corporation hereafter organized pursuant to article 2 of this act;

(2) "Banking institution" shall mean a bank, an out-of-State bank having a branch office in this State, an out-of-country bank having a branch office in this State, savings bank, and a national banking association having its principal or a branch office in this State;

(3) "Board of managers" of a savings bank shall include the board of trustees of a savings bank;

(4) "Capital stock" shall include both common stock and preferred stock;

(5) "Certificate of incorporation," unless the context requires otherwise, shall mean:

(a) The certificate of incorporation, together with all amendments thereto, of every bank and savings bank organized pursuant to any general law of this State;

(b) The charter, together with all amendments thereto, of every bank and savings bank organized pursuant to any special law of this State;

(6) "Commissioner" shall mean the Commissioner of Banking and Insurance of New Jersey;

(7) "Department" shall mean the Department of Banking and Insurance of New Jersey;

(8) "Fiduciary" shall include trustee, executor, administrator, receiver, guardian, assignee, and every other person occupying any other lawful office or employment of trust;

(9) "Manager" of a savings bank shall include a trustee of a savings bank;

(10) "Municipality" shall mean a city, town, township, village, and borough of this State;

(11) "Population" shall mean the population as determined by the latest federal census or as determined by the commissioner from other information which he may deem reliable;

(12) "Qualified bank" shall mean:

(a) A bank or an out-of-State bank with a branch office in New Jersey which has heretofore been authorized or which shall hereafter be authorized to exercise any of the powers authorized by section 28 of P.L.1948, c. 67 (C.17:9A-28);

(b) A savings bank which has heretofore been authorized or which shall hereafter be authorized to exercise any of the powers authorized by section 28 of P.L.1948, c.67 (C.17:9A-28); and

(c) A national banking association having its principal or a branch office in this State authorized to act as a fiduciary;

(13) "Savings bank" shall include the following:

(a) Every corporation heretofore organized pursuant to the act entitled "An act concerning savings banks," approved April 12, 1876;

(b) Every corporation heretofore organized pursuant to the act entitled "An act concerning savings banks," approved May 2, 1906;

(c) Every corporation heretofore organized pursuant to chapter 6 of Title 17 of the Revised Statutes;

(d) Every corporation, other than a bank, authorized by any general or special law of this State to carry on the business of a savings bank or institution or society for savings;

(e) Every corporation hereafter organized pursuant to article 3 of P.L.1948, c.67 (C.17:9A-7 and 17:9A-8) or P.L.1982, c.9 (C.17:9A-8.1 et seq.);

(14) "Branch office" of a bank or savings bank shall mean an office, unit, station, facility, terminal, space or receptacle at a fixed location other than a principal office and other than a trust office, however designated, at which any business that may be conducted in a principal office of a bank or savings bank may be transacted. "Branch office" includes a full branch office, minibranch office and communication terminal branch office but shall not include a trust office;

(15) "Full branch office" means a branch office of a bank or savings bank not subject to the limitations or restrictions imposed upon minibranch offices or communication terminal branch offices;

(16) "Minibranch office" means a branch office of a bank or savings bank which does not occupy more than 500 square feet of floor space and

which does not contain more than four teller stations, manned by employees of the bank or savings bank;

(17) "Communication terminal branch office" means a branch office of a bank or savings bank which is either manned by a bona fide third party under contract to a bank or savings bank or unmanned and which consists of equipment, structures or systems, by means of which information relating to financial services rendered to the public is transmitted and through which transactions with banks and savings banks are consummated, either instantaneously or otherwise;

(18) "Secondary mortgage loan" means a loan made to an individual, association, joint venture, partnership, limited partnership association, or any other group of individuals however organized, except a corporation, which is secured in whole or in part by a lien upon any interest in real property, including, but not limited to, shares of stock in a cooperative corporation, created by a security agreement, including a mortgage indenture, or any other similar instrument or document, which real property is subject to one or more prior mortgage liens and which is used as a dwelling, including a dual purpose or combination type dwelling which is also used as a business or commercial establishment, and has accommodations for not more than six families, except that a loan which: (a) is to be repaid in 90 days or less; (b) is taken as security for a home repair contract executed in accordance with the provisions of P.L.1960, c.41 (C.17:16C-62 et seq.); or (c) is the result of the private sale of a dwelling, if title to the dwelling is in the name of the seller and the seller has resided in said dwelling for at least one year, if the buyer is purchasing said dwelling for his own residence and, as part of the purchase price, executes a secondary mortgage in favor of the seller, shall not be included within the definition of "secondary mortgage loan";

(19) With respect to savings banks, "director" and "board of directors" may be used to mean "manager" and "board of managers," respectively;

(20) "Foreign bank" means a company, other than a banking institution, organized under the laws of the United States, another state, or a foreign government, which is authorized by the laws under which it is organized to exercise some or all of the powers specified in paragraph (4) of section 24 of P.L.1948, c.67 (C.17:9A-24), paragraphs (4), (5) and (13) of section 25 of P.L.1948, c.67 (C.17:9A-25), and paragraphs (3) through (9), inclusive, of section 28 of P.L.1948, c. 67 (C.17:9A-28);

(21) "Home state" means:

(a) with respect to a national bank, the state in which the main office is located; and

(b) with respect to a state bank, the state by which the bank is chartered;

(22) "Host state" means, with respect to a bank, a state, other than the home state of the bank, in which the bank maintains, or seeks to establish and maintain, a branch office.

For purposes of this subsection and subsection (21), "bank" means a bank as defined in the Federal Deposit Insurance Act, 12 U.S.C. s.1813(a)(2);

(23) "Out-of-State bank" means a state bank, as defined in the Federal Deposit Insurance Act, 12 U.S.C. s.1813(a)(2), with a home state other than New Jersey;

(24) "Out-of-country bank" means a bank chartered under the laws of a country other than the United States;

(25) "Interstate merger transaction" means:

(1) The merger or consolidation of banks with different home states, and the conversion of branches of any bank involved in the merger or consolidation into branches of the resulting bank; or

(2) The purchase of all or substantially all of the assets, the assumption of all or substantially all of the liabilities, or both, including all or substantially all of the branches, of a bank whose home state is different from the home state of the acquiring bank;

(26) "State" means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands and the Northern Mariana Islands;

(27) "Resulting bank" means a state or federally chartered bank or state chartered savings bank that has resulted from an interstate merger transaction pursuant to P.L.1948, c.67 (C.17:9A-1 et seq.);

(28) "Trust office" means an office, unit, station, facility, or space at a fixed location, other than a principal office, however designated, at which business that may be conducted at the principal office may be transacted and the primary activities conducted include the transaction of trust business as defined in paragraph (2) of subsection D of section 316 of P.L.1948, c.67 (C.17:9A-316), but at which no deposits may be taken other than assets to be held in trust.

C.17:9A-20.5 Establishment of trust office.

3. a. A qualified bank may establish a trust office anywhere in this State, or in any other state which permits the establishment of a trust office, if the qualified bank files a written notice with the commissioner setting forth the name of the qualified bank, the location of the proposed trust office, and furnishes a copy of the resolution adopted by its board authorizing the trust office.

b. A foreign bank, other than one excluded by subsection A of section 316 of P.L.1948, c.67 (C.17:9A-316), may establish a trust office in this State, if the foreign bank files with the commissioner an application to register the trust office. The application shall set forth the name of the foreign bank and the location of the proposed trust office, and the applicant shall furnish a copy of the resolution adopted by its board authorizing the establishment of the trust office. The commissioner shall register the trust office if:

(1) the foreign bank demonstrates that it is in good standing in its home state and submits satisfactory evidence that it has complied with any applicable requirements of its bank supervisory agency regarding the establishment and maintenance of a trust office;

(2) the commissioner determines that a State chartered qualified bank may establish a trust office in the home state of the foreign bank without unduly burdensome conditions or restrictions; and

(3) the foreign bank has obtained or obtains a certificate of authority to transact trust business in this State in accordance with the provisions of section 316 of P.L.1948, c.67 (C.17:9A-316).

4. Section 316 of P.L.1948, c.47 (C.17:9A-316) is amended to read as follows:

C.17:9A-316 Limitations on transaction of business by foreign banks in this State.

316. A. Except as otherwise provided pursuant to section 1 of P.L.1989, c.245 (C.17:9A-19.2) and sections 37 through 86 of P.L.1996, c.17 (C.17:9A-418 through C.17:9A-467), no foreign bank organized under the laws of a foreign government shall transact any business in this State.

B. A foreign bank organized under the laws of the United States or another state may not transact business in this State other than a trust business. Before transacting trust business in this State, a foreign bank shall secure from the commissioner a certificate of authority to transact trust business. The commissioner shall not issue a certificate of authority to a foreign bank unless a qualified bank is permitted to transact trust business in the jurisdiction in which the foreign bank has its principal office without unduly burdensome conditions or restrictions.

C. Except as otherwise provided pursuant to P.L.1999, c.159 (C.17:9A-20.4 et al.), no foreign bank shall maintain an office in this State, except that a foreign bank may maintain one or more service facilities in this State, provided that the foreign bank performs only back office operations at the service facility and does not transact business with its customers or the public at the service facility. Prior to opening a service facility in this State, a foreign bank shall register the service facility with the commissioner,

which registration shall include the address of the proposed service facility and the name and address of the foreign bank's agent in this State for service of process. No foreign bank organized under the laws of a foreign government which has an office licensed as a representative office pursuant to sections 55 and 56 of P.L.1996, c.17 (C.17:9A-436 and C.17:9A-437), shall be required to register under this subsection as a service facility. Each service facility shall comply with the requirements and pay the fees that the commissioner establishes by regulation. Each service facility shall be subject to examination by the department to determine whether the foreign bank has operated the service facility in accordance with the provisions of this subsection, the costs of which examination shall be paid by the foreign bank at the department's per diem rate for examinations of depository institutions. The commissioner may, upon notice and a hearing, order a foreign bank to close any trust office or service facility operated in violation of the provisions of this subsection or of other any law. Any entity acting as an agent pursuant to section 1 of P.L.1989, c.245 (C.17:9A-19.2) shall not be required to register and be regulated pursuant to this subsection C.

D. (1) For the purposes of this section, the term "transact business" shall not include back office operations and the term "back office operations" shall include the following activities: data processing, record-keeping, accounting, check and deposit sorting and posting, computation and posting of interest, other similar clerical and statistical functions, producing and mailing correspondence or documents and such other similar activities that the commissioner approves.

(2) For the purposes of this section, "trust business" means holding out to the public by advertising, solicitation or other means that a person or entity is available to perform any of the services of a trustee or fiduciary in this State or another state, and includes acting as a trustee, testamentary trustee, fiduciary, executor or guardian or exercising any of the powers specified in paragraphs (3) through (9) of section 28 of P.L.1948, c.67 (C.17:9A-28).

E. (1) For the purposes of Article 44 of "The Banking Act of 1948," P.L.1948, c.67 (C.17:9A-315 through 17:9A-332), a foreign bank, including one organized under the laws of a foreign country, shall not be deemed to transact business or maintain an office in this State by virtue of conducting business in this State through an agent in this State which is an insured depository institution affiliate or other agent.

(2) Nothing in this section or in "The Banking Act of 1948," P.L.1948, c.67 (C.17:9A-1 et seq.) shall prohibit a foreign bank, including one organized under the laws of a foreign country, from owning and operating in this State, as a subsidiary, a State or federally chartered bank and the ownership and operation of, and the sharing of directors, officers and

employees with that subsidiary shall not constitute transacting business in this State.

5. Section 1 of P.L.1979, c.389 (C.17:9A-316.3) is amended to read as follows:

C.17:9A-316.3 Investment in common trust funds by foreign bank under certain circumstances.

1. A foreign bank authorized by section 316 of P.L.1948, c.67 (C.17:9A-316) to act as trustee, fiduciary, executor, testamentary trustee or guardian may, when acting in such capacity, invest any money received and held by it in such capacity, in any common trust fund or funds maintained by it in accordance with the laws of the state of its incorporation; provided, that the instrument under which it is acting as trustee, fiduciary, executor, testamentary trustee or guardian does not specifically prohibit such investment and any such investment is made subject to the provisions of subsection B of section 37 of P.L.1948, c.67 (C.17:9A-37), and the provisions of section 38 of P.L.1948, c.67 (C.17:9A-38) relating to investments by a qualified bank incorporated under the laws of this State in a common trust fund; and provided that a qualified bank incorporated under the laws of this State is permitted by the laws of the state of incorporation of such foreign bank, when acting in a similar fiduciary capacity in that state to invest any moneys, received and held by it in such capacity, in any common trust fund or funds maintained by it in accordance with the laws of this State.

6. Section 317 of P.L.1948, c.67 (C.17:9A-317) is amended to read as follows:

C.17:9A-317 Qualification of foreign bank as fiduciary.

317. As a prerequisite to its qualification in any fiduciary capacity specified in section 316, in any court of this State, a foreign bank shall present to the court a certificate of the commissioner certifying that it is authorized to transact business in this State pursuant to this article and shall furnish a bond if required by the court pursuant to the provisions of N.J.S.3B:15-1 .

7. Section 318 of P.L.1948, c.67 (C.17:9A-318) is amended to read as follows:

C.17:9A-318 Application for certificate of authority.

318. A foreign bank desiring to secure a certificate of authority to transact business in this State shall make application to the commissioner therefor and file with the application

(1) a copy of its certificate of incorporation, and all amendments thereto, certified by its president or a vice-president and attested under its corporate seal by its secretary, an assistant secretary, its cashier or an assistant cashier;

(2) proof of adequate insurance coverage in connection with the volume of transactions and nature of its business;

(3) (Deleted by amendment, P.L.1999, c.159).

(4) a certificate executed by its president or a vice-president and attested under its corporate seal by its secretary, an assistant secretary, its cashier or an assistant cashier, that, so long as it shall have a certificate of authority,

(a) it will comply with all the requirements of the laws of this State which shall be applicable from time to time to the transaction of its business in this State;

(b) it will, promptly following adoption, submit to the commissioner a copy of each amendment or other change in its certificate of incorporation, certified and attested as provided in paragraph (1) of this section;

(c) (Deleted by amendment, P.L.1999, c.159).

(5) a power of attorney, executed by its president or vice-president and attested under its corporate seal by its secretary, an assistant secretary, its cashier or an assistant cashier, authorizing the commissioner and his successors in office to accept service of process upon the foreign bank in any action or proceeding against it affecting or relating to any estate or trust administered under the laws of this State, with respect to which it shall act in a fiduciary capacity specified in section 316; such power of attorney shall provide that service of any such process upon the commissioner shall have the same force and validity as if served upon the foreign bank, and that the authority therein granted shall be irrevocable and shall continue in force indefinitely, notwithstanding the expiration, revocation or surrender of the certificate of authority or renewal thereof;

(6) (Deleted by amendment, P.L.1999, c.159).

8. Section 319 of P.L.1948, c.67 (C.17:9A-319) is amended to read as follows:

C.17:9A-319 Issuance, denial of certificate of authority.

319. A. Within 60 days following the receipt of the application of a foreign bank for a certificate of authority to transact business in this State, the commissioner shall issue the certificate or make an order denying the application.

B. The commissioner shall issue the certificate if he is satisfied from the application submitted to him, or otherwise,

(1) that the foreign bank is authorized by the laws under which it is incorporated to act as trustee, testamentary trustee, fiduciary, executor or guardian;

(2) that the foreign bank has capital and surplus of not less than one million dollars; and

(3) that the foreign bank has complied in good faith with all of the requirements of section 318.

C. Before issuing or denying a certificate of authority, the commissioner may require a foreign bank which makes application for a certificate of authority to submit to him additional information, in such form and manner as he may require.

9. Section 322 of P.L.1948, c.67 (C.17:9A-322) is amended to read as follows:

C.17:9A-322 Certificate of authority to continue in force.

322. A certificate of authority issued to a foreign bank shall continue in force, unless revoked by the commissioner or surrendered by the foreign bank. The commissioner may adopt regulations establishing requirements for periodic renewal of a certificate of authority, and for notification to the commissioner if a foreign bank named in a certificate of authority desires to surrender the certificate or merges with or is acquired by another financial institution or company. Failure to provide any notification required by regulations promulgated by the commissioner shall be grounds for revocation of the certificate.

10. Section 326 of P.L.1948, c.67 (C.17:9A-326) is amended to read as follows:

C.17:9A-326 Certificate of authority; revocation.

326. The commissioner shall revoke the certificate of authority or renewal thereof of a foreign bank if:

(1) the foreign bank has ceased to be authorized by the laws under which it is incorporated to act as trustee, testamentary trustee, fiduciary, executor or guardian;

(2) (Deleted by amendment, P.L.1999, c.159).

(3) the foreign bank does not have capital and surplus of at least one million dollars;

(4) the commissioner finds that its financial condition or lack of insurance coverage makes it inadvisable to permit the foreign bank to act in the fiduciary capacities specified in section 316;

(5) the foreign bank, its directors, officers or employees refuse to permit an examination of its securities, books, records and accounts pursuant to

section 325, or if any of its directors, officers or employees refuse to be examined under oath as provided in said section;

(6) the foreign bank does not, within such time as the commissioner may fix, deliver to the commissioner any information required by the commissioner under section 325;

(7) the foreign bank does not pay the costs of an examination made pursuant to section 325; or

(8) (Deleted by amendment, P.L.1999, c.159).

(9) (Deleted by amendment, P.L.1999, c.159).

(10) the foreign bank does not, after the time for appeal has expired and no appeal is pending, satisfy a judgment against it for a breach of any fiduciary obligation with respect to any estate or trust administered by it under the laws of this State.

11. N.J.S. 3B:18-25 is amended to read as follows:

Fiduciaries may take annual commissions on corpus.

3B:18-25. a. Fiduciaries may annually, without court allowance, take commissions on corpus (including accumulated income which has been invested by the fiduciary) in the amount of $5.00 per thousand dollars of corpus value on the first $400,000.00 of value of corpus and $3.00 per thousand dollars of the corpus value in excess of $400,000.00.

b. Notwithstanding the provisions of subsection a. of this section, if the fiduciary is a banking institution, foreign bank or savings and loan association authorized to exercise fiduciary powers, the fiduciary shall be entitled to such commissions as may be reasonable.

c. Notwithstanding the provisions of subsection a. of this section, a fiduciary may take a minimum commission of $100.00 annually.

d. The value of the corpus for the purpose of this section shall be the "presumptive value" as defined in N.J.S.3B:18-18 or, at the option of the fiduciary, the value at the end of the period.

e. Upon application of a person interested in the trust or guardianship, a court may review the reasonableness of the commissions of the fiduciary, provided, however, the fiduciary shall be entitled to receive at least the compensation provided for all fiduciaries as set forth in subsections a. and c. of this section.

C.3B:18-25.2 Powers of qualified bank; duties of agent.

12. a. Notwithstanding any law to the contrary, a qualified bank acting in any capacity authorized pursuant to section 28 of P.L.1948, c.67 (C. 17:9A-28) on behalf of a trust or estate may employ and pay reasonable compensation to any person, including attorneys, auditors, investment advisers or other agents, even if they are affiliated or associated with the

qualified bank, to advise or assist the qualified bank in the performance of any of its administrative duties, whether or not discretionary, and to act without independent investigation upon their recommendation, so long as the qualified bank exercises care, skill, and caution in: selecting the agent; establishing the scope and terms of the agent's duties consistent with the purpose and terms of the governing trust instrument; and periodically reviewing the agent's actions in order to monitor the agent's performance. A qualified bank that delegates investment functions to an investment adviser shall also comply with the requirements of sections 8 and 10 of P.L.1997, c.26 (C.3B:20-11.8 and 3B:20-11.10).

b. In performing any agency function, the agent shall owe to the qualified bank and the beneficiaries the same duties as the qualified bank and shall be held to the same fiduciary standards as the qualified bank.

c. In the absence of express contrary provisions in the trust instrument, a qualified bank which employs an agent other than an investment adviser or investment manager, may pay the agent from the fiduciary fund if the qualified bank reasonably believes in the exercise of its discretion that such an arrangement is in the best interests of all interested persons and will improve the efficiency of the administration of the fiduciary fund. In the absence of express contrary provisions in the trust instrument, a qualified bank which delegates investment and trust asset management functions to an investment adviser or an investment manager shall comply with the cost control and other requirements of sections 8 and 10 of P.L.1997, c.26 (C.3B:20-11.8 and 3B:20-11.10).

d. A qualified bank which substantially complies with the requirements of subsections a. and c. of this section shall not be liable to the beneficiaries or to the trust or estate for the decisions or actions of the agent, and shall not, solely by reason of the delegation, be deemed to engage in acts of self-dealing or a conflict of interest.

e. By accepting an appointment as agent from a qualified bank acting as a fiduciary of a trust or estate that is subject to the law of New Jersey, the agent submits to the jurisdiction of the courts of New Jersey, even if the agency agreement provides otherwise.

C.46:2F-9 Rule against perpetuities abrogated.

13. No interest created in real or personal property shall be void by reason of any rule against perpetuities, whether the common law rule or otherwise. The common law rule against perpetuities shall not be in force in this State.

C.46:2F-10 Permissible period of power of alienation under trust, future interest.

14. a. (1) A future interest or trust is void if it suspends the power of alienation for longer than the permissible period. The power of alienation

is the power to convey to another an absolute fee in possession of land, or full ownership of personalty. The permissible period is within 21 years after the death of an individual or individuals then alive.

(2) If the settlor of a living trust has an unlimited power to revoke, the permissible period is computed from termination of that power.

(3) If a future property interest or trust is created by exercise of a power of appointment, the permissible period is computed from the time the power is exercised if the power is a general power exercisable in favor of the donee, the donee's estate, the donee's creditors or the creditors of the donee's estate, whether or not it is exercisable in favor of others, and even if the general power is exercisable only by will; in the case of other powers the permissible period is computed from the time the power is created but facts at the time the power is exercised are considered in determining whether the power of alienation is suspended beyond the death of an individual or individuals alive at the time of creation of the power plus 21 years.

b. The power of alienation is suspended when there are no persons then alive who, alone or in combination with others, can convey an absolute fee in possession of land, or full ownership of personalty.

c. There is no suspension of the power of alienation by a trust or by equitable interests under a trust if the trustee has power to sell, either expressed or implied, or if there is an unlimited power to terminate in one or more persons then alive.

d. This section does not apply to limit any of the following:

(1) Transfers, outright or in trust, for charitable purposes;

(2) Transfers to one or more charitable organizations as described in Sections 170(c), 2055(a) and 2522(a) of the United States Internal Revenue Code of 1986 (26 U.S.C. ss. 170(c), 2055(a) and 2522(a), or under any similar statute;

(3) A future interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of:

(a) a premarital or postmarital agreement;

(b) a separation or divorce settlement;

(c) a spouse's election;

(d) a similar arrangement arising out of a prospective, existing, or previous marital relationship between the parties;

(e) a contract to make or revoke a will or trust;

(f) a contract to exercise or not to exercise a power of appointment;

(g) a transfer in satisfaction of a duty of support; or

(h) a reciprocal transfer;

(4) Transfers to a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income

deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries or spouses the property, income, or principal in the trust or other property arrangement; or

(5) A property interest, power of appointment, or arrangement that was not subject to the common-law rule against perpetuities or is excluded by another statute of this State.

C.46:2F-11 Applicability of C.46:2F-9 through C.46:2F-11 to property interests, powers of appointment.

15. a. Except as provided in subsection b. of this section, sections 13 through 15 of this amendatory and supplementary act apply to:

(1) a future property interest or a power of appointment that is created on or after the effective date of this act; or

(2) a future property interest or a power of appointment created before the effective date of this act pursuant to the laws of any other state that does not have the rule against perpetuities in force and to which, after the effective date of this act, the laws of this State are made applicable by transfer of the situs of a trust to New Jersey, by a change in the law governing a trust instrument to New Jersey law, or otherwise. For purposes of this section only, a future property interest or a power of appointment is created when the power is irrevocably exercised or when a revocable exercise becomes irrevocable.

b. With respect to a nonvested property interest or a power of appointment created before the effective date of this act, which is determined in a judicial proceeding commenced on or after the effective date of this act, to violate this State's rule against perpetuities as that rule existed before the effective date of this act, a court upon the petition of an interested person may reform the disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the limits of the rule against perpetuities applicable when the nonvested property interest or power of appointment was created. The "rule against perpetuities" as used in this subsection shall mean the provisions of sections 1 through 8 of P.L.1991. c.192 (C.46:2F-1 through 42:2F-8), in effect at the time stated herein, notwithstanding the repeal of those sections by this amendatory and supplementary act.

Repealer.

16. a. The following sections are repealed:

Section 320 of PL. 1948, c. 67 (C. 17:9A-320);

Section 321 of PL. 1948, c. 67 (C. 17:9A-321);

Section 323 of PL. 1948, c. 67 (C. 17:9A-323); and

Section 324 of P.L.1948, c.67 (C.17:9A-324).

b. Sections 1 through 8 of P.L.1991, c. 192 (C.46:2F-1 through 46:2F-8) are repealed but shall continue to apply to interests created prior to the effective date of this act to the extent provided in subsection b. of section 15 of this act.

17. This act shall take effect on the first business day following enactment.

Approved July 8, 1999.

CHAPTER 160

AN ACT concerning criminal street gangs, supplementing chapter 33 of Title 2C of the New Jersey Statutes and amending N.J.S.2C:35A-3, N.J.S.2C:35A-4 and N.J.S.2C:44-3.

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

C.2C:33-28 Solicitation, recruitment to join criminal street gang; crime, degrees.

1. a. An actor who solicits or recruits another to join or actively participate in a criminal street gang with the knowledge or purpose that the person who is solicited or recruited will promote, further, assist, plan, aid, agree, or attempt to aid in the commission of criminal conduct by a member of a criminal street gang commits a crime of the fourth degree. For purposes of this section, the actor shall have the requisite knowledge or purpose if he knows that the person who is solicited or recruited will engage in some form, though not necessarily which form, of criminal activity. "Criminal street gang" shall have the meaning set forth in subsection h. of N.J.S.2C:44-3.

b. An actor who, in the course of violating subsection a. of this section, threatens another with bodily injury on two or more separate occasions within a 30-day period commits a crime of the third degree.

c. An actor who, in the course of violating subsection a. of this section, inflicts significant bodily injury upon another commits a crime of the second degree.

d. Any defendant convicted of soliciting, recruiting, coercing or threatening a person under 18 years of age in violation of subsection a., b. or c. of this section shall be sentenced by the court to an extended term of imprisonment as set forth in subsection a. of N.J.S.2C:43-7. Notwithstand-

ing the provisions of N.J.S.2C:1-8, N.J.S.2C:44-5 or any other provision of law, a conviction arising under this section shall not merge with a conviction for any criminal offense that the actor committed while involved in criminal street gang related activity, as defined in subsection h. of N.J.S.2C:44-3, nor shall the conviction for any such offense merge with a conviction pursuant to this section and the sentence imposed upon a violation of this section shall be ordered to be served consecutively to that imposed upon any other such conviction.

2. N.J.S.2C:35A-3 is amended to read as follows:

Criteria for imposition of anti-drug profiteering penalty.

2C:35A-3. Criteria for imposition of anti-drug profiteering penalty.

a. In addition to any other disposition authorized by this title, including but not limited to any fines which may be imposed pursuant to the provisions of N.J.S.2C:43-3 and except as may be provided by section 5 of this chapter, where a person has been convicted of a crime defined in chapter 35 or 36 of this Title or any crime involving criminal street gang related activity as defined in subsection h. of N.J.S.2C:44-3 or an attempt or conspiracy to commit such a crime, the court shall, upon the application of the prosecutor, sentence the person to pay a monetary penalty in an amount determined pursuant to section 4 of this chapter, provided the court finds at a hearing, which may occur at the time of sentencing, that the prosecutor has established by a preponderance of the evidence one or more of the grounds specified in this section. The findings of the court shall be incorporated in the record, and in making its findings, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing or other court proceedings and shall also consider the presentence report and any other relevant information.

b. Any of the following shall constitute grounds for imposing an Anti-Drug Profiteering Penalty:

(1) The defendant was convicted of: (a) a violation of N.J.S.2C:35-3 (leader of narcotics trafficking network), or (b) a violation of subsection g. of N.J.S.2C:5-2 (leader of organized crime), or (c) an offense defined in chapter 41 of this Title (racketeering) which involved the manufacture, distribution, possession with intent to distribute or transportation of any controlled dangerous substance or controlled substance analog.

(2) The defendant is a drug profiteer. A defendant is a drug profiteer when the conduct constituting the crime shows that the person has knowingly engaged in the illegal manufacture, distribution or transportation of any controlled dangerous substance, controlled substance analog or drug paraphernalia as a substantial source of livelihood. In making its determina-

tion, the court may consider all of the attending circumstances, including but not limited to the defendant's role in the criminal activity, the nature, amount and purity of the substance involved, the amount of cash or currency involved, the extent and accumulation of the defendant's assets during the course of the criminal activity and the defendant's net worth and his expenditures in relation to his legitimate sources of income.

(3) The defendant is a wholesale drug distributor. (a) A defendant is a wholesale drug distributor when the conduct constituting the crime involves the manufacture, distribution or intended or attempted distribution of a controlled dangerous substance or controlled substance analog to any other person for pecuniary gain, knowing, believing, or under circumstances where it reasonably could be assumed that such other person would in turn distribute the substance to another or others for pecuniary gain. It shall not be necessary for the prosecution to establish to whom the substance was distributed or intended or attempted to be distributed, and the court may draw all reasonable inferences from the nature of the defendant's conduct and the substance involved that such other person, while not specifically identified, would in turn distribute the substance to another or others for pecuniary gain. In making its determination, the court shall consider all of the attending circumstances, including but not limited to the defendant's role in the criminal activity, the nature, amount and purity of the substance involved, and the likelihood that a substance of such purity would be intended to be distributed directly to the ultimate consumer of the substance.

(b) Notwithstanding that the prosecutor has established that the defendant is a wholesale drug distributor within the meaning of this paragraph, the court shall not impose an anti-drug profiteering penalty on that ground if the defendant establishes by a preponderance of the evidence at the hearing that his participation in the conduct constituting the crime was limited solely to operating a conveyance used to transport a controlled dangerous substance or controlled substance analog, or loading or unloading the substance into such a conveyance or storage facility. Nothing in this paragraph shall be construed to establish a basis for not imposing a penalty where the prosecutor has established any other ground or grounds specified in this section for the imposition of an anti-drug profiteering penalty.

(4) The defendant is a professional drug distributor. A professional drug distributor is a person who has at any time, for pecuniary gain, unlawfully distributed a controlled dangerous substance, controlled substance analog or drug paraphernalia to three or more different persons, or on five or more separate occasions regardless of the number of persons to whom the substance or paraphernalia was distributed.

(5) The defendant was involved in criminal street gang related activity.

c. In making its determination, the court may rely upon expert opinion in the form of live testimony or by affidavit, or by such other means as the court deems appropriate.

d. For the purposes of this chapter, an act is undertaken for pecuniary gain if it involves or contemplates the transfer of anything of value in exchange for a controlled dangerous substance, controlled substance analog or drug paraphernalia, provided that the thing of value received or intended to be received in exchange for the substance or paraphernalia is or was reasonably believed to be of a higher value than that expended by the defendant or by any other person with whom the actor is acting in concert, to acquire or manufacture the substance or paraphernalia. It shall also include any act which would constitute a violation of subsection a. of N.J.S.2C:35-5, N.J.S.2C:35-11, N.J.S.2C:36-3 or any other crime for which the actor was paid or expected to be paid in return for performing such act, or from which the actor received a benefit for himself or another or injured another or deprived another of a benefit. There shall be a rebuttable presumption at the hearing that any manufacturing, distribution or possession with intent to distribute which contemplates or involves the payment or exchange of anything of value constitutes an act undertaken for pecuniary gain. It shall not be necessary for the prosecution to establish that any intended profit or payment was actually received; nor shall it be relevant that the act, payment in return for such act or the transfer of anything of value in exchange for the substance or paraphernalia, occurred or was intended to occur in another jurisdiction.

3. N.J.S.2C:35A-4 is amended to read as follows:

Calculation of anti-drug profiteering penalty.

2C:35A-4. Calculation of anti-drug profiteering penalty.

a. Where the prosecutor has established one or more grounds for imposing an Anti-Drug Profiteering Penalty pursuant to section 3 of this chapter, the court shall assess a monetary penalty as follows:

(1) $200,000.00 in the case of a crime of the first degree; $100,000.00 in the case of a crime of the second degree; $50,000.00 in the case of a crime of the third degree; $25,000.00 in the case of a crime of the fourth degree;

(2) an amount equal to three times the street value of all controlled dangerous substances or controlled substance analogs involved, or three times the market value of all drug paraphernalia involved, if this amount is greater than that provided in paragraph (1) of this subsection; or

(3) an amount equal to three times the value of any benefit illegally obtained by the actor for himself or another, or any injury to or benefit deprived of another.

b. When the court is for any reason unable to determine the amount of the penalty pursuant to paragraph (2) of subsection a., the court shall assess a penalty in the amount appropriate to the degree of the offense as provided in paragraph (1) of subsection a.

c. In determining the street value of the substance involved or the market value of drug paraphernalia involved, the court shall take into account all amounts of the substance or paraphernalia reasonably believed to have been involved in the course of the criminal activity in which the defendant knowingly participated, and it shall not be relevant for the purposes of this section that some of those amounts or paraphernalia were involved in acts or transactions which occurred, or which were intended to occur, in another jurisdiction.

d. Where the prosecution requests that the court assess a penalty in an amount calculated pursuant to paragraph (2) or (3) of subsection a., the prosecutor shall have the burden of establishing by a preponderance of the evidence the appropriate amount of the penalty to be assessed pursuant to that paragraph. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at trial, plea hearing or other court proceedings and shall also consider the presentence report and other relevant information, including expert opinion in the form of live testimony or by affidavit. The court's findings shall be incorporated in the record, and such findings shall not be subject to modification by an appellate court except upon a showing that the finding was totally lacking support in the record or was arbitrary and capricious.

4. N.J.S.2C:44-3 is amended to read as follows:

Criteria for sentence of extended term of imprisonment.

2C:44-3. Criteria for Sentence of Extended Term of Imprisonment.

The court may, upon application of the prosecuting attorney, sentence a person who has been convicted of a crime of the first, second or third degree to an extended term of imprisonment if it finds one or more of the grounds specified in subsection a., b., c., or f. of this section. The court shall, upon application of the prosecuting attorney, sentence a person who has been convicted of a crime, other than a violation of N.J.S.2C:12-1a., N.J.S.2C:33-4, or a violation of N.J.S.2C:14-2 or 2C:14-3 if the grounds for the application is purpose to intimidate because of gender, to an extended term if it finds, by a preponderance of the evidence, the grounds in subsection e. If the grounds specified in subsection d. are found, and the

person is being sentenced for commission of any of the offenses enumerated in N.J.S.2C:43-6c. or N.J.S.2C:43-6g., the court shall sentence the defendant to an extended term as required by N.J.S.2C:43-6c. or N.J.S.2C:43-6g., and application by the prosecutor shall not be required. The court shall, upon application of the prosecuting attorney, sentence a person who has been convicted of a crime under N.J.S.2C:14-2 or N.J.S.2C:14-3 to an extended term of imprisonment if the grounds specified in subsection g. of this section are found. The court shall, upon application of the prosecuting attorney, sentence a person who has been convicted of a crime to an extended term of imprisonment if the grounds specified in subsection h. of this section are found. The court shall, upon application of the prosecuting attorney, sentence a person to an extended term if the imposition of such term is required pursuant to the provisions of section 2 of P.L.1994, c.130 (C.2C:43-6.4). The finding of the court shall be incorporated in the record.

a. The defendant has been convicted of a crime of the first, second or third degree and is a persistent offender. A persistent offender is a person who at the time of the commission of the crime is 21 years of age or over, who has been previously convicted on at least two separate occasions of two crimes, committed at different times, when he was at least 18 years of age, if the latest in time of these crimes or the date of the defendant's last release from confinement, whichever is later, is within 10 years of the date of the crime for which the defendant is being sentenced.

b. The defendant has been convicted of a crime of the first, second or third degree and is a professional criminal. A professional criminal is a person who committed a crime as part of a continuing criminal activity in concert with two or more persons, and the circumstances of the crime show he has knowingly devoted himself to criminal activity as a major source of livelihood.

c. The defendant has been convicted of a crime of the first, second or third degree and committed the crime as consideration for the receipt, or in expectation of the receipt, of anything of pecuniary value the amount of which was unrelated to the proceeds of the crime or he procured the commission of the offense by payment or promise of payment of anything of pecuniary value.

d. Second offender with a firearm. The defendant is at least 18 years of age and has been previously convicted of any of the following crimes: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-3a., 2C:15-1, 2C:18-2, 2C:29-5, 2C:39-4a., or has been previously convicted of an offense under Title 2A of the New Jersey Statutes or under any statute of the United States or any other state which is substantially equivalent to the offenses enumerated in this subsection and he used or possessed a firearm

as defined in 2C:39-1f., in the course of committing or attempting to commit any of these crimes, including the immediate flight therefrom.

e. The defendant in committing the crime acted with a purpose to intimidate an individual or group of individuals because of race, color, gender, handicap, religion, sexual orientation or ethnicity.

f. The defendant has been convicted of a crime under any of the following sections: N.J.S.2C:11-4, N.J.S.2C:12-1b., N.J.S.2C:13-1, N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-2b., N.J.S.2C:29-5, N.J.S.2C:35-5, and in the course of committing or attempting to commit the crime, including the immediate flight therefrom, the defendant used or was in possession of a stolen motor vehicle.

g. The defendant has been convicted of a crime under N.J.S.2C:14-2 or N.J.S.2C:14-3 involving violence or the threat of violence and the victim of the crime was 16 years of age or less.

For purposes of this subsection, a crime involves violence or the threat of violence if the victim sustains serious bodily injury as defined in subsection b. of N.J.S.2C:11-1, or the actor is armed with and uses a deadly weapon or threatens by word or gesture to use a deadly weapon as defined in subsection c. of N.J.S.2C:11-1, or threatens to inflict serious bodily injury.

h. The crime was committed while the defendant was knowingly involved in criminal street gang related activity. A crime is committed while the defendant was involved in criminal street gang related activity if the crime was committed for the benefit of, at the direction of, or in association with a criminal street gang. "Criminal street gang" means three or more persons associated in fact. Individuals are associated in fact if (1) they have in common a group name or identifying sign, symbol, tattoo or other physical marking, style of dress or use of hand signs or other indicia of association or common leadership, and (2) individually or in combination with other members of a criminal street gang, while engaging in gang related activity, have committed, conspired or attempted to commit, within the preceding three years, two or more offenses of robbery, carjacking, aggravated assault, assault, aggravated sexual assault, sexual assault, arson, burglary, kidnapping, extortion, or a violation of chapter 11, section 3, 4, 5, 6 or 7 of chapter 35 or chapter 39 of Title 2C of the New Jersey Statutes regardless of whether the prior offenses have resulted in convictions.

The court shall not impose a sentence pursuant to this subsection unless the ground therefore has been established by a preponderance of the evidence established at a hearing, which may occur at the time of sentencing. In making its finding, the court shall take judicial notice of any testimony or information adduced at the trial, plea hearing or other court

proceedings and also shall consider the presentence report and any other relevant information.

5. This act shall take effect immediately.

Approved July 8, 1999.

CHAPTER 161

AN ACT concerning the operation of vessels on the waters of this State and supplementing P.L.1962, c.73 (C.12:7-34.36 et seq.).

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

C.12:7-47.1 Child under 12 required to wear personal flotation device on vessel underway.

1. a. Every person who operates a vessel on the waters of this State with a child 12 years of age or under on board shall have the child wear at all times a properly fitted United States Coast Guard approved personal flotation device whenever the vessel is underway.

b. Any person guilty of violating this act shall be fined not less than $25 or more than $50.

c. The operator of a vessel shall not be guilty of a violation of this act if a United States Coast Guard flotation device of a size to properly fit the child is not commercially available.

C.12:7-47.2 Rules, regulations.

2. The Boat Regulation Commission shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt any rules and regulations necessary to effectuate the purposes of this act. The commission shall exempt any class of vessel from the requirements of this act if it deems that the size or purpose of the vessels in a specific class make the requirements unnecessary or inappropriate. The class of vessel exempt from the requirements of this act shall include, but need not be limited to, the class of vessels in which large commercial tour or ferry boats are listed.

3. This act shall take effect January 1, 1999, but section 2 shall take effect immediately

Approved July 10, 1999.

CHAPTER 162

AN ACT concerning the use of runners and supplementing chapter 21 of Title 2C of the New Jersey Statutes.

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

C.2C:21-22.1 Definitions relative to use of runners; crime; sentencing.

1. a. As used in this section:

"Provider" means an attorney, a health care professional, an owner or operator of a health care practice or facility, any person who creates the impression that he or his practice or facility can provide legal or health care services, or any person employed or acting on behalf of any of the aforementioned persons.

"Public media" means telephone directories, professional directories, newspapers and other periodicals, radio and television, billboards and mailed or electronically transmitted written communications that do not involve in-person contact with a specific prospective client, patient or customer.

"Runner" means a person who, for a pecuniary benefit, procures or attempts to procure a client, patient or customer at the direction of, request of or in cooperation with a provider whose purpose is to seek to obtain benefits under a contract of insurance or assert a claim against an insured or an insurance carrier for providing services to the client, patient or customer. "Runner" shall not include a person who procures or attempts to procure clients, patients or customers for a provider through public media or a person who refers clients, patients or customers to a provider as otherwise authorized by law.

b. A person is guilty of a crime of the third degree if that person knowingly acts as a runner or uses, solicits, directs, hires or employs another to act as a runner.

c. Notwithstanding the provisions of subsection e. of N.J.S.2C:44-1, the court shall deal with a person who has been convicted of a violation of this section by imposing a sentence of imprisonment unless, having regard to the character and condition of the person, the court is of the opinion that imprisonment would be a serious injustice which overrides the need to deter such conduct by others. If the court imposes a noncustodial or probationary sentence, such sentence shall not become final for 10 days in order to permit the appeal of such sentence by the prosecution. Nothing in this section shall preclude an indictment and conviction for any other offense defined by the laws of this State.

2. This act shall take effect immediately.

Approved July 12, 1999.

CHAPTER 163

AN ACT concerning the installment purchase of development easements on farmland and amending P.L.1983, c.32.

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

1. Section 25 of P.L.1983, c.32 (C.4:1C-32) is amended to read as follows:

C.4:1C-32 Conveyance of easement following purchase; conditions, restrictions; payment.

25. a. No development easement purchased pursuant to the provisions of this act shall be sold, given, transferred or otherwise conveyed in any manner except in those cases when development easements have been purchased on land included in a farmland preservation program included in a sending zone established by a municipal development transfer ordinance adopted pursuant to P.L.1989, c.86 (C.40:55D-113 et al.).

b. Upon the purchase of the development easement by the board, the landowner shall cause a statement containing the conditions of the conveyance and the terms of the restrictions on the use and development of the land to be attached to and recorded with the deed of the land, in the same manner as the deed was originally recorded. These restrictions and conditions shall state that any development for nonagricultural purposes is expressly prohibited, shall run with the land and shall be binding upon the landowner and every successor in interest thereto.

c. At the time of settlement of the purchase of a development easement, the landowner, the board, and the committee may agree upon and establish a schedule of payment which provides that the landowner may receive consideration for the easement in a lump sum, or in installments over a period of up to 40 years from the date of settlement, provided that, if a schedule of installments is agreed upon, the State Comptroller each year shall retain in the fund, or the governing body each year shall retain, an amount of money sufficient to pay the landowner for the current year pursuant to the schedule. For installment purchases, (1) the landowner may receive annually interest on any unpaid balance remaining after the date of settlement, which shall accrue at a rate established in the installment

contract; and (2) the committee shall make annual payments to the board in an amount equal to the committee's proportionate annual share of the purchase price of the development easement.

d. Nothing in this section shall prevent a board from receiving a lump sum from the committee and establishing a schedule of installment payments with the landowner.

2. This act shall take effect immediately.

Approved July 13, 1999.

CHAPTER 164

AN ACT appropriating $1,152,519 from the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," P.L.1989, c.181, for the purpose of providing grants to local government units for financing the cost of the planning and design of combined sewer overflow abatement projects.

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

1. a. There is appropriated from the "Stormwater Management and Combined Sewer Overflow Abatement Fund," created pursuant to section 14 of the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," P.L.1989, c.181, to the Department of Environmental Protection the sum of $1,152,519 for the purpose of providing grants to local government units for financing the cost of the planning and design of combined sewer overflow abatement projects, as follows:

LOCAL GOVERNMENT UNIT	**COUNTY**	**GRANT AWARD**
Ridgefield Park Village	Bergen	$174,516
Edgewater MUA	Bergen	113,494
Kearny Town	Hudson	233,194
East Newark Boro	Hudson	58,222
Paterson City	Passaic	347,440
Bayonne City	Hudson	225,653

b. Any transfer of any funds or project sponsor listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

2. The Department of Environmental Protection may apply the provisions of the "Sewage Infrastructure Improvement Act," P.L.1988, c.90 (C.58:25-23 et seq.), and any rules or regulations adopted pursuant thereto, as appropriate, in awarding the grants authorized pursuant to section 1 of this act.

3. Subject to the approval of the Joint Budget Oversight Committee or its successor, the Commissioner of Environmental Protection may reduce the amount of any grant awarded pursuant to section 1 of this act based upon final allowable project cost determined in accordance with rules and regulations adopted pursuant to the "Sewage Infrastructure Improvement Act," P.L.1988, c.90 (C.58:25-23 et seq.).

4. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1989, c.181, as amended by P.L.1997, c.225.

5. This act shall take effect immediately.

Approved July 14, 1999.

CHAPTER 165

AN ACT appropriating $12,968,909 from the "Stormwater Management and Combined Sewer Overflow Abatement Fund" created pursuant to section 14 of the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," P.L.1989, c.181, as amended by P.L.1997, c.225, for the purpose of providing grants to local government units for financing the cost of the planning and design of combined sewer overflow abatement projects, and providing for cancellations of certain previous appropriations from the fund.

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

1. a. There is appropriated from the "Stormwater Management and Combined Sewer Overflow Abatement Fund," created pursuant to section

14 of the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," P.L.1989, c.181, as amended by P.L.1997, c.225 to the Department of Environmental Protection the sum of $12,968,909 for the purpose of providing grants to local government units for financing the cost of the planning and design of combined sewer overflow abatement projects, as follows:

LOCAL GOVERNMENT UNIT	COUNTY	GRANT AWARD
Rahway City	Union	$387,534
Perth Amboy City	Middlesex	217,751
Camden City	Camden	4,000,000
Camden Co. MUA	Camden	255,000
Ridgefield Park Village	Bergen	357,170
North Hudson S.A.	Hudson	3,026,883
Kearny Town	Hudson	479,175
Cliffside Park Boro.	Bergen	101,762
East Newark Boro.	Hudson	163,612
Paterson City	Passaic	3,057,181
Bayonne City	Hudson	922,841

b. Any transfer of any funds or project sponsor listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

2. a. Appropriations made pursuant to P.L.1995, c.228 from the "Stormwater Management and Combined Sewer Overflow Abatement Fund" for the following projects are hereby reduced as follows:

Local Government Unit	Amount of Reduction
Camden City	$2,590
Ridgefield Park Village	190,138

b. Appropriations made pursuant to P.L.1995, c.404 from the "Stormwater Management and Combined Sewer Overflow Abatement Fund" for the following projects are hereby reduced as follows:

Local Government Unit	Amount of Reduction
Hackensack City	$359,293
Jersey City	48,124

3. The Department of Environmental Protection may apply the provisions of the "Sewage Infrastructure Improvement Act," P.L.1988, c.90 (C.58:25-23 et seq.), and any rules or regulations adopted pursuant thereto, as appropriate, in awarding the grants authorized pursuant to section 1 of this act.

4. Subject to the approval of the Joint Budget Oversight Committee or its successor, the Commissioner of Environmental Protection may reduce the amount of any grant awarded pursuant to section 1 of this act based upon final allowable project cost determined in accordance with rules and regulations adopted pursuant to the "Sewage Infrastructure Improvement Act," P.L.1988, c.90 (C.58:25-23 et seq.).

5. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1989, c.181, as amended by P.L.1997, c.225.

6. This act shall take effect immediately.

Approved July 14, 1999.

CHAPTER 166

AN ACT concerning supplemental awards to certain catastrophically injured crime victims and amending and supplementing P.L.1971, c.317.

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

1. Section 18 of P.L.1971, c.317 (C.52:4B-18) is amended to read as follows:

C.52:4B-18 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.

Except as provided herein, 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 except in those cases determined by the board to be catastrophic in nature. 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.

Compensation may be awarded in an amount not exceeding the actual cost of a rehabilitative service of the type enumerated in section 2 of P.L.1999, c.166 (C.52:4B-18.2).

The award may provide for periodic payments in the case of protracted care or rehabilitative assistance.

C.52:4B-18.2 Supplemental awards for rehabilitative assistance to certain crime victims.

2. a. In addition to any award granted pursuant to section 18 of P.L.1971, c.317 (C.52:4B-18), the Victims of Crime Compensation Board may make one or more supplemental awards for the purpose of providing rehabilitative assistance to catastrophically injured crime victims or other persons entitled to compensation under section 10 of P.L.1971, c.317 (C.52:4B-10).

b. The rehabilitative assistance which the supplemental award may cover can include, but is not limited to, any of the following services not covered by the original award of compensation or by other sources provided that the board determines that the services are reasonable and necessary:

(1) Surgical and therapeutic procedures;

(2) Rehabilitative physical and occupational therapy designed to restore an optimum function level;

(3) Prescription drugs and medical supplies;

(4) Cognitive and psychological therapy;

(5) Home health assistance;

(6) Vehicle modifications;

(7) Driver training;

(8) Wheelchair, braces, splints, crutches, walkers, shower or commode chair and any other personal adaptive equipment required to meet individual disability needs;

(9) Structural modifications to living environment designed to provide accessibility and to maximize independence;

(10) Dependent care as needed.

c. The Victims of Crime Compensation Board is authorized to make rules and regulations prescribing the procedures to be followed in qualifying for a supplemental award. The board is also authorized to establish a cap on the total amount of supplemental awards to be made in a year and a cap on the amount which a person may receive as a supplemental award, which personal cap shall not be less than $25,000

d. The payment of any supplemental award granted under the provisions of this section shall be approved by the board for payment out of funds appropriated for the administration of P.L.1971, c.371 (C.52:4B-1 et seq.), the "Criminal Injuries Compensation Act of 1971."

e. A catastrophically injured crime victim who received a compensation award prior to the enactment of this section may apply for a supplemental award pursuant to the provisions of this section. A denial by the board of an application made pursuant to the provisions of this subsection shall not be subject to appeal.

f. As used in this section, "catastrophically injured crime victim" means a person who is injured by any act or omission of another person which is within the description of the offenses specified in section 11 of P.L.1971, c.317 (C.52:4B-11) and who has sustained a severe long term or life long personal injury.

3. This act shall take effect immediately.

Approved July 15, 1999.

CHAPTER 167

AN ACT concerning the apportionment of costs in certain school districts, supplementing chapter 8 of Title 18A of the New Jersey Statutes and making an appropriation.

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

C.18A:8-1.1 Apportionment of costs in certain school districts.

1. The annual or special appropriations, including the amounts to be raised for interest upon, and the redemption of, bonds payable by the district for districts in a county of the fifth class with a population of not less than 500,000 and not more than 600,000 according to the 1990 federal decennial census that according to N.J.S. 18A: 8-1 are separate local school districts,

constituted from a municipality and another municipality which is also an incorporated village, shall be apportioned among the municipalities included within the district as follows:

a. For the 1999-2000 school year and thereafter, for the municipality which is also an incorporated village, the appropriations shall equal the greater of $300,000 or the product of the municipality's weighted enrollment calculated pursuant to section 13 of P.L.1996, c. 138 (C.18A:7F-13) and 110% of the district's prebudget year net T&E budget per weighted pupil. The district's prebudget year net T&E budget shall be calculated as defined in section 3 of PL. 1996, c.138 (C.18A:7F-3). In the event that the resident enrollment for the municipality, which is also an incorporated village, equals or exceeds 60 pupils, the district's prebudget year net T&E budget per weighted pupil shall not be inflated.

b. For the 1999-2000 school year and thereafter, for the municipality which is also an incorporated village, the appropriations shall include an amount in addition to the amount required pursuant to subsection a. of this section for the actual cost of the program for each classified pupil placed in an out-of-district program that is in excess of the amount the district receives for the classified pupil pursuant to section 19 of P.L.1996, c.138 (C.18A:7F-19). The amount shall be included in the tax levy for the second subsequent budget year following the year in which the costs are incurred.

c. For the 1999-2000 school year and thereafter, for the municipality that is not an incorporated village, the appropriations shall equal the amount calculated by subtracting the amounts determined pursuant to subsections a. and b. of this section from the district's total school tax levy for the budget year.

2. In the event that there is a decrease in the school tax levy of the municipality which is also an incorporated village for the 1999-2000 school year through the application of the provisions of section 1 of this act, the district shall receive supplemental State aid for the 1999-2000 school year equal to the amount of the decrease or $200,000, whichever is less.

3. There is appropriated from the General Fund to the Department of Education $200,000 to effectuate the provisions of this act.

4. This act shall take effect immediately.

Approved July 15, 1999.

CHAPTER 168

AN ACT increasing certain State aid for municipalities by the annual rate of inflation and directing the annual increases be used for municipal property tax relief to provide a Property Taxpayers' Protection Act, amending P.L.1997, c.167 and supplementing title 52 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.1997, c.167 (C.52:27D-439) is amended to read as follows:

C.52:27D-439 "Energy Tax Receipts Property Tax Relief Fund."

2. a. Commencing July 1, 1997 there is established the "Energy Tax Receipts Property Tax Relief Fund" as a special dedicated fund in the State Treasury into which there shall be credited annually, commencing in State fiscal year 1998, the sum of $740,000,000 or the amount determined pursuant to subsection e. of this section from the following: net payments under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from sales and use of energy or utility services, net payments under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) from gas, electric, and gas and electric public utilities, whether municipal or otherwise, that were subject to tax pursuant to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to January 1, 1998, net payments under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) from telecommunications public utilities that were subject to tax pursuant to the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.) as of April 1, 1997, net payments under P.L.1940, c.5 (C.54:30A-49 et seq.) from sewerage and water corporations, net payments under the "Transitional Energy Facility Assessment Act," P.L.1997, c.162 (C.54:30A-100 through C.54:30A-113), and such sums from the General Fund as may be necessary to provide that the annual amount credited to the fund shall equal $740,000,000 or the amount determined pursuant to subsection e. of this section.

b. Notwithstanding the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.), P.L.1940, c.5 (C.54:30A-49 et seq.) and any other provision of law concerning the apportionment and distribution by the State of taxes paid by public utilities,

(1) There shall be paid during the State fiscal year 1998 and during each fiscal year thereafter from the "Energy Tax Receipts Property Tax Relief

Fund" to the municipalities of the State the sum of $740,000,000 or the amount determined pursuant to subsection e. of this section.

(2) A portion of the $740,000,000 or the amount determined pursuant to subsection e. of this section shall be allocated in a manner that provides that each municipality shall receive an amount not less than the largest annual amount received or to be received by the municipality from:

(a) the distribution of $685,000,000 from the proceeds of the public utilities franchise and gross receipts taxes under P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) in calendar year 1994, 1995 or 1996; or

(b) the distribution of $685,000,000 from the proceeds of the public utilities franchise and gross receipts taxes under P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) or from taxes and assessments collected in replacement of such taxes as released by the Division of Local Government Services in the Department of Community Affairs as fiscal year 1998 estimated franchise and gross receipts taxes State aid distributions by municipality prior to the certification of apportionment of such funds by the Director of the Division of Taxation and the amounts required pursuant to subsection d. of this section.

(3) A portion of the $740,000,000 or the amount determined pursuant to subsection e. of this section shall be allocated in a manner that provides that each municipality shall receive an amount equal to the difference, if any, between the amount it received pursuant to paragraph (2) of this subsection and the sum of the amounts that the municipality received pursuant to the certification made in the 1997 calendar year released by the Division of Local Government Services in the Department of Community Affairs as the fiscal year 1998 estimated franchise and gross receipts taxes State aid distribution of $685,000,000 and the certification of the 1997 fiscal year distribution of $45,000,000.

(4) The portion of the $740,000,000 or the amount, not more than $755,000,000, determined pursuant to subsection e. of this section remaining after the allocations pursuant to paragraphs (2) and (3) of this subsection shall be distributed in proportion to the amounts distributed pursuant to paragraph (2) of this subsection.

c. (1) The funds distributed pursuant to paragraphs (2) and (4) of subsection b. of this section shall be distributed annually to municipalities 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.

(2) The funds distributed pursuant to paragraph (3) of subsection b. of this section shall be distributed annually to municipalities on or before June 30.

d. The allocation set forth in paragraph (2) of subsection b. of this section shall be adjusted to increase each appropriate municipal distribution by the amount necessary to:

(1) make corrections to apportionment valuations or distribution values made by the Director of the Division of Taxation in the Department of the Treasury pursuant to R.S.54:30-2; and

(2) correct equitable distortions, as determined by the State Treasurer, resulting from the application 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).

The director shall report to the Legislature, on or before July 15, 1997, the amount and distribution of the corrections pursuant to paragraphs (1) and (2) of this subsection.

e. The amount credited to the "Energy Tax Receipts Property Tax Relief Fund" shall be $745,000,000 for State fiscal year 1999, $750,000,000 for each of State fiscal years 2000 and 2001, $755,000,000 for State fiscal year 2002, and for each fiscal year thereafter the amount equal to the amount credited in the prior fiscal year multiplied by the sum of 1.0 and the index rate or zero, whichever is greater. As used in this section, "index rate" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis, calculating the annual increase therein at the second calendar quarter which occurred in the next preceding State fiscal year. The Director of the Division of Local Government Services shall promulgate annually the index rate to apply in the next following State fiscal year which shall be the same as the index rate determined pursuant to section 4 of P.L.1983, c.49 (C.40A:4-45.1a). Any amount of aid distributed to a municipality in excess of the amount distributed to the municipality from the "Energy Tax Receipts Property Tax Relief Fund" during the State fiscal year 2002 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.

f. Notwithstanding any other provision of this section or any other provision of law to the contrary, if any municipality paid a county for an amount for county purposes from the amount it received from its apportionment of taxes according to the limitations on the municipalities apportionment under section 4 of P.L.1980, c.11 (C.54:30A-61.1), the highest amount of that payment during calendar years 1994, 1995, and 1996 shall

be paid annually directly to that county by the State Treasurer and be deducted from that municipality's distribution otherwise determined pursuant to paragraph (2) of subsection b. of this section.

C.52:27D-442 Distribution of Consolidated Municipal Property Tax Relief Aid.

2. a. In each State fiscal year, each municipality shall receive Consolidated Municipal Property Tax Relief Aid equal to the amount of Consolidated Municipal Property Tax Relief Aid received in the prior State fiscal year multiplied by the sum of 1.0 and the index rate or zero, whichever is greater. However, any municipality that did not receive a distribution of Consolidated Municipal Property Tax Relief Aid during fiscal year 1999 shall receive aid equal to the amount of Consolidated Municipal Property Tax Relief Aid received in the prior State fiscal year plus the product of the base year amount and the index rate or zero, whichever is greater. As used in this section, "base year amount" means the sum of aid received by the municipality in fiscal year 1995 under those State aid programs which were consolidated in P.L.1995, c.164, the fiscal year 1996 annual appropriations act, under the Consolidated Municipal Property Tax Relief Aid distribution. As used in this section, "index rate" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis, calculating the annual increase therein at the second calendar quarter which occurred in the next preceding State fiscal year. The Director of the Division of Local Government Services shall promulgate annually the index rate to apply in the next following State fiscal year which shall be the same as the index rate determined pursuant to section 4 of P.L.1983, c.49 (C.40A:4-45.1a).

Any amount of aid distributed to a municipality in excess of the amount distributed to the municipality for Consolidated Municipal Property Tax Relief Aid during the State fiscal year 1999 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 increased distribution exceeds the amount required to be raised by local property tax levy for municipal purposes, the balance of the increased distribution shall be used to reduce the amount the municipality is required to collect for county purposes, notwithstanding the provisions of this or any other law to the contrary. The Director of the Division of Local Government Services in the Department of Community Affairs shall certify annually that each municipality has complied with the requirements set forth herein.

b. The amount appropriated for Consolidated Municipal Property Tax Relief Aid in a State fiscal year shall be sufficient to fully fund the distribution to municipalities as determined pursuant to subsection a. of this section.

3. This act shall take effect immediately.

Approved July 22, 1999.

CHAPTER 169

AN ACT concerning the Children's Health Care Coverage Program and amending P.L.1997, c.272.

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

1. Section 4 of P.L.1997, c.272 (C.30:4I-4) is amended to read as follows:

C.30:4I-4 Children's Health Care Coverage Program established.

4. a. The Children's Health Care Coverage Program is established in the Department of Human Services. The purpose of the program shall be to provide subsidized private health insurance coverage, and other health care benefits as determined by the commissioner, to children from birth through 18 years of age within the limits of funds appropriated or otherwise made available for the program. The program shall require copayments and a premium contribution from families with incomes which exceed 150% of the official poverty level, which shall be based upon a sliding income scale. The program shall include the provision of well-child and other preventive services, hospitalization, physician care, laboratory and x-ray services, prescription drugs, mental health services, and other services as determined by the commissioner.

b. The commissioner, in consultation with the Commissioner of Health and Senior Services, shall take such actions as are necessary to implement and operate the program in accordance with the provisions governing the State Children's Health Insurance Program in Title XXI of the federal Social Security Act, as provided in Subtitle J of Title IV of the federal "Balanced Budget Act of 1997," Pub.L.105-33.

c. The commissioner shall by regulation establish standards for determining eligibility and other requirements for the program, including,

but not limited to, premium payments and copayments, and may contract with one or more appropriate entities to assist in administering the program. The commissioner shall take, or cause to be taken, any action necessary to secure for the State the maximum amount of federal financial participation available with respect to the program, subject to the constraints of fiscal responsibility and within the limits of available funding in any fiscal year.

d. Subject to federal approval, a child with a family gross income that does not exceed 200% of the official poverty level shall not be determined ineligible for the program solely because the child was previously covered under an individual health benefits plan during any period preceding application to the program if the child was not voluntarily disenrolled from employer-sponsored group insurance coverage during the six-month period prior to application to the program.

2. This act shall take effect immediately.

Approved July 26, 1999.

CHAPTER 170

AN ACT concerning presumptive eligibility for the Children's Health Care Coverage Program and amending P.L.1997, c.272.

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

1. Section 4 of P.L.1997, c.272 (C.30:4I-4) is amended to read as follows:

C.30:4I-4 Children's Health Care Coverage Program established.

4. a. The Children's Health Care Coverage Program is established in the Department of Human Services. The purpose of the program shall be to provide subsidized private health insurance coverage, and other health care benefits as determined by the commissioner, to children from birth through 18 years of age within the limits of funds appropriated or otherwise made available for the program. The program shall require copayments and a premium contribution from families with incomes which exceed 150% of the official poverty level, which shall be based upon a sliding income scale. The program shall include the provision of well-child and other preventive services, hospitalization, physician care, laboratory and x-ray services,

prescription drugs, mental health services, and other services as determined by the commissioner.

b. The commissioner, in consultation with the Commissioner of Health and Senior Services, shall take such actions as are necessary to implement and operate the program in accordance with the provisions governing the State Children's Health Insurance Program in Title XXI of the federal Social Security Act, as provided in Subtitle J of Title IV of the federal "Balanced Budget Act of 1997," Pub.L.105-33.

c. The commissioner shall by regulation establish standards for determining eligibility and other requirements for the program, including, but not limited to, premium payments and copayments, and may contract with one or more appropriate entities to assist in administering the program. The commissioner shall take, or cause to be taken, any action necessary to secure for the State the maximum amount of federal financial participation available with respect to the program, subject to the constraints of fiscal responsibility and within the limits of available funding in any fiscal year.

d. Subject to federal approval, a child with a family gross income that does not exceed 200% of the official poverty level shall not be determined ineligible for the program solely because the child was previously covered under an individual health benefits plan during any period preceding application to the program if the child was not voluntarily disenrolled from employer-sponsored group insurance coverage during the six-month period prior to application to the program.

e. The commissioner, in consultation with the Commissioner of Health and Senior Services, shall provide by regulation for presumptive eligibility for the program in accordance with the following provisions:

(1) A child who presents himself for treatment at an acute care hospital or a federally qualified health center or local health department that provides primary care shall be deemed presumptively eligible for the program if a preliminary determination by hospital, health center or local health department staff indicates that the child meets program eligibility standards established by regulation of the commissioner and is a member of a household with an income which does not exceed 200% of the official poverty level;

(2) The provisions of paragraph (1) of this subsection shall also apply to a child who is presumed eligible for Medicaid coverage pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

(3) If a child is determined to be presumptively eligible for the program, the child's parent, guardian or caretaker relative shall be required to submit a completed application for the program no later than the end of the month following the month in which presumptive eligibility is determined; and

(4) During the period in which the child is presumptively eligible for the program, the child shall be eligible to receive all services covered by the program.

2. This act shall take effect immediately.

Approved July 26, 1999.

CHAPTER 171

AN ACT concerning outreach for the Children's Health Care Coverage Program, amending and supplementing P.L.1997, c.272, supplementing Title 18A of the New Jersey Statutes and Titles 26 and 30 of the Revised Statutes, and making an appropriation.

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

1. Section 3 of P.L.1997, c.272 (C.30:4I-3) is amended to read as follows:

C.30:4I-3 Definitions relative to Children's Health Care Coverage Program.

3. As used in this act:

"Commissioner" means the Commissioner of Human Services.

"Department" means the Department of Human Services.

"Program" means the Children's Health Care Coverage Program established pursuant to this act.

2. Section 4 of P.L.1997, c.272 (C.30:4I-4) is amended to read as follows:

C.30:4I-4 Children's Health Care Coverage Program established.

4. a. The Children's Health Care Coverage Program is established in the Department of Human Services. The purpose of the program shall be to provide subsidized private health insurance coverage, and other health care benefits as determined by the commissioner, to children from birth through 18 years of age within the limits of funds appropriated or otherwise made available for the program. The program shall require copayments and a premium contribution from families with incomes which exceed 150% of the official poverty level, which shall be based upon a sliding income scale. The program shall include the provision of well-child and other preventive services, hospitalization, physician

care, laboratory and x-ray services, prescription drugs, mental health services, and other services as determined by the commissioner.

b. The commissioner, in consultation with the Commissioner of Health and Senior Services, shall take such actions as are necessary to implement and operate the program in accordance with the provisions governing the State Children's Health Insurance Program in Title XXI of the federal Social Security Act, as provided in Subtitle J of Title IV of the federal "Balanced Budget Act of 1997," Pub.L.105-33.

c. The commissioner shall by regulation establish standards for determining eligibility and other requirements for the program, including, but not limited to, premium payments and copayments, and may contract with one or more appropriate entities to assist in administering the program. The commissioner shall take, or cause to be taken, any action necessary to secure for the State the maximum amount of federal financial participation available with respect to the program, subject to the constraints of fiscal responsibility and within the limits of available funding in any fiscal year.

d. Subject to federal approval, a child with a family gross income that does not exceed 200% of the official poverty level shall not be determined ineligible for the program solely because the child was previously covered under an individual health benefits plan during any period preceding application to the program if the child was not voluntarily disenrolled from employer-sponsored group insurance coverage during the six-month period prior to application to the program.

e. The commissioner, in consultation with the Commissioner of Health and Senior Services, shall provide by regulation for presumptive eligibility for the program in accordance with the following provisions:

(1) A child who presents himself for treatment at an acute care hospital or a federally qualified health center or local health department that provides primary care shall be deemed presumptively eligible for the program if a preliminary determination by hospital, health center or local health department staff indicates that the child meets program eligibility standards established by regulation of the commissioner and is a member of a household with an income which does not exceed 200% of the official poverty level;

(2) The provisions of paragraph (1) of this subsection shall also apply to a child who is presumed eligible for Medicaid coverage pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

(3) If a child is determined to be presumptively eligible for the program, the child's parent, guardian or caretaker relative shall be required to submit a completed application for the program no later than the end of the month following the month in which presumptive eligibility is determined; and

(4) During the period in which the child is presumptively eligible for the program, the child shall be eligible to receive all services covered by the program.

f. The commissioner, in consultation with the Commissioner of Education and the Commissioner of Health and Senior Services, shall establish a partnership initiative between the program and public elementary and secondary schools, licensed child care centers, registered family day care homes, and unified child care agencies in this State, federally qualified health centers and local health departments that provide primary care to provide outreach to children throughout the State who are potentially eligible for the program. Under this partnership, the commissioner shall arrange for:

(1) the provision by the department to each public elementary and secondary school, licensed child care center, registered family day care home, and unified child care agency in the State, federally qualified health center and local health department that provides primary care of informational materials about the program, including the potential costs and benefits for a participating household, as well as program application forms and postage-paid envelopes to submit completed applications to the department, which the school, child care center, registered family day care home, unified child care agency, health center or local health department, as applicable, shall make available to persons wishing to apply for the program;

(2) the provision to each public elementary and secondary school, licensed child care center, registered family day care home, and unified child care agency in the State, federally qualified health center and local health department that provides primary care of a notice to be distributed at least annually to the households of children attending the school or child care center, or being cared for by the registered family day care home, or assisted by the unified child care agency or receiving health care services from the health center or local health department, as applicable, informing them about the availability of the informational materials, application forms and postage-paid envelopes provided by the department pursuant to paragraph (1) of this subsection, with respect to which distribution the department shall reimburse the school or child care center, or registered family day care home, or unified child care agency or health center or local health department for the costs thereof in accordance with procedures established by the commissioner; and

(3) a payment to be made by the department in the amount of $25 to a school, child care center, registered family day care home, unified child care agency, federally qualified health center or local health department that provides primary care for each household enrolled in the program which was referred by that respective entity, and to which household the entity has provided assistance

with enrollment in the program. The payment shall be made upon the determination of eligibility for the program by the department with respect to that household, including the receipt of any initial premium contribution from the household as required by the commissioner pursuant to this section.

C.18A:40-34 Regulations adopted by Commissioner of Education relative to children's health care coverage.

3. The Commissioner of Education, in consultation with the Commissioner of Human Services and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt regulations to:

a. provide for the implementation by the board of education in each school district of such procedures by each public elementary and secondary school in the district as the commissioner deems necessary to effectuate the purposes of subsection f. of section 4 of P.L.1997, c.272 (C.30:4I-4); and

b. facilitate and provide for the participation of nonpublic elementary and secondary schools in the partnership initiative created pursuant to subsection f. of section 4 of P.L.1997, c.272 (C.30:4I-4), including the provision of in-kind awards to participating nonpublic schools, in the form of educational resource materials that would be the property of the public schools, for each household enrolled in the Children's Health Care Coverage Program established pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.) which was referred by the nonpublic school.

C.26:1A-15.3 Regulations adopted by Commissioner of Health and Senior Services relative to children's health care coverage.

4. The Commissioner of Health and Senior Services, in consultation with the Commissioner of Human Services and pursuant to the "Administrative Procedure Act, " P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt regulations to provide for the implementation by federally qualified health centers and local health departments that provide primary care of such procedures as the commissioner deems necessary to effectuate the purposes of subsection f. of section 4 of P.L.1997, c.272 (C.30:4I-4).

C.30:5B-5.4 Regulations adopted by Commissioner of Human Services relative to children's health care coverage.

5. The Commissioner of Human Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt regulations to provide for the implementation by licensed child care centers, registered family day care homes, and unified child care agencies of such procedures as the commissioner deems necessary to effectuate the purposes of subsection f. of section 4 of P.L.1997, c.272 (C.30:4I-4).

6. There is appropriated $75,000 from the General Fund to the Department of Human Services to carry out the provisions of this act.

7. This act shall take effect immediately.

Approved July 26, 1999.

CHAPTER 172

AN ACT concerning eligibility for the Children's Health Care Coverage Program and amending P.L.1997, c.272.

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

1. Section 4 of P.L.1997, c.272 (C.30:4I-4) is amended to read as follows:

C.30:4I-4 Children's Health Care Coverage Program established.

4. a. The Children's Health Care Coverage Program is established in the Department of Human Services. The purpose of the program shall be to provide subsidized private health insurance coverage, and other health care benefits as determined by the commissioner, to children from birth through 18 years of age within the limits of funds appropriated or otherwise made available for the program. The program shall require copayments and a premium contribution from families with incomes which exceed 150% of the official poverty level, which shall be based upon a sliding income scale. The program shall include the provision of well-child and other preventive services, hospitalization, physician care, laboratory and x-ray services, prescription drugs, mental health services, and other services as determined by the commissioner.

b. The commissioner, in consultation with the Commissioner of Health and Senior Services, shall take such actions as are necessary to implement and operate the program in accordance with the provisions governing the State Children's Health Insurance Program in Title XXI of the federal Social Security Act, as provided in Subtitle J of Title IV of the federal "Balanced Budget Act of 1997," Pub.L.105-33.

c. The commissioner shall by regulation establish standards for determining eligibility and other requirements for the program, including, but not limited to, premium payments and copayments, and may contract with one or more appropriate entities to assist in administering the program. The commissioner shall take, or cause to be taken, any action necessary to secure for the State the

maximum amount of federal financial participation available with respect to the program, subject to the constraints of fiscal responsibility and within the limits of available funding in any fiscal year.

d. Subject to federal approval, a child with a family gross income that does not exceed 200% of the official poverty level shall not be determined ineligible for the program solely because the child was previously covered under an individual health benefits plan during any period preceding application to the program if the child was not voluntarily disenrolled from employer-sponsored group insurance coverage during the six-month period prior to application to the program.

e. The commissioner, in consultation with the Commissioner of Health and Senior Services, shall provide by regulation for presumptive eligibility for the program in accordance with the following provisions:

(1) A child who presents himself for treatment at an acute care hospital or a federally qualified health center or local health department that provides primary care shall be deemed presumptively eligible for the program if a preliminary determination by hospital, health center or local health department staff indicates that the child meets program eligibility standards established by regulation of the commissioner and is a member of a household with an income which does not exceed 200% of the official poverty level;

(2) The provisions of paragraph (1) of this subsection shall also apply to a child who is presumed eligible for Medicaid coverage pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

(3) If a child is determined to be presumptively eligible for the program, the child's parent, guardian or caretaker relative shall be required to submit a completed application for the program no later than the end of the month following the month in which presumptive eligibility is determined; and

(4) During the period in which the child is presumptively eligible for the program, the child shall be eligible to receive all services covered by the program.

f. The commissioner, in consultation with the Commissioner of Education and the Commissioner of Health and Senior Services, shall establish a partnership initiative between the program and public elementary and secondary schools, licensed child care centers, registered family day care homes, and unified child care agencies in this State, federally qualified health centers and local health departments that provide primary care to provide outreach to children throughout the State who are potentially eligible for the program. Under this partnership, the commissioner shall arrange for:

(1) the provision by the department to each public elementary and secondary school, licensed child care center, registered family day care home, and unified child care agency in the State, federally qualified health center and local health department that provides primary care of informational materials about the program, including the potential costs and benefits for a participating household, as

well as program application forms and postage-paid envelopes to submit completed applications to the department, which the school, child care center, registered family day care home, unified child care agency, health center or local health department, as applicable, shall make available to persons wishing to apply for the program;

(2) the provision to each public elementary and secondary school, licensed child care center, registered family day care home, and unified child care agency in the State, federally qualified health center and local health department that provides primary care of a notice to be distributed at least annually to the households of children attending the school or child care center, or being cared for by the registered family day care home, or assisted by the unified child care agency or receiving health care services from the health center or local health department, as applicable, informing them about the availability of the informational materials, application forms and postage-paid envelopes provided by the department pursuant to paragraph (1) of this subsection, with respect to which distribution the department shall reimburse the school or child care center, or registered family day care home, or unified child care agency or health center or local health department for the costs thereof in accordance with procedures established by the commissioner; and

(3) a payment to be made by the department in the amount of $25 to a school, child care center, registered family day care home, unified child care agency, federally qualified health center or local health department that provides primary care for each household enrolled in the program which was referred by that respective entity, and to which household the entity has provided assistance with enrollment in the program. The payment shall be made upon the determination of eligibility for the program by the department with respect to that household, including the receipt of any initial premium contribution from the household as required by the commissioner pursuant to this section.

g. Subject to federal approval, the commissioner shall by regulation establish that in determining income eligibility for the program, any gross family income above 200% of the official poverty level, up to a maximum of 350% of the official poverty level, shall be disregarded.

2. This act shall take effect immediately.

Approved July 26, 1999.

CHAPTER 173

AN ACT authorizing the expenditure of funds by the New Jersey Environmental Infrastructure Trust for the purpose of making loans to eligible project sponsors to finance a portion of the cost

of construction of environmental infrastructure projects, and supplementing P.L.1985, c.334 (C.58:11B-1 et seq.).

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

1. a. The New Jersey Environmental Infrastructure Trust, established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224, is authorized to expend the aggregate sum of up to $100,000,000, and any unexpended balance of the aggregate expenditures authorized pursuant to section 1 of P.L.1996, c.87, section 1 of P.L.1997, c.222 and section 1 of P.L.1998, c.85 for the purpose of making loans, to the extent sufficient funds are available, to or on behalf of local government units or public water utilities (hereinafter referred to as "project sponsors") to finance a portion of the cost of construction of environmental infrastructure projects listed in sections 2 and 4 of this act.

b. The trust is authorized to increase the aggregate sums specified in subsection a. of this section by:

(1) the amounts of capitalized interest and the bond issuance expenses as provided in subsection b. of section 7 of this act;

(2) the amounts of reserve capacity expenses and debt service reserve fund requirements as provided in subsection c. of section 7 of this act; and

(3) the interest earned on amounts deposited for project costs pending their distribution to project sponsors as provided in subsection d. of section 7 of this act.

c. For the purposes of this act:

(1) "capitalized interest" means the amount equal to interest paid on trust bonds which is funded with trust bond proceeds and the earnings thereon;

(2) "issuance expenses" means and includes, but need not be limited to, the costs of financial document printing, bond insurance premiums or other credit enhancement, underwriters' discount, verification of financial calculations, the services of bond rating agencies and trustees, the employment of accountants, attorneys, financial advisors, loan servicing agents, registrars, and paying agents, and any other costs related to the issuance of trust bonds;

(3) "reserve capacity expenses" means those project costs for reserve capacity not eligible for loans under rules and regulations governing zero interest loans adopted by the Commissioner of Environmental Protection pursuant to section 4 of P.L.1985, c.329 but which are eligible for loans from the trust in accordance with the

rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27); and

(4) "debt service reserve fund expenses" means the debt service reserve fund costs associated with reserve capacity expenses, water supply projects for which the project sponsors are public water utilities as provided in section 9 of P.L.1985, c.334 (C.58:11B-9), and other drinking water projects not eligible for, or interested in, State or federal debt service reserve funds pursuant to the "Water Supply Bond Act of 1981," P.L.1981, c.261, as amended and supplemented by P.L.1997, c.223.

d. The trust is authorized to increase the loan amount in the future to compensate for a refunding of the issue, provided adequate savings are achieved, for the loans issued pursuant to P.L.1989, c.190, P.L.1990, c.97, P.L.1991, c.324, P.L.1992, c.37, P.L.1993, c.192, P.L.1994, c.105, P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85 and P.L.1999, c.173.

2. a. The New Jersey Environmental Infrastructure Trust is authorized to expend funds for the purpose of making supplemental loans to or on behalf of the project sponsors listed below for the following environmental infrastructure projects:

Project No.	**Project Sponsor**	**Estimated Allowable Project Cost**
963-01-1	City of Trenton Water Works	$950,000
902-02-1	Gloucester County UA	$400,000
923-01-1	Hackensack City	$1,750,000
652-02-1	North Bergen MUA	$ 250,000
	TOTAL	$3,350,000

b. The loans authorized in this section shall be made for the difference between the allowable loan amounts required by these projects based upon final building costs pursuant to subsection a. of section 7 of this act and the loan amounts certified by the chairman of the trust in State fiscal years 1994, 1997 and 1998, and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27). The loans authorized in this section shall be made to the project sponsors listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as a project fails to meet the requirements of section 6 of this act.

c. The loans authorized in this section shall have priority over the environmental infrastructure projects listed in subsection a. of section 4 of this act.

3. a. The New Jersey Environmental Infrastructure Trust is authorized to make loans to or on behalf of the project sponsors for the clean water projects listed in section 2 and subsection a. of section 4 of this act up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the trust pursuant to subsection a. of section 7 of this act, or if a project fails to meet the requirements of section 6 of this act. The trust is authorized to increase any such amount pursuant to subsection b., c. or d. of section 7 or section 8 of this act.

b. The trust is authorized to make loans to project sponsors for the drinking water projects listed in subsection b. of section 4 of this act up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the trust pursuant to subsection a. of section 7 of this act, or if a project fails to meet the requirements of section 6 of this act. The trust is authorized to increase any such amount pursuant to subsection b., c. or d. of section 7 or section 8 of this act.

4. a. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2000 Clean Water Project Priority List":

Project Number	**Project Sponsor**	**Estimated Allowable Project Cost**
632-06	Randolph Township	$1,150,000
640-05	Camden County MUA	$3,450,000
291-01	Collingswood Borough	$650,000
287-01	Oaklyn Borough	$400,000
397-02	Ewing Township	$2,400,000
688-03	Ridgefield Park Village	$1,500,000
928-01	Jersey City MUA	$10,000,000
399-08	Bayonne City/Bayonne MUA	$2,650,000
341-04	Town of Harrison	$700,000
948-02	Old Tappan Borough	$3,650,000
689-07	Passaic Valley SC	$14,600,000
839-02	Franklin Township SA	$4,400,000
403-04	Chatham Township	$650,000
875-01	Voorhees Township	$4,150,000
815-06	Newark City	$1,050,000
949-03	Plainfield Area RSA	$1,650,000

921-03	Millville City	$1,450,000
945-07	Old Bridge MUA	$1,150,000
841-02	River Edge Borough	$600,000
274-02	Pine Hill Borough MUA	$850,000
363-01	Runnemede SA	$500,000
916-02	Dunellen Borough	$800,000
311-01	Ship Bottom Borough	$1,350,000
665-02	Longport Borough	$1,450,000
437-11	New Brunswick City	$2,350,000
283-01	Maplewood Township	$250,000
	TOTAL	$63,800,000

b. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2000 Drinking Water Project Priority List":

Project Number	**Project Sponsor**	**Estimated Allowable Project Cost**
1219001-001	Sayreville Borough	$9,250,000
0713001-001	Montclair Town	$1,400,000
0714001-001	Newark City	$5,800,000
0405001-001	Berlin Borough	$600,000
0408001-007	Camden City	$1,600,000
0604001-002/4	Middlesex Water Company (Fortescue)	$800,000
1613001-004	North Jersey District Water Supply Commission	$450,000
1613001-005	North Jersey District Water Supply Commission	$800,000
1216001-002	Perth Amboy City	$1,850,000
0435003-001	Waterford Township MUA	$550,000
0404001-001/2	Bellmawr Borough	$400,000
0821001-001	Westville Borough	$300,000
0103001-001	Brigantine City	$250,000
0103001-002	Brigantine City	$100,000
1225001-002	Middlesex Water Company	$2,200,000
1209002-001	Old Bridge MUA	$650,000
0103001-003	Brigantine City	$200,000
0228001-001	Ho-Ho-Kus Borough	$200,000
1710001-001/3	Nancy-Lee, Inc. t/a Harding Woods Manufactured Housing Community/ Harding Woods/2117 Mt. Ephraim, Inc.	$200,000
0305001-001	Burlington City	$850,000
0436007-002	Winslow Township	$3,050,000
0717001-003/4	Orange City	$800,000
0103001-004	Brigantine City	$50,000

0103001-005	Brigantine City	$50,000
	TOTAL	$32,400,000

5. In accordance with and subject to the provisions of sections 5, 6 and 23 of P.L.1985, c.334 (C.58:11B-5, 58:11B-6, and 58:11B-23) and as set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21), or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1), any proceeds from bonds issued by the trust to make loans for priority environmental infrastructure projects listed in sections 2 and 4 of this act which are not expended for that purpose may be applied for the payment of all or any part of the principal of and interest and premium on the trust bonds whether due at stated maturity, the interest payment dates or earlier upon redemption. A portion of the proceeds from bonds issued by the trust to make loans for priority environmental infrastructure projects pursuant to this act may be applied for the payment of capitalized interest and for the payment of any issuance expenses; for the payment of reserve capacity expenses; for the payment of debt service reserve fund expenses; and for the payment of increased costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

6. Any loan made by the New Jersey Environmental Infrastructure Trust pursuant to this act shall be subject to the following requirements:

a. The chairman of the trust has certified that the project is in compliance with the provisions of P.L.1977, c.224, P.L.1985, c.334, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.224 or P.L.1997, c.225, and any rules and regulations adopted pursuant thereto. In making this certification, the chairman may conclusively rely on the project review conducted by the Department of Environmental Protection without any independent review thereof by the trust;

b. The loan shall be conditioned upon approval of a zero interest loan from the Department of Environmental Protection from the "Wastewater Treatment Fund" established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985" (P.L.1985, c.329), the "1992 Wastewater Treatment Fund" established pursuant to section 27 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992" (P.L.1992, c.88), or the Drinking Water State Revolving Fund established pursuant to section 1 of P.L.1998, c.84;

c. The loan shall be repaid within a period not to exceed 20 years of the making of the loan;

d. The loan shall not exceed the allowable project cost of the environmental infrastructure facility, exclusive of capitalized interest and issuance expenses as provided in subsection b. of section 7 of this act, reserve capacity expenses and the debt service reserve fund expenses as provided in subsection c. of section 7 of this act, interest earned on project costs as provided in subsection d. of section 7 of this act, refunding increases as provided in section 8 of this act and increased costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27);

e. The loan shall bear interest, exclusive of any late charges or administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the project sponsors receiving trust loans, at or below the interest rate paid by the trust on the bonds issued to make or refund the loans authorized by this act, adjusted for underwriting discount and original issue discount or premium, in accordance with the terms and conditions set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21) or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1); and

f. The loan shall be subject to all other terms and conditions as the trust shall determine to be consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and any rules and regulations adopted pursuant thereto, and with the financial plan required by section 21 of P.L.1985, c.334 (C.58:11B-21) or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1).

The priority lists and authorization for the making of loans pursuant to this act shall expire on July 1, 2000, and any project sponsor which has not executed and delivered a loan agreement with the trust for a loan authorized in this act shall no longer be entitled to that loan.

7. a. The New Jersey Environmental Infrastructure Trust is authorized to reduce the individual amount of loan funds made available to or on behalf of project sponsors pursuant to sections 2 and 4 of this act based upon final building costs defined in and determined in accordance with rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) or rules and regulations adopted by the Commissioner of Environmental Protection pursuant to section 4 of P.L.1985, c.329, section 11 of

P.L.1977, c.224 (C.58:12A-11) or section 5 of P.L.1981, c.261. The trust is authorized to use any such reduction in the loan amount made available to a project sponsor to cover that project sponsor's increased costs due to differing site conditions or other allowable expenses as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

b. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the amount of capitalized interest and issuance expenses allocable to each loan made by the trust pursuant to this act; provided that the increase for issuance expenses, excluding underwriters' discount, original issue discount or premiums, municipal bond insurance premiums and bond rating agency fees, shall not exceed 0.4% of the principal amount of trust bonds issued to make loans authorized by this act.

c. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the amount of reserve capacity expenses, and by the debt service reserve fund expenses associated with such reserve capacity expenses or associated with loans issued to owners of public water utilities, as may be allowed the project by the trust in accordance with rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

d. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the interest earned on amounts deposited for project costs pending their distribution to project sponsors.

8. The New Jersey Environmental Infrastructure Trust is authorized to increase the individual amount of loan funds made available to project sponsors by the trust pursuant to P.L.1989, c.190, P.L.1990, c.97, P.L.1991, c.324, P.L.1992, c.37, P.L.1993, c.192, P.L.1994, c.105, P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85 or P.L.1999, c.173, provided that adequate savings are achieved, to compensate for a refunding of trust bonds issued to make loans authorized by the aforementioned acts.

9. The expenditure of funds authorized pursuant to this act is subject to the provisions of P.L.1977, c.224 (C.58:12A-1 et seq.), P.L.1985, c.329, P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224, P.L.1992, c.88, P.L.1997, c.223 or P.L.1997, c.225, and the rules and regulations adopted

pursuant thereto, and the provisions of the Federal Clean Water Act or the Federal Safe Drinking Water Act, as appropriate.

10. This act shall take effect immediately.

Approved July 28, 1999.

CHAPTER 174

AN ACT appropriating moneys to the Department of Environmental Protection for the purpose of making zero interest loans to project sponsors to finance a portion of the costs of construction of environmental infrastructure projects.

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

1. a. (1) There is appropriated to the Department of Environmental Protection from the Clean Water Fund - State Revolving Fund Accounts (hereinafter referred to as the "Clean Water State Revolving Fund Accounts") an amount equal to the federal fiscal year 1999 capitalization grant made available to the State for clean water projects pursuant to the "Water Quality Act of 1987" (33 U.S.C. s.1251 et seq.), and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Clean Water Act").

(2) There is appropriated to the Department of Environmental Protection from the Drinking Water State Revolving Fund an amount equal to the federal fiscal year 1999 capitalization grant made available to the State for drinking water projects pursuant to the "Safe Drinking Water Act Amendments of 1996" Pub.L.104-182, and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Safe Drinking Water Act").

The Department of Environmental Protection is authorized to transfer from the Clean Water State Revolving Fund Accounts to the Drinking Water State Revolving Fund an amount up to the maximum amount authorized to be transferred pursuant to the Federal Safe Drinking Water Act to meet present and future needs for the financing of eligible drinking water projects, and an amount equal to said maximum amount is hereby appropriated to the department for those purposes.

(3) There is appropriated to the Department of Environmental Protection the unappropriated balances from the "Wastewater Treatment Fund" established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985," (P.L.1985, c.329).

(4) There is appropriated to the Department of Environmental Protection the sum of $10,000,000 from the "1992 Wastewater Treatment Fund" established pursuant to section 27 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," (P.L.1992, c.88).

(5) There is appropriated to the Department of Environmental Protection the sum of $5,000,000 from the "Water Supply Fund" established pursuant to section 14 of the "Water Supply Bond Act of 1981," (P.L.1981, c.261), as amended by P.L.1983, c.355 and P.L.1997, c.223.

Any such amounts shall be for the purpose of making zero interest loans, to the extent sufficient funds are available, to or on behalf of local government units or public water utilities (hereinafter referred to as "project sponsors") to finance a portion of the cost of construction of clean water projects and drinking water projects listed in sections 2 and 3 of this act, and for the purpose of implementing and administering the provisions of this act, to the extent permitted by the "Water Quality Act of 1987" (33 U.S.C.s.1251 et seq.), the "Wastewater Treatment Bond Act of 1985" (P.L.1985, c.329), the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992" (P.L.1992, c.88), the "Water Supply Bond Act of 1981" (P.L.1981, c.261), the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989" (P.L.1989, c.181), the Federal Safe Drinking Water Act, and any amendatory and supplementary acts thereto, and State law.

b. The department is authorized to make zero interest loans to or on behalf of the project sponsors for the environmental infrastructure projects listed in section 2 and subsection a. of section 3 of this act for clean water projects, and subsection b. of section 3 of this act for drinking water projects, up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the Commissioner of Environmental Protection pursuant to section 6 of this act, or if a project fails to meet the requirements of section 4 of this act.

c. The department is authorized to make zero interest loans to or on behalf of the project sponsors for the environmental infrastructure projects listed in sections 2 and 3 of this act under the same terms, conditions and requirements as set forth in this section from

any unexpended balances of the amounts appropriated pursuant to section 1 of P.L.1987, c.200, section 2 of P.L.1988, c.133, section 1 of P.L.1989, c.189, section 1 of P.L.1990, c.99, section 1 of P.L.1991, c.325, section 1 of P.L.1992, c.38, section 1 of P.L.1993, c.193, section 1 of P.L.1994, c.106, section 1 of P.L.1995, c.219, section 1 of P.L.1996, c.85, section 1 of P.L.1997, c.221 or section 2 of P.L.1998, c.84, including amounts resulting from the final building cost reductions authorized pursuant to section 6 of P.L.1987, c.200, section 7 of P.L.1988, c.133, section 6 of P.L.1989, c.189, section 6 of P.L.1990, c.99, section 6 of P.L.1991, c.325, section 6 of P.L.1992, c.38, section 6 of P.L.1993, c.193, section 6 of P.L.1994, c.106, section 6 of P.L.1995, c.219, section 6 of P.L.1996, c.85, section 6 of P.L.1997, c.221 and section 7 of P.L.1998, c.84, and from any repayments of loans from the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," or amounts deposited therein during State fiscal year 1999 pursuant to the provisions of section 16 of P.L.1985, c.329, including any Clean Water State Revolving Fund Accounts contained within the "Wastewater Treatment Fund," and from any repayment of loans from the Drinking Water State Revolving Fund.

2. a. The department is authorized to expend funds for the purpose of making supplemental zero interest loans to or on behalf of the project sponsors listed below for the following environmental infrastructure projects:

Project No.	**Project Sponsor**	**Estimated Allowable Project Cost**
963-01-1	City of Trenton Water Works	$950,000
902-02-1	Gloucester County UA	$400,000
923-01-1	Hackensack City	$1,750,000
652-02-1	North Bergen MUA	$250,000
	TOTAL	$3,350,000

b. The loans authorized in this section shall be made for the difference between the allowable loan amounts required by these projects based upon final building costs pursuant to section 6 of this act and the loan amounts certified by the commissioner in State fiscal years 1994, 1997 and 1998 and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the department pursuant to section 4 of P.L.1985, c.329. The loans authorized in this section shall be made to or on behalf of the project sponsors listed, up to the individual amounts

indicated and in the priority stated, to the extent sufficient funds are available, except as a project fails to meet the requirements of section 4 of this act.

c. The zero interest loans for the projects authorized in this section shall have priority over projects listed in subsection a. of section 3 of this act.

3. a. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2000 Clean Water Project Priority List":

Project Number	Project Sponsor	Estimated Allowable Project Cost
632-06	Randolph Township	$1,150,000
640-05	Camden County MUA	$3,450,000
291-01	Collingswood Borough	$650,000
287-01	Oaklyn Borough	$400,000
397-02	Ewing Township	$2,400,000
688-03	Ridgefield Park Village	$1,500,000
928-01	Jersey City MUA	$10,000,000
399-08	Bayonne City/ Bayonne MUA	$2,650,000
341-04	Town of Harrison	$700,000
948-02	Old Tappan Borough	$3,650,000
689-07	Passaic Valley SC	$14,600,000
839-02	Franklin Township SA	$4,400,000
403-04	Chatham Township	$650,000
875-01	Voorhees Township	$4,150,000
815-06	Newark City	$1,050,000
949-03	Plainfield Area RSA	$1,650,000
921-03	Millville City	$1,450,000
945-07	Old Bridge MUA	$1,150,000
841-02	River Edge Borough	$600,000
274-02	Pine Hill Borough MUA	$850,000
363-01	Runnemede SA	$500,000
916-02	Dunellen Borough	$800,000
311-01	Ship Bottom Borough	$1,350,000
665-02	Longport Borough	$1,450,000
437-11	New Brunswick City	$2,350,000
283-01	Maplewood Township	$250,000
	TOTAL	$63,800,000

b. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2000 Drinking Water Project Priority List":

Project Number	Project Sponsor	Estimated Allowable Project Cost
1219001-001	Sayreville Borough	$9,250,000
0713001-001	Montclair Town	$1,400,000
0714001-001	Newark City	$5,800,000

0405001-001	Berlin Borough	$600,000
0408001-007	Camden City	$1,600,000
0604001-002/4	Middlesex Water Company (Fortescue)	$800,000
1613001-004	North Jersey District Water Supply Commission	$450,000
1613001-005	North Jersey District Water Supply Commission	$800,000
1216001-002	Perth Amboy City	$1,850,000
0435003-001	Waterford Township MUA	$550,000
0404001-001/2	Bellmawr Borough	$400,000
0821001-001	Westville Borough	$300,000
0103001-001	Brigantine City	$250,000
0103001-002	Brigantine City	$100,000
1225001-002	Middlesex Water Company	$2,200,000
1209002-001	Old Bridge MUA	$650,000
0103001-003	Brigantine City	$200,000
0228001-001	Ho-Ho-Kus Borough	$200,000
1710001-001/3	Nancy-Lee, Inc. t/a Harding Woods Manufactured Housing Community/Harding Woods/ 2117 Mt. Ephraim, Inc.	$200,000
0305001-001	Burlington City	$850,000
0436007-002	Winslow Township	$3,050,000
0717001-003/4	City of Orange Township	$800,000
0103001-004	Brigantine City	$50,000
0103001-005	Brigantine City	$50,000
	TOTAL	$32,400,000

4. Any loan made by the Department of Environmental Protection pursuant to this act shall be subject to the following requirements:

a. The commissioner has certified that the project is in compliance with the provisions of P.L.1977, c.224, P.L.1985, c.329, P.L.1992, c.88, P.L.1997, c.223 or P.L.1997, c.225, and any rules and regulations adopted pursuant thereto;

b. The loan amount shall not exceed 50% of the allowable project cost of the environmental infrastructure facility;

c. The loan shall be repaid within a period not to exceed 23 years of the making of the loan;

d. The loan shall be conditioned upon approval of a loan from the New Jersey Environmental Infrastructure Trust pursuant to P.L.1999, c.173;

e. The loan shall be subject to any other terms and conditions as may be established by the commissioner and approved by the State Treasurer, which may include, notwithstanding any other provision of law to the contrary, subordination of a loan authorized in this act to loans made by the trust pursuant to P.L.1999, c.173 or

to administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5).

5. The priority lists and authorization for the making of loans pursuant to sections 2 and 3 of this act shall expire on July 1, 2000, and any project sponsor which has not executed and delivered a loan agreement with the department for a loan authorized in this act shall no longer be entitled to that loan.

6. The Commissioner of Environmental Protection is authorized to reduce or increase the individual amount of loan funds made available to or on behalf of project sponsors pursuant to sections 2 and 3 of this act based upon final building costs defined in and determined in accordance with rules and regulations adopted by the commissioner pursuant to section 4 of P.L.1985, c.329, section 11 of P.L.1977, c.224 (C.58:12A-11) or section 5 of P.L.1981, c.261, provided that the total loan amount does not exceed the original loan amount.

7. The expenditure of the funds appropriated by this act is subject to the provisions and conditions of P.L.1977, c.224, P.L.1985, c.329, P.L.1992, c.88, P.L.1997, c.223 or P.L.1997, c.225, and the rules and regulations adopted by the commissioner pursuant thereto, and the provisions of the Federal Clean Water Act or the Federal Safe Drinking Water Act, as appropriate.

8. The Department of Environmental Protection shall provide general technical assistance to any project sponsor requesting assistance regarding environmental infrastructure project development or applications for funds for a project.

9. a. Prior to repayment to the "Wastewater Treatment Fund" pursuant to the provisions of section 16 of P.L.1985, c.329, prior to repayment to the "1992 Wastewater Treatment Fund" pursuant to the provisions of section 28 of P.L.1992, c.88, prior to repayment to the Drinking Water State Revolving Fund, prior to repayment to the "Stormwater Management and Combined Sewer Overflow Abatement Fund" pursuant to the provisions of section 15 of P.L.1989, c.181, or prior to repayment to the "Water Supply Fund" pursuant to the provisions of section 15 of PL. 1981, c. 261 repayments of loans made pursuant to these acts may be utilized by the New Jersey Environmental Infrastructure Trust established pursuant to P.L.1985,

c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224, under terms and conditions established by the commissioner and trust, and approved by the State Treasurer, and consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and federal tax, environmental or securities law, to the extent necessary to secure repayment of trust bonds issued to finance loans approved pursuant to P.L.1999, c.173, and to secure the administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the project sponsors receiving trust loans.

b. Prior to repayment to the "Wastewater Treatment Fund" pursuant to the provisions of section 16 of P.L.1985, c.329, prior to repayment to the "1992 Wastewater Treatment Fund" pursuant to the provisions of section 28 of P.L.1992, c.88, prior to repayment to the Drinking Water State Revolving Fund or prior to repayment to the "Stormwater Management and Combined Sewer Overflow Abatement Fund" pursuant to the provisions of section 15 of P.L.1989, c.181, the trust is further authorized to utilize repayments of loans made pursuant to P.L.1989, c.189, P.L.1990, c.99, P.L.1991, c.325, P.L.1992, c.38, P.L.1993, c.193, P.L.1994, c.106, P.L.1995, c.219, P.L.1996, c.85, P.L.1997, c.221, P.L.1998, c.84 or P.L.1999, c.174 to secure repayment of trust bonds issued to finance loans approved pursuant to P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85 or P.L.1999, c.173, and to secure the administrative fees payable to the trust under these loans pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5).

c. To the extent that any loan repayment sums are used to satisfy any trust bond repayment or administrative fee payment deficiencies, the trust shall repay such sums to the department for deposit into the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the Drinking Water State Revolving Fund or the "Stormwater Management and Combined Sewer Overflow Abatement Fund," as appropriate, from amounts received by or on behalf of the trust from project sponsors causing any such deficiency.

10. The Commissioner of Environmental Protection is authorized to enter into capitalization grant agreements as may be required pursuant to the Federal Clean Water Act or the Federal Safe Drinking Water Act.

11. There is appropriated to the New Jersey Environmental Infrastructure Trust established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) from repayments of loans deposited in any account, including the Clean Water State Revolving Fund Accounts contained within the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund," or the Drinking Water State Revolving Fund, as appropriate, and from any net earnings received from the investment and reinvestment of such deposits, such sums as the chairman of the trust shall certify to the Commissioner of Environmental Protection to be necessary and appropriate for deposit into one or more reserve funds established by the trust pursuant to section 11 of P.L.1985, c.334 (C.58:11B-11).

12. This act shall take effect immediately.

Approved July 28, 1999.

CHAPTER 175

AN ACT concerning the financing of environmental infrastructure projects, and amending P.L.1985, c.334 and P.L.1997, c.224.

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

1. Section 3 of P.L.1985, c.334 (C.58:11B-3) is amended to read as follows:

C.58:11B-3 Definitions relative to the New Jersey Environmental Infrastructure Trust.

3. As used in sections 1 through 27 of P.L.1985, c.334 (C.58:11B-1 through 58:11B-27) and sections 23 through 27 of P.L.1997, c.224 (C.58:11B-10.1 et al.):

"Bonds" means bonds issued by the trust pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

"Combined sewer system" means a sewer system designed to carry sanitary wastewater at all times, which is also designed to collect and transport stormwater runoff from streets and other sources, thereby serving a combined purpose;

"Combined sewer overflow" means the discharge of untreated or partially treated stormwater runoff and wastewater from a combined sewer system into a body of water;

"Commissioner" means the Commissioner of the Department of Environmental Protection;

"Cost" means the cost of all labor, materials, machinery and equipment, lands, property, rights and easements, financing charges, interest on bonds, notes or other obligations, plans and specifications, surveys or estimates of costs and revenues, engineering and legal services, and all other expenses necessary or incident to all or part of an environmental infrastructure project;

"Department" means the Department of Environmental Protection;

"Local government unit" means (1) a State authority, county, municipality, municipal or county sewerage or utility authority, municipal sewerage district, joint meeting, improvement authority, or any other political subdivision of the State authorized to construct, operate and maintain wastewater treatment systems; or (2) a State authority, district water supply commission, county, municipality, municipal or county utilities authority, municipal water district, joint meeting or any other political subdivision of the State authorized pursuant to 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;

"Notes" means notes issued by the trust pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

"Project" or "environmental infrastructure project" means the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to any (1) wastewater treatment system project, including any stormwater management or combined sewer overflow abatement projects; or (2) water supply project, as authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

"Public water utility" means any investor-owned water company or small water company;

"Small water company" means any company, purveyor or entity, other than a governmental agency, that provides water for human consumption and which regularly serves less than 1,000 customer connections, including nonprofit, noncommunity water systems owned or operated by a nonprofit group or organization;

"Stormwater management system" means any equipment, plants, structures, machinery, apparatus, management practices, or land, or

any combination thereof, acquired, used, constructed, implemented or operated to prevent nonpoint source pollution, abate improper cross-connections and interconnections between stormwater and sewer systems, minimize stormwater runoff, reduce soil erosion, or induce groundwater recharge, or any combination thereof;

"Trust" means the New Jersey Environmental Infrastructure Trust created pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4);

"Wastewater" means residential, commercial, industrial, or agricultural liquid waste, sewage, septage, stormwater runoff, or any combination thereof, or other liquid residue discharged or collected into a sewer system or stormwater management system, or any combination thereof;

"Wastewater treatment system" means any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed or operated by, or on behalf of, a local government unit for the storage, collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge, or for the collection or treatment, or both, of stormwater runoff and wastewater, or for the final disposal of residues resulting from the treatment of wastewater, including, but not limited to, pumping and ventilating stations, treatment plants and works, connections, outfall sewers, interceptors, trunk lines, stormwater management systems, and other personal property and appurtenances necessary for their use or operation; "wastewater treatment system" shall include a stormwater management system or a combined sewer system;

"Wastewater treatment system project" means any work relating to the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to any wastewater treatment system that meets the requirements set forth in sections 20, 21 and 22 of P.L.1985, c.334 (C.58:11B-20, 58:11B-21 and 58:11B-22); or any work relating to any of the stormwater management or combined sewer overflow abatement projects identified in the stormwater management and combined sewer overflow abatement project priority list adopted by the commissioner pursuant to section 28 of P.L.1989, c.181; or any work relating to any other project eligible for financing under the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. s.1251 et seq.), or any amendatory or supplementary acts thereto;

"Water supply facilities" 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 public water utility, or by or on behalf of the State or a local government unit, 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, whether in public or private ownership, and providing for the conservation and development of future water supply resources, and facilitating incidental recreational uses thereof;

"Water supply project" means any work relating to the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to water supply facilities that meets the requirements set forth in sections 24, 25 and 26 of P.L.1997, c.224 (C.58:11B-20.1, C.58:11B-21.1 and C.58:11B-22.1); or any work relating to the purposes set forth in section 4 of P.L.1981, c.261; or any work relating to any other project eligible for funding pursuant to the federal "Safe Drinking Water Act Amendments of 1996" Pub.L.104-182, and any amendatory and supplementary acts thereto.

2. Section 5 of P.L.1985, c.334 (C.58:11B-5) is amended to read as follows:

C.58:11B-5 Powers of trust.

5. Except as otherwise limited by the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), the trust may:

a. Make and alter bylaws for its organization and internal management and, subject to agreements with holders of its bonds, notes or other obligations, make rules and regulations with respect to its operations, properties and facilities;

b. Adopt an official seal and alter it;

c. Sue and be sued;

d. Make and enter into all contracts, leases and agreements necessary or incidental to the performance of its duties and the exercise of its powers under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), and

subject to any agreement with the holders of the trust's bonds, notes or other obligations, consent to any modification, amendment or revision of any contract, lease or agreement to which the trust is a party;

e. Enter into agreements or other transactions with and accept, subject to the provisions of section 23 of P.L.1985, c.334 (C.58:11B-23), grants, appropriations and the cooperation of the State, or any State agency, in furtherance of the purposes of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), and do anything necessary in order to avail itself of that aid and cooperation;

f. Receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), subject to the conditions upon which that aid and those contributions may be made, including, but not limited to, gifts or grants from any department or agency of the State, or any State agency, for any purpose consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), subject to the provisions of section 23 of P.L.1985, c.334 (C.58:11B-23);

g. Acquire, own, hold, construct, improve, rehabilitate, renovate, operate, maintain, sell, assign, exchange, lease, mortgage or otherwise dispose of real and personal property, or any interest therein, in the exercise of its powers and the performance of its duties under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

h. Appoint and employ an executive director and any other officers or employees as it may require for the performance of its duties, without regard to the provisions of Title 11A of the New Jersey Statutes;

i. Borrow money and issue bonds, notes and other obligations, and secure the same, and provide for the rights of the holders thereof as provided in the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

j. Subject to any agreement with holders of its bonds, notes or other obligations, invest moneys of the trust not required for immediate use, including proceeds from the sale of any bonds, notes or other obligations, in any obligations, securities and other investments in accordance with the rules and regulations of the State Investment Council or as may otherwise be approved by the Director of the Division of Investment in the Department of the Treasury upon a finding that such investments are consistent with the corporate purposes of the trust;

k. Procure insurance to secure the payment of its bonds, notes or other obligations or the payment of any guarantees or loans made by it in

accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), or against any loss in connection with its property and other assets and operations, in any amounts and from any insurers as it deems desirable;

l. Engage the services of attorneys, accountants, engineers, and financial experts and any other advisors, consultants, experts and agents as may be necessary in its judgment and fix their compensation;

m. (1) Make and contract to make loans to local government units, or to a local government unit on behalf of another local government unit, to finance the cost of wastewater treatment system projects or water supply projects and acquire and contract to acquire notes, bonds or other obligations issued or to be issued by any local government units to evidence the loans, all in accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

(2) Make and contract to make loans to public water utilities, or to any other person or local government unit on behalf of a public water utility, to finance the cost of water supply projects in accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

(3) Make and contract to make loans to private persons other than local government units, or to any other person or local government unit on behalf of a private person, to finance the cost of stormwater management systems in accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

n. Subject to any agreement with holders of its bonds, notes or other obligations, purchase bonds, notes and other obligations of the trust and hold the same for resale or provide for the cancellation thereof, all in accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.);

o. (1) Charge to and collect from local government units or public water utilities any fees and charges in connection with the trust's loans, guarantees or other services, including, but not limited to, fees and charges sufficient to reimburse the trust for all reasonable costs necessarily incurred by it in connection with its financings and the establishment and maintenance of reserve or other funds, as the trust may determine to be reasonable. The fees and charges shall be in accordance with a uniform schedule published by the trust for the purpose of providing actual cost reimbursement for the services rendered;

(2) Any fees and charges collected by the trust pursuant to this subsection may be deposited and maintained in a fund separate from any

other funds held by the trust pursuant to section 10 of P.L.1985, c.334 (C.58:11B-10) or section 23 of P.L.1997, c.224 (C.58:11B-10.1 et al.) and shall be available for any corporate purposes of the trust;

p. Subject to any agreement with holders of its bonds, notes or other obligations, obtain as security or to provide liquidity for payment of all or any part of the principal of and interest and premium on the bonds, notes and other obligations of the trust or for the purchase upon tender or otherwise of the bonds, notes or other obligations, lines of credit, letters of credit and other security agreements or instruments in any amounts and upon any terms as the trust may determine, and pay any fees and expenses required in connection therewith;

q. Provide to local government units any financial and credit advice as these local government units may request;

r. Make payments to the State from any moneys of the trust available therefor as may be required pursuant to any agreement with the State or act appropriating moneys to the trust; and

s. Take any action necessary or convenient to the exercise of the foregoing powers or reasonably implied therefrom.

3. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to read as follows:

C.58:11B-9 Loans to local government units.

9. a. (1) The trust may make and contract to make loans to local government units, or to a local government unit on behalf of another local government unit, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of any wastewater treatment system project or water supply project, which the local government unit may lawfully undertake or acquire and for which the local government unit is authorized by law to borrow money.

(2) The trust may make and contract to make loans to public water utilities, or to any other person or local government unit on behalf of a public water utility, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of any water supply project, which the public water utility may lawfully undertake or acquire.

(3) The trust may make and contract to make loans to private persons other than local government units, or to any other person or local government unit on behalf of a private person, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1

et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of stormwater management systems.

The loans may be made subject to those terms and conditions as the trust shall determine to be consistent with the purposes thereof. Each loan by the trust and the terms and conditions thereof shall be subject to approval by the State Treasurer, and the trust shall make available to the State Treasurer all information, statistical data and reports of independent consultants or experts as the State Treasurer shall deem necessary in order to evaluate the loan. Each loan to a local government unit, public water utility or any other person shall be evidenced by notes, bonds or other obligations thereof issued to the trust. In the case of each local government unit, notes and bonds to be issued to the trust by the local government unit (1) shall be authorized and issued as provided by law for the issuance of notes and bonds by the local government unit, (2) shall be approved by the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs, and (3) notwithstanding the provisions of N.J.S.40A:2-27, N.J.S.40A:2-28 and N.J.S.40A:2-29 or any other provisions of law to the contrary, may be sold at private sale to the trust at any price, whether or not less than par value, and shall be subject to redemption prior to maturity at any times and at any prices as the trust and local government units may agree. Each loan to a local government unit, public water utility or any other person and the notes, bonds or other obligations thereby issued shall bear interest at a rate or rates per annum as the trust and the local government unit, public water utility or any other person, as the case may be, may agree.

b. The trust is authorized to guarantee or contract to guarantee the payment of all or any portion of the principal and interest on bonds, notes or other obligations issued by a local government unit to finance the cost of any wastewater treatment system project or water supply project, which the local government unit may lawfully undertake or acquire and for which the local government unit is authorized by law to borrow money, and the guarantee shall constitute an obligation of the trust for the purposes of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.). Each guarantee by the trust and the terms and conditions thereof shall be subject to approval by the State Treasurer, and the trust shall make available to the State Treasurer all information, statistical data and reports of independent consultants or experts as the State Treasurer shall deem necessary in order to evaluate the guarantee.

c. The trust shall not make or contract to make any loans or guarantees to local government units, public water utilities or any

other person, or otherwise incur any additional indebtedness, on or after November 5, 2005.

4. Section 23 of P.L.1997, c.224 (C.58:11B-10.1) is amended to read as follows:

C.58:11B-10.1 "Water supply facilities general loan fund."

23. The trust shall create and establish a special fund to be known as the "water supply facilities general loan fund."

Subject to the provisions of the legislation appropriating moneys to the trust, subject to any other provision of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) providing otherwise, and subject to agreements with the holders of bonds, notes and other obligations of the trust, the trust shall deposit into the water supply facilities general loan fund all revenues and receipts of the trust, including moneys received by the trust as payment of the principal of and the interest or premium on loans made from moneys in any fund or account held by the trust under the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), and the earnings on the moneys in any fund or account of the trust, and all grants, appropriations, other than those referred to in section 11 of P.L.1985, c.334 (C.58:11B-11), contributions, or other moneys from any source, available for the making of loans to local government units, public water utilities, or to any other person or local government unit on behalf of a public water utility, for water supply projects. The amounts in the water supply facilities general loan fund shall be available for application by the trust for loans to local government units, public water utilities or any other person for the cost of water supply projects, and for other corporate purposes of the trust, subject to agreements with the holders of bonds, notes or other obligations of the trust.

5. This act shall take effect immediately.

Approved July 28, 1999.

CHAPTER 176

AN ACT appropriating a portion of the moneys repaid to the "Water Supply Fund" created pursuant to the "Water Supply Bond Act of 1981," P.L.1981, c.261, as amended by P.L.1983, c.355 and P.L.1997, c.223, as repayments of principal on loans for local projects made available from the "Water Supply Fund," and amounts heretofore appropriated to

the Department of Environmental Protection for rehabilitation loans pursuant to section 1 of P.L.1982, c.131, section 1 of P.L.1985, c.99, section 1 of P.L.1987, c.309, section 1 of P.L.1991, c.351 and section 1 of P.L.1996, c.6, and authorizing the utilization of the unexpended balances from prior appropriations to the department for providing loans to local government units made pursuant to the aforementioned acts, for providing loans to local government units to plan, design, and construct water supply facilities, and to rehabilitate, repair or consolidate antiquated, damaged or inadequately operating water supply facilities, and amending P.L.1977, c.224.

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 Supply Fund" created pursuant to the "Water Supply Bond Act of 1981," P.L.1981, c.261, as amended by P.L.1983, c.355 and P.L.1997, c.223, the sum of $24,206,832, which constitutes a portion of the moneys repaid to the "Water Supply Fund" as repayments of principal on loans for local projects funded under the "Water Supply Bond Act of 1981," P.L.1981, c.261, as amended by P.L.1983, c.355, and the unexpended balances of amounts heretofore appropriated to the department pursuant to section 1 of P.L.1982, c.131, section 1 of P.L.1985, c.99, section 1 of P.L.1987, c.309, section 1 of P.L.1991, c.351 and section 1 of P.L.1996, c.6, for providing loans to local government units to plan, design, and construct water supply facilities, and to rehabilitate, repair or consolidate antiquated, damaged or inadequately operating water supply facilities, as identified pursuant to the water supply project priority list adopted by the Commissioner of Environmental Protection pursuant to section 24 of P.L.1997, c.224 (C.58:11B-20.1) and section 7 of P.L.1997, c.223.

b. The following applicants shall be eligible for placement on the water supply project priority list for receipt of a loan pursuant to subsection a. of this section:

Local Government Unit	**Project Description**	**Amount**
Aberdeen Township	Clean, line and rehabilitate water mains, and replace appurtenances.	$500,000
Blairstown Township	Replace water mains and appurtenances.	476,750
Bridgeton City	Rehabilitate water tank and replace appurtenances, and replace water mains and appurtenances.	956,990
Brigantine City	Rehabilitate water tank, and clean, line and rehabilitate water mains and replace appurtenances.	606,900

East Brunswick Township	Replace water mains and appurtenances.	1,000,000
Franklin Township (Somerset County)	Clean, line and rehabilitate water mains and replace appurtenances.	1,000,000
Garfield City	Replace water meters, replace four water tanks and rehabilitate a pumping station.	2,200,000
Gloucester City	Replace water meters and purchase remote read equipment.	1,000,000
Haledon Borough	Replace water mains and appurtenances, and loop water mains.	1,000,000
Highland Park Borough	Clean, line and rehabilitate water mains and replace appurtenances, and loop water mains.	2,766,322
Highland Park Borough	Clean, line and rehabilitate water mains and replace appurtenances, and loop water mains.	1,000,000
Lavallette Borough	Replace water mains and appurtenances.	500,000
Lyndhurst Township	Replace water mains and appurtenances.	1,283,900
Mahwah Township	Replace water mains and appurtenances, and rehabilitate water tank.	2,842,130
Marlboro Township MUA	Replace water tank and appurtenances.	935,000
Medford Township	Replace water mains and appurtenances.	425,345
Pompton Lakes Borough MUA	Rehabilitate two water tanks.	463,495
Ridgewood Village	Construct new water treatment plant, rehabilitate two well houses and appurtenances, and purchase emergency generator.	2,000,000
Ridgewood Village	Rehabilitate three pump stations, loop water mains, and replace water tank.	2,750,000
Roseland Borough	Clean, line and rehabilitate water mains.	500,000

2. The expenditure of the sums appropriated to the Department of Environmental Protection pursuant to section 1 of P.L.1999, c.176 is subject to the provisions and conditions of P.L.1981, c.261, as amended by P.L.1983, c.355 and P.L.1997, c.223, and any regulations adopted by the Commissioner of Environmental Protection pursuant thereto.

3. From the sums appropriated pursuant to section 1 of P.L.1999, c.176, the Commissioner of Environmental Protection

may allocate funds for personal services by contract, or, in lieu thereof, by State employees for the purpose of planning, engineering, design, research, construction, property acquisition, or other costs related to construction. The expenditure of any of these funds for personal services is subject to written approval as a transfer by the Director of the Division of Budget and Accounting in the Department of the Treasury and by the Joint Budget Oversight Committee or its successor. Upon such approval, the director shall make the transfer as provided by law.

4. a. Any funds made available to local water supply purveyors or municipalities pursuant to P.L.1999, c.176 shall be in the form of loans with principal and interest payments due to be repaid to the "Water Supply Fund," in accordance with the terms of a written loan agreement. The form of the loan agreement shall be specified by the State Treasurer.

b. Any loans made available to local water supply purveyors or municipalities pursuant to P.L.1999, c.176 shall be subject to the provisions of section 24 of P.L.1997, c.224 (C.58:11B-20.1) and section 7 of P.L.1997, c.223.

5. Section 3 of P.L.1977, c.224 (C.58:12A-3) is amended to read as follows:

C.58:12A-3 Definitions.

3. As used in P.L.1977, c.224 (C.58:12A-1 et seq.):

a. "Administrator" means the Administrator of the United States Environmental Protection Agency or his authorized representative;

b. "Contaminant" means any physical, chemical, biological or radiological substance or matter in water;

c. "Commissioner" means the Commissioner of Environmental Protection or his designated representative;

d. "County" means any county or any agency or instrumentality of one or more thereof;

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

f. "Federal act" means the Safe Drinking Water Act, P.L.93-523, 42 U.S.C. s.300 et al.;

g. "Federal agency" means any department, agency, or instrumentality of the United States;

h. "Municipality" means any city, town, township, borough or village or any agency or instrumentality of one or more thereof;

i. "National primary drinking water regulations" means primary drinking water regulations promulgated by the administrator pursuant to the federal act;

j. "Person" means any individual, corporation, company, firm, association, partnership, municipality, county, State agency or federal agency;

k. "Primary drinking water regulation" means a regulation which:

(1) Applies at a minimum to public water systems;

(2) Specifies contaminants which, in the judgment of the commissioner, may have any adverse effect on the health of persons;

(3) Specifies for each such contaminant either: (a) a maximum contaminant level if, in the judgment of the commissioner, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or (b) if, in the judgment of the commissioner, it is not economically or technologically feasible to ascertain the level of such contaminant, each treatment technique known to the commissioner which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 4 of P.L.1977, c.224 (C.58:12A-4);

(4) Contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels, including quality control, sampling frequencies, and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to: (a) the minimum quality of water which may be taken into the system, and (b) siting for new facilities for public water systems;

l. "Public water system" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes: (1) any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (2) any collection or pre-treatment storage facilities not under such control which are used primarily in connection with such system. "Public community water system" means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents;

m. "State agency" means any department, agency or instrumentality of this State or of this State and any other state or states;

n. "Supplier of water" means any person who owns or operates a public water system;

o. "Maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to the free-flowing outlet

of the ultimate user of a public water system or other water system to which State primary drinking water regulations apply, except in the case of turbidity, where the maximum permissible level is measured at the point of entry to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition;

p. "Nonpublic water system" means a water system that is not a public water system;

q. "Sanitary survey" means an on-site review of the water source, facilities, equipment, operation and maintenance of a public or nonpublic water system for the purpose of evaluating the adequacy of the source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water with adequate pressure and volume;

r. "Secondary drinking water regulation" means a regulation applying to one or more water systems, and which specifies the maximum contaminant levels that are required to protect the public welfare; such regulations may apply to any contaminant in drinking water: (1) which may adversely affect the taste, odor, or appearance of such water and consequently may cause a substantial number of persons served by such water systems to discontinue their use, or (2) which may otherwise adversely affect the public welfare;

s. "Water system" means a system for providing potable water to any person.

6. Section 4 of P.L.1977, c.224 (C.58:12A-4) is amended to read as follows:

C.58:12A-4 Powers, duties of commissioner relative to drinking water regulations.

4. a. The commissioner shall prepare, promulgate and enforce and may amend or repeal:

(1) State primary drinking water regulations that at any given time shall be no less stringent than national regulations in effect at that time;

(2) State secondary drinking water regulations; and

(3) other regulations to protect potable waters, regulate public and nonpublic water systems, and carry out the intent of the provisions of P.L.1977, c.224 (C.58:12A-1 et seq.) in any one or more areas of the State requiring a particular safe drinking water program.

b. Subject to section 5 of P.L.1977, c.224 (C.58:12A-5), State primary drinking water regulations shall apply to each public water system in the State, except that such regulations shall not apply to a public water system:

(1) Which consists only of distribution and storage facilities and which does not have any collection and treatment facilities;

(2) Which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;

(3) Which does not sell water to any person; and

(4) Which does not provide water for potable purposes to any carrier which conveys passengers in interstate commerce.

c. The commissioner shall adopt and implement adequate procedures, promulgate appropriate rules and regulations, and issue such orders as are necessary for the enforcement of State primary drinking water regulations and for the provision of potable water of adequate volume and pressure; such regulations and procedures to include but not be limited to:

(1) Monitoring and inspection procedures;

(2) Maintenance of an inventory of public water systems in the State;

(3) A systematic program for conducting sanitary surveys of public water systems throughout the State or in a part thereof, whenever the commissioner determines that such surveys are necessary or advisable;

(4) The establishment and maintenance of a program for the certification of laboratories conducting analytic measurements of drinking water contaminants specified in the State primary and secondary drinking water regulations; and the assurance of the availability to the department of laboratory facilities certified by the administrator and capable of performing analytic measurements of all contaminant specified in the State primary and secondary drinking water regulations;

(5) The establishment and maintenance of programs concerning plans and specifications for the design, construction and operation of water systems, which programs:

(a) require all such plans and specifications to be first approved by the department before any work thereunder shall be commenced;

(b) assure that all new public water systems have adequate technical, managerial and financial capacity to comply with the provisions of the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), and all regulations promulgated by the department pursuant to that act prior to approval of such systems to distribute water for potable purposes;

(c) assure that all water systems will comply with any rules and regulations of the department; and

(d) assure and certify compliance with the State primary drinking water regulations or such requirements of the State secondary drinking water regulations as the commissioner deems applicable, and will deliver water with sufficient quality, volume and pressure to the users of such systems.

d. The commissioner shall keep such records and make such reports with respect to the duties, powers and responsibilities of the commissioner under subsections a. and c. of this section as may be required by regulations established by the administrator pursuant to the federal act.

e. The commissioner may require any public water system to install, use, and maintain such monitoring equipment and methods, to perform such sampling, to maintain and retain such records of information from monitoring and sampling activities, to submit such reports of monitoring and sampling results, and to provide such other information as he may require to assist in the establishment of regulations under the provisions of P.L.1977, c.224 (C.58:12A-1 et seq.), or to determine compliance or noncompliance with the provisions of P.L.1977, c.224 (C.58:12A-1 et seq.) or with regulations promulgated pursuant to the provisions of P.L.1977, c.224 (C.58:12A-1 et seq.).

f. The commissioner shall have the right to enter any premises upon presentation of appropriate credentials during regular business hours, in order to test, inspect or sample any feature of a public water system, and in order to inspect, copy or photograph any monitoring equipment or records required to be kept under provisions of P.L.1977, c.224 (C.58:12A-1 et seq.).

g. (Deleted by amendment, P.L.1999, c.176).

7. This act shall take effect immediately.

Approved August 2, 1999.

CHAPTER 177

AN ACT concerning the exclusion of certain retirement income from gross income under the gross income tax act, amending N.J.S.A.54A:6-10 and P.L.1977, c.273.

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

1. N.J.S.54A:6-10 is amended to read as follows:

Pensions and annuities.

54A:6-10. Pensions and annuities. Gross income shall not include that part of any amount received as an annuity under an annuity, endowment, or life insurance contract which bears the same ratio to such amount as the investment in the contract as of the

annuity starting date bears to the expected return under the contract as of such date. Where (1) part of the consideration for an annuity, endowment, or life insurance contract is contributed by the employer, and (2) during the three-year period beginning on the date on which an amount is first received under the contract as an annuity, the aggregate amount receivable by the employee under the terms of the contract is equal to or greater than the consideration for the contract contributed by the employee, then all amounts received as an annuity under the contract shall be excluded from gross income until there has been so excluded an amount equal to the consideration for the contract contributed by the employee.

In addition to that part of any amount received as an annuity which is excludable from gross income as herein provided, gross income shall not include payments:

for taxable years beginning before January 1, 2000, of up to $10,000 for a married couple filing jointly, $5,000 for a married person filing separately, or $7,500 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2000, but before January 1, 2001, of up to $12,500 for a married couple filing jointly, $6,250 for a married person filing separately, or $9,375 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2001, but before January 1, 2002, of up to $15,000 for a married couple filing jointly, $7,500 for a married person filing separately, or $11,250 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2002, but before January 1, 2003, of up to $17,500 for a married couple filing jointly, $8,750 for a married person filing separately, or $13,125 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for taxable years beginning on or after January 1, 2003, of up to $20,000 for a married couple filing jointly, $10,000 for a married person filing separately, or $15,000 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1, which are received as an annuity, endowment or life insurance contract, or payments of any such amounts which are received as pension, disability, or retirement benefits, under any public or private plan, whether the consideration therefor is contributed by the employee or employer or both, by any person who is 62 years of age or older or who, by virtue of disability, is or

would be eligible to receive payments under the federal Social Security Act.

Gross income shall not include any amount received under any public or private plan by reason of a permanent and total disability.

Gross income shall not include distributions from an employees' trust described in section 401(a) of the Internal Revenue Code of 1986, as amended (hereinafter referred to as "the Code"), which is exempt from tax under section 501(a) of the Code if the distribution, except the portion representing the employees' contributions, is rolled over in accordance with section 402(a)(5) or section 403(a)(4) of the Code. The distribution shall be paid in one or more installments which constitute a lump-sum distribution within the meaning of section 402(e)(4)(A) (determined without reference to subsection (e)(4)(B)), or be on account of a termination of a plan of which the trust is a part or, in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan.

2. Section 3 of P.L.1977, c.273 (C.54A:6-15) is amended to read as follows:

C.54A:6-25 Other retirement income.

3. Other retirement income. a. Gross income shall not include income:

for taxable years beginning before January 1, 2000, of up to $10,000 for a married couple filing jointly, $5,000 for a married person filing separately, or $7,500 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2000, but before January 1, 2001, of up to $12,500 for a married couple filing jointly, $6,250 for a married person filing separately, or $9,375 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2001, but before January 1, 2002, of up to $15,000 for a married couple filing jointly, $7,500 for a married person filing separately, or $11,250 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2002, but before January 1, 2003, of up to $17,500 for a married couple filing jointly, $8,750 for a married person filing separately, or $13,125 for

an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for taxable years beginning on or after January 1, 2003, gross income shall not include income of up to $20,000 for a married couple filing jointly, $10,000 for a married person filing separately, or $15,000 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1, when received in any tax year by a person aged 62 years or older who received no income in excess of $3,000 from one or more of the sources enumerated in subsections a., b., k. and p. of N.J.S.54A:5-1, provided, however, that the total exclusion under this subsection and that allowable under N.J.S.54A:6-10 shall not exceed the amounts of the exclusions set forth in this subsection.

b. In addition to the exclusion provided under N.J.S.54A:6-10 and subsection a. of this section, gross income shall not include income of up to $6,000 for a married couple filing jointly or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1, or $3,000 for a single person or a married person filing separately, who is not covered under N.J.S.54A:6-2 or N.J.S.54A:6-3, but who would be eligible in any year to receive payments under either section if he or she were covered thereby.

3. This act shall take effect immediately.

Approved August 3, 1999.

CHAPTER 178

AN ACT concerning stabilization of intermunicipal tax sharing in the meadowlands district, amending and supplementing P.L.1968, c.404 (C.13:17-1 et seq.).

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

1. Section 72 of P.L.1968, c.404 (C.13:17-74) is amended to read as follows:

C.13:17-74. Meadowlands adjustment payment; determination and payment.

72. (a) On or before February 1, 1973 and on or before February 1 of each year thereafter, the commission shall certify to the chief financial officer of each

constituent municipality an amount, known as the meadowlands adjustment payment. The meadowlands adjustment payment for each constituent municipality shall be determined by adding all the payments payable to that municipality from the intermunicipal account for school district service payments, guarantee payments, and apportionment payments, if any, and by subtracting therefrom the obligations of that municipality to the intermunicipal account, as calculated pursuant to sections 65 and 71 of this act. The amount so derived shall be referred to as the meadowlands pre-adjustment payment. For calendar year 2000, the meadowlands adjustment payment shall be the average of the meadowlands pre-adjustment payments for calendar years 1999 and 2000. For calendar year 2001, the meadowlands adjustment payment shall be the average of the meadowlands pre-adjustment payments for calendar years 1999, 2000, and 2001. For calendar year 2002 and subsequent years, the meadowlands adjustment payment shall be the average of the meadowlands pre-adjustment payments for the prior three calendar years.

(b) If the meadowlands adjustment payment for any constituent municipality in any adjustment year is payable to the constituent municipality, the amount of said payment shall be identified in the municipal budget of that municipality for that year as "meadowlands adjustment" within the category "miscellaneous revenues anticipated," and shall be due and payable in three equal installments to be made by the intermunicipal account to that municipality on May 15, August 15, and November 15 of that year.

(c) If the meadowlands adjustment payment for any constituent municipality in any adjustment year is payable to the intermunicipal account, the amount of said payment shall be entered as a special line item appropriation in the budget of the municipality for that year and shall be payable in three equal installments to be made by the municipality to the account on May 15, August 15, and November 15 of that year. No transfers may be made from said appropriation except as is herein provided.

C.13:17-74.1 Hackensack Meadowlands Tax Sharing Stabilization Fund established.

2. There is established the Hackensack Meadowlands Tax Sharing Stabilization Fund in the Hackensack Meadowlands Development Commission. The fund shall be comprised of revenues made available from interest payments on sanitary landfill closure accounts maintained by the commission or such other revenues which are made available for these purposes. Moneys in the fund shall be used to fully compensate municipalities from excessive fluctuations in payments to or from the intermunicipal account in 1999 and subsequent years, as provided hereunder. In the event that there are insufficient monies in the fund to fully compensate all municipalities in any year, the amount paid to each municipality shall constitute the same proportion of the total amount of money available to all municipalities as each municipality

would receive if the amount of money in the fund were sufficient to fully compensate all municipalities in that year.

For the purposes of this section, any increase in the payment required to be made by a constituent municipality to the intermunicipal account which is in excess of five percent over the previous year's payment shall be considered an "excessive fluctuation." Any decrease in a payment required to be made from the intermunicipal account to a constituent municipality which is in excess of five percent below the previous year's payment shall also be considered an "excessive fluctuation."

3. This act shall take effect immediately.

Approved August 4, 1999.

CHAPTER 179

AN ACT concerning senior citizens and handicapped citizens and amending P.L.1973, c.126.

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

1. Section 1 of P.L.1973, c.126 (C.27:1A-64) is amended to read as follows:

C.27:1A-64 Findings, declarations.

1. The Legislature hereby finds and declares that:

a. Many senior citizens and handicapped citizens of this State must depend on public transportation facilities to obtain the necessities of life, such as food, clothing and medical services, and to visit their families and friends; ready access to transportation services is thus essential to their health, safety and welfare.

b. Many senior citizens and handicapped citizens live on fixed or limited incomes, and the high cost of transportation services thus makes it difficult for them to take advantage of such services.

c. (Deleted by amendment, P.L.1999, c.179).

d. (Deleted by amendment, P.L.1999, c.179).

e. It is therefore a valid public purpose, and in the best interest of all the people of this State, to provide for reduced bus and rail fares for senior citizens and handicapped citizens at State expense.

2. Section 3 of P.L.1973, c.126 (C.27:1A-66) is amended to read as follows:

C.27:1A-66 Motorbus, rail passenger service for senior, handicapped citizens at all times; exceptions.

3. The Commissioner of Transportation is hereby authorized and directed to establish and implement within 180 days of the effective date of P.L.1999, c.179 (C.27:1A-64 et al.) a program to provide motor bus and rail passenger service for senior citizens during offpeak times and to provide motor bus and rail passenger service for senior citizens age 65 and older and handicapped citizens at all times bus or rail service is offered, on regular routes of carriers within the State or between points in this State and points in adjacent states at one-half of the regular adult rates of fare as set forth in the tariffs of carriers filed with the Interstate Commerce Commission, Board of Public Utilities or the Department of Transportation, except that the reduced fare shall not be available to senior citizens and handicapped citizens traveling on commuter railroad trains operated during peak times which have been designated by the New Jersey Transit Corporation as ineligible for round trip excursion fares. The commissioner may take such action as he deems necessary to implement this program, including contracts with carriers for the provision of transportation services under this program, purchase of regular tickets and resale to senior citizens and handicapped citizens at one-half the ordinary fare, or direct payments to carriers for services provided to senior citizens and handicapped citizens under this program. Where carriers may be entitled to receive or do receive funds from sources other than the Department of Transportation for provision of service to senior citizens and handicapped citizens, reimbursement payments which may be made by the Department of Transportation to the carriers may be adjusted accordingly.

3. This act shall take effect immediately.

Approved August 5, 1999.

CHAPTER 180

AN ACT establishing a farmland preservation planning incentive grant program, supplementing Title 4 of the Revised Statutes, and amending P.L.1975, c.291.

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

C.4:1C-43.1 Farmland preservation planning incentive grant program.

1. a. There is established in the State Agriculture Development Committee a farmland preservation planning incentive grant program, the purpose of which shall be to provide grants to eligible counties and municipalities for farmland preservation purposes as authorized pursuant to this act.

b. To be eligible to apply for a grant, a county or municipality shall:

(1) Identify project areas of multiple farms that are reasonably contiguous and located in an agriculture development area authorized pursuant to the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.);

(2) Establish an agricultural advisory committee. In the case of a county, the county agriculture development board shall serve this function. In the case of a municipality, members of a municipal agricultural advisory committee shall be appointed by the mayor with the consent of the municipal governing body, and the committee shall report to the municipal planning board. A municipal agricultural advisory committee shall be composed of at least three, but not more than five, members who shall be residents of the municipality, with a majority of the members actively engaged in farming and owning a portion of the land they farm. For the purposes of this paragraph, "mayor" shall mean the same as that term is defined pursuant to section 3.2 of P.L.1975, c.291 (C.40:55D-5);

(3) Establish and maintain a dedicated source of funding for farmland preservation pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.), or an alternative means of funding for farmland preservation, such as, but not limited to, repeated annual appropriations or repeated issuance of bonded indebtedness, which the State Agriculture Development Committee deems to be, in effect, a dedicated source of funding because of a demonstrated commitment on the part of the county or municipality; and

(4) In the case of a municipality, prepare a farmland preservation plan element pursuant to paragraph (13) of section 19 of P.L.1975, c.291 (C.40:55D-28) in consultation with the agriculture advisory committee established pursuant to paragraph (2) of this subsection.

c. In the event a municipality is seeking funding from the county toward the purchase of development easements, the municipality shall submit an application to the county agriculture development board. In all other cases, a municipality shall submit its application directly to the State Agriculture Development Committee.

d. A municipality, in submitting an application to the county agriculture development board or the State Agriculture Development Committee as appropriate, or a county, in submitting an application to the State Agriculture

Development Committee, shall outline a multi-year plan for the purchase of multiple farms in a project area and indicate its annual share of the estimated purchase price. The municipality, in order to enhance its application, may submit its proposal jointly with one or more contiguous municipalities if the submission would result in the preservation of a significant area of reasonably contiguous farmland. The application shall include, in the case of a municipality, a copy of the farmland preservation plan element prepared pursuant to paragraph (13) of section 19 of P.L.1975, c.291 (C.40:55D-28); an estimate of the cost of purchasing development easements on all of the farms in a designated project area, to be determined in consultation with the county agriculture development board or through an appraisal for the entire project area; and an inventory showing the characteristics of each farm in the project area which may include, but need not be limited to, size, soils and agricultural use.

e. The State Agriculture Development Committee shall make decisions regarding suitability for funding of development easement purchases for planning incentive grants based on whether the project area provides an opportunity to preserve a significant area of reasonably contiguous farmland that will promote the long term viability of agriculture as an industry in the municipality or county. After the State Agriculture Development Committee has given approval to an application, the municipality or county shall submit two appraisals for each parcel for which funding is requested. The appraisals shall be conducted pursuant to the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31). Approved funding shall be allocated by the municipality, the county and the State to each parcel in the project area under an agreement that commits each level of government to a specific payment in each of the years included in the plan for purchase. Nothing in this act shall be construed to require that any parcel in a project area receive a price per acre that is the same as any other parcel in that project area or that any parcel must be purchased with installment payments because other parcels in the project area are so purchased.

f. Purchases of development easements on farmland pursuant to this act shall be made with the approval of the State Agriculture Development Committee and the municipality, and in the event county funds are provided, with the approval of the county agriculture development board.

g. If a county does not provide funding toward the purchase of the development easement, the State Agriculture Development Committee shall hold title to the development easement.

h. The State Agriculture Development Committee shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement this act, and shall establish ranking and funding criteria separately from, but similar to, those used in the program established pursuant to P.L.1983, c.32 (C.4:1C-11 et seq.), except that ranking and funding criteria shall be applied to the project area as a whole and not

to individual parcels and priority shall be given to those applications that utilize option agreements, installment purchases, donations, and other methods for the purpose of leveraging monies made available by P.L.1999, c.152 (C.13:8C-1 et al.).

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

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

19. Preparation; contents; modification.

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

b. The master plan shall generally comprise a report or statement and land use and development proposals, with maps, diagrams and text, presenting, at least the following elements (1) and (2) and, where appropriate, the following elements (3) through (13):

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

(2) A land use plan element (a) taking into account and stating its relationship to the statement provided for in paragraph (1) hereof, and other master plan elements provided for in paragraphs (3) through (13) hereof and natural conditions, including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodlands; (b) showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes; and stating the relationship thereof to the existing and any proposed zone plan and zoning ordinance; and (c) showing the existing and proposed location of any airports and the boundaries of any airport safety zones delineated pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.); and (d) including a statement of the standards of population density and development intensity recommended for the municipality;

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

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

(5) A utility service plan element analyzing the need for and showing the future general location of water supply and distribution facilities, drainage and flood control facilities, sewerage and waste treatment, solid waste disposal and provision for other related utilities, and including any storm water management plan required pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.);

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

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

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

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

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

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

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

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

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

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

3. This act shall take effect immediately.

Approved August 12, 1999.

CHAPTER 181

AN ACT authorizing the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the aggregate principal amount of $500,000,000 for the purpose of rehabilitating and improving the State transportation system, including local bridges; 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 "Statewide Transportation and Local Bridge Bond Act of 1999."

2. The Legislature finds and declares that:

a. The transportation system in New Jersey must accommodate annual traffic volumes that are far in excess of the national average. Unfortunately, this continued high level of stress placed on the transportation system by the State's residents, visitors, and commercial activities results in the need to repair and improve the transportation system more quickly than available funds can maintain, repair, or expand the transportation system.

b. The continued success and expansion of the State's economic base assumes the smooth operation of the transportation system which is needed to insure the efficient movement of people, goods, and services. If that efficiency is degraded, the State's ability to compete for new private sector investment and retain existing employment opportunities is seriously threatened as is the tax base on which the State and local governments must rely for their revenues.

c. Of particular concern is the backlog of projects to improve safety, relieve congestion, and reverse the deterioration on bridges carrying county and municipal roads which cannot be addressed without additional funds.

d. The local bridge rehabilitation and improvement requirements and the need for other transportation system improvements greatly exceed the monies that can be provided from regular State appropriations, the Transportation Trust Fund, the federal government, and local governments. Therefore it is necessary to authorize the bond issue provided for herein in order to help finance work on the existing backlog of local bridge and other transportation system improvement projects. These projects must be initiated and completed in the immediate future if the State and local road systems are to remain viable and efficient.

3. As used in this act:

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

"Cost" means the expenses incurred in connection with: the construction, reconstruction, improvement, rehabilitation, relocation, removal, demolition, establishment, or repair of transportation projects; the procurement of engineering, inspection, planning, legal, financial and other professional services; the procurement of the services of a bond registrar and an authenticating agent; the cost of reimbursement of any fund of the State from which moneys shall have been advanced to the fund created herein; the issuance of bonds or any interest or discount thereon; and the establishment of a reserve fund or funds for working capital, operating,

maintenance or replacement expenses and for 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.

"Commissioner" means the Commissioner of Transportation.

"Department" means the Department of Transportation.

"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.

"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.

"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.

"Railroad overhead bridge" means any bridge or passage carrying a State highway or a county or municipal road over and across a railroad, subway, or street, traction, or electric railway, or over and across the right-of-way of such a railroad, subway or railway. Unless stated otherwise to the contrary, this definition shall not include those bridges or passages over and across a railroad or electric railway operated by the State, the department or the New Jersey Transit Corporation.

"Rehabilitation and improvement of the State transportation system" means the construction, reconstruction, demolition, removal, replacement, improvement, repair or rebuilding of transportation projects.

"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.

"Transportation system" means public highways, public transportation projects, other transportation projects, and all other methods of transportation for the movement of people and goods.

4. The commissioner may 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.

5. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $500,000,000 for the purpose of financing the costs of the rehabilitation and improvement of the State transportation system. Of the total authorized amount, $250,000,000 shall be available as grants to county and municipal governments for the costs of the rehabilitation and improvement of structurally deficient bridges carrying county or municipal roads, including railroad overhead bridges. The remaining $250,000,000 shall be available for transportation projects.

b. With respect to railroad overhead bridges, notwithstanding the provisions of chapter 12 of Title 48 of the Revised Statutes, the railroad company whose tracks or right-of-way the bridge crosses, shall not be required to contribute to the costs of the rehabilitation and improvement of a bridge but shall furnish, at its own expense, necessary track safety services, engineering reviews, safety training, utility relocations, and track outages to facilitate the work. Assignment of jurisdiction and responsibilities for railroad overhead bridges shall otherwise be determined in accordance with P.L.1988, c.171 (C.27:5G-5 et seq.).

6. The bonds authorized under this act shall be serial bonds, term bonds, or a combination thereof, and shall be known as "1999 Statewide Transportation and Local Bridge 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.

7. 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.

8. Bonds issued in accordance with the provisions of this act shall be a direct obligation of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the interest 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.

9. The bonds shall be signed in the name of the State by means of the manual or facsimile signature of the Governor under the Great Seal of the State, which seal may be by facsimile or by way of any other form of reproduction on the bonds, and attested by the manual or facsimile signature of the Secretary of State, or an Assistant Secretary of State, and shall be countersigned by the facsimile signature of the Director of the Division of Budget and Accounting in the Department of the Treasury and may be manually authenticated by an authenticating agent or Bond registrar, as the issuing official shall determine. Interest coupons, if any, attached to the bonds shall be signed by the facsimile signature of the Director of the Division of Budget and Accounting in the Department of the Treasury. The bonds may be issued notwithstanding that an official signing them or whose manual or facsimile signature appears on the bonds or coupons has ceased to hold office at the time of issuance, or at the time of the delivery of the bonds to the purchaser thereof.

10. a. The bonds shall recite that they are issued for the purposes set forth in section 5 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, 1999, and that this act was approved by a majority of the legally qualified voters of the State voting thereon at the election. This recital shall be conclusive evidence of the authority of the State to issue the bonds and their validity. Any bonds containing this recital shall, in any suit, action or proceeding involving their validity, be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith and with all other provisions of laws applicable hereto, and shall be incontestable for any cause.

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

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

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

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

14. The proceeds from the sale of bonds shall be paid to the State Treasurer and be held by the State Treasurer in a separate fund, and be deposited in such depositories as may be selected by the State Treasurer to the credit of the fund, which fund shall be known as the "1999 Statewide Transportation and Local Bridge Fund."

15. a. The moneys in the "1999 Statewide Transportation and Local Bridge Fund" are specifically dedicated and shall be applied to the cost of the purposes set forth in section 5 of this act. However, no moneys in the

fund shall be expended for those purposes, except as otherwise authorized by this act, without the specific appropriation thereof by the Legislature, 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. 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 "1999 Statewide Transportation and Local Bridge 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.

c. Pending their application to the purposes provided in this act, the moneys in the "1999 Statewide Transportation and Local Bridge 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 the "1999 Statewide Transportation and Local Bridge Fund" shall be paid into the "1999 Statewide Transportation and Local Bridge Fund."

16. 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.

17. 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.

18. Bonds of each series issued hereunder shall mature, including any sinking fund redemptions, not later than the 35th year from the date of issue of that series, and in amounts as shall be determined by the issuing officials. The issuing officials may reserve to the State by appropriate provision in the

bonds of any series the power to redeem any of the bonds prior to maturity at the price or prices and upon the terms and conditions as may be provided in the bonds.

19. Any bond or bonds issued hereunder which are subject to refinancing pursuant to the "Refunding Bond Act of 1985," P.L.1985, c.74 as amended by P.L.1992, c.182 (C.49:2B-1 et seq.), shall no longer be deemed to be outstanding, shall no longer constitute a direct obligation of the State of New Jersey, and the faith and credit of the State shall no longer be pledged to the payment of the principal of, redemption premium, if any, and interest on the bonds, and the bonds shall be secured solely by and payable solely from moneys and government securities deposited in trust with one or more trustees or escrow agents, which trustees and escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, as provided herein, whenever there shall be deposited in trust with the trustees or escrow agents, as provided herein, either moneys or government securities, including government securities issued or held in book-entry form on the books of the Department of the Treasury of the United States, the principal of and interest on which when due will provide money which, together with the moneys, if any, deposited with the trustees or escrow agents at the same time, shall be sufficient to pay when due the principal of, redemption premium, if any, and interest due and to become due on the bonds on or prior to the redemption date or maturity date thereof, as the case may be; provided the government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. The State of New Jersey hereby covenants with the holders of any bonds for which government securities or moneys shall have been deposited in trust with the trustees or escrow agents as provided in this section that, except as otherwise provided in this section, neither the government securities nor moneys so deposited with the trustees or escrow agents shall be withdrawn or used by the State for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest to become due on the bonds; provided that any cash received from the principal or interest payments on the government securities deposited with the trustees or escrow agents, to the extent the cash will not be required at any time for that purpose, shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien, pledge or assignment securing the bonds; and to the extent the cash will be required for that purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption

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

20. 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 6 of this act or with bonds issued pursuant to any other act for purposes of sale.

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

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

b. If, at any time, funds necessary to meet the interest, redemption premium, if any, and principal payments on outstanding bonds issued under this act are insufficient or not available, there shall be assessed, levied and collected annually in each of the municipalities of the counties of this State, a tax on the real and personal property upon which municipal taxes are or shall be assessed, levied and collected, sufficient to meet the interest on all outstanding bonds issued hereunder and on the bonds proposed to be issued under this act in the calendar year in which the tax is to be raised and for the payment of bonds falling due in the year following the year for which the tax is levied. The tax shall be assessed, levied and collected in the same manner and at the same time as are other taxes upon real and personal property. The governing body of each municipality shall cause to be paid to the county treasurer of the county in which the municipality is located, on or before December 15 in each year, the amount of tax herein directed to be assessed and levied, and the county treasurer shall pay the amount of the tax to the State Treasurer on or before December 20 in each year.

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

22. 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.

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

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

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

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

	YES	STATEWIDE TRANSPORTATION AND LOCAL BRIDGE BOND ACT OF 1999 Shall the "Statewide Transportation and Local Bridge Bond Act of 1999," which authorizes the State to issue bonds in the amount of $500,000,000 for the purpose of rehabilitating and improving the State transportation system, including structurally deficient local bridges, 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 would authorize the sale of $500 million in State general obligation bonds to address the growing needs of the State's aging transportation infrastructure. Of the total authorized amount, $250 million would be reserved for grants to county and municipal governments for the rehabilitation and improvement of structurally deficient bridges carrying county or municipal roads. The remaining $250 million would be used for transportation projects throughout the State.

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

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

24. 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 23 of this act.

25. a. The commissioner shall submit as part of the commissioner's report due on or before March 1 of each year pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22), a plan for the expenditure of funds from the "1999 Statewide Transportation and Local Bridge Fund" for the upcoming fiscal year. This plan shall include a description of projects planned during the upcoming year that are to financed, in part or in whole, by the "1999 Statewide Transportation and Local Bridge Fund" and an estimate of expenditures for the upcoming fiscal year. The commissioner shall also submit to the State Treasurer any information as determined necessary by the State Treasurer pertaining to the expenditure or planned expenditure of

funds from the "1999 Statewide Transportation and Local Bridge Fund" by the department.

b. In addition to the report required by subsection a. of this section, the commissioner may submit, at any time, a supplemental plan for the expenditure of funds with a request for an appropriation from the "1999 Statewide Transportation and Local Bridge Fund."

26. Beginning December 1, 2000 and on or before December 1 of each year thereafter the commissioner shall submit a report on the status of the "1999 Statewide Transportation and Local Bridge Fund" and the transportation projects financed by the fund to the Transportation Committee of the Senate and the Transportation Committee of the General Assembly, or their designated successors, and to the Joint Budget Oversight Committee, or its successor.

27. This section and sections 23 and 24 of this act shall take effect immediately and the remainder of this act shall take effect as and when provided in section 23.

Approved August 13, 1999.

CHAPTER 182

AN ACT concerning parking spaces for handicapped motorists and supplementing chapter 4 of Title 39 of the Revised Statutes.

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

C.39:4-207.9 Parking spaces for handicapped; requirement for snow removal.

1. a. A person who owns or controls a parking area which is open to the public or to which the public is invited and which contains special parking spaces for the use of persons who have been issued a placard or wheelchair symbol license plates pursuant to P.L.1949, c.280 (C.39:4-204 et seq.) shall be responsible for assuring that access to these special parking spaces and to curb cuts or other improvements designed to provide accessibility for handicapped persons is not obstructed.

b. If snow or ice is obstructing the special parking space, curb cut or other improvement designed to provide accessibility for the handicapped, it shall be removed within 48 hours after the weather condition causing the snow or ice ceases.

c. A person who violates this act shall be liable for a penalty of not less than $200 or more than $500.

2. This act shall take effect immediately.

Approved August 16, 1999.

CHAPTER 183

AN ACT concerning compliance reviews of insurance carriers and supplementing Title 17 of the Revised Statutes.

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

C.17:23C-1 Findings, declarations relative to compliance reviews of insurance carriers.

1. a. The Legislature finds and declares that it is in the public interest for insurance carriers in this State to conduct voluntary internal reviews and audits of their operations, practices and procedures for the purpose of discovering and correcting any operations, practices or procedures which do not comply with applicable law or regulation or which do not comply with recognized industry standards or with the insurance carrier's own standards and for the purpose of preventing continuing and more serious violations. However, if studies and reports beyond those legally required are available to third parties other than regulators and potentially can result in the insurance carrier's liability to such third parties, the insurance carrier may be discouraged from making these additional efforts and from sharing these results with regulators. A legal structure that promotes self-policing programs can achieve improved compliance effectively at less cost to the State and to the insurance carriers. Voluntary compliance review, when properly conducted and implemented, results not only in improved compliance with law, but in the adoption of procedures and policies by the insurance carriers that exceed minimum legal requirements, and that save money by benefiting customers, lowering costs and reducing potential liabilities.

b. The Legislature therefore determines that it is the public policy of the State to encourage insurance carriers to undertake voluntary compliance reviews and corrective action programs by protecting the results of voluntary compliance reviews from third parties other than regulators. Voluntary compliance reviews shall be privileged and shall not be considered public records or public documents subject to inspection or

examination under any statutory or common-law right to know request. This privilege is intended to apply only to protect reports created for the express purpose of testing and monitoring compliance, which otherwise might not be undertaken because they are not legally required. Information required to be maintained pursuant to any federal or State law or regulation will not become privileged just because it is utilized or incorporated in a voluntary compliance review report.

C.17:23C-2 Definitions relative to compliance reviews of insurance carriers.

2. As used in this act:

"Department" means the Department of Banking and Insurance.

"Enforcement action" means a criminal investigation or prosecution, or an administrative proceeding, civil action or order by a governmental unit, agency or authority which is intended to ensure the safe and sound operation of an insurance carrier.

"Insurance carrier" means:

(1) Any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society or other person engaged in the business of insurance pursuant to Subtitle 3 of Title 17 of the Revised Statutes (R.S.17:17-1 et seq.), or Subtitle 3 of Title 17B of the New Jersey Statutes (N.J.S.17B:17-1 et seq.);

(2) Any medical service corporation operating pursuant to P.L.1940, c.74 (C.17:48A-1 et seq.);

(3) Any hospital service corporation operating pursuant to P.L.1938, c.366 (C.17:48-1 et seq.);

(4) Any health service corporation operating pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.);

(5) Any dental service corporation operating pursuant to P.L.1968, c.305 (C.17:48C-1 et seq.);

(6) Any dental plan organization operating pursuant to P.L.1979, c.478 (C.17:48D-1 et seq.);

(7) Any insurance plan operating pursuant to P.L.1970, c.215 (C.17:29D-1 et seq.);

(8) The New Jersey Insurance Underwriting Association operating pursuant to P.L.1968, c.129 (C.17:37A-1 et seq.);

(9) Any risk retention group or purchasing group operating pursuant to the "Liability Risk Retention Act of 1986," 15 U.S.C. ss. 3901 et seq.;

(10) Any health maintenance organization operating pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.); and

(11) Any joint insurance fund operating pursuant to P.L.1983, c.108 (C.18A:18B-1 et seq.), P.L.1983, c.372 (C.40A:10-36 et seq.), P.L.1985, c.204 (C.18A:64A-25.33 et seq.) or P.L.1987, c.431 (C.17:49A-1 et seq.).

"Timely discloses" or "timely disclosure" means the voluntary disclosure of the findings of a voluntary compliance review to the department within 90 days of the completion of a voluntary compliance review report or the delivery of or access to a voluntary compliance review report within 20 days of a request by the department.

"Voluntary compliance review" means review, project, testing program, assessment, audit or evaluation instituted by an insurance carrier to collect information or prepare analyses, not required by statute, regulation, bulletin or order and which would otherwise not be collected, maintained or prepared, for the purposes of identifying and correcting problems of compliance with applicable laws and regulations.

"Voluntary compliance review report" means any document or documents prepared or assembled by any person or group of persons, committee or entity conducting a voluntary compliance review, including without limitation, supporting information and documents such as notes, records of observations, findings, conclusions, drafts, memoranda, drawings, photographs, electronic or computerized mail, audio or video recordings or transcriptions or depictions of any type, stored computer data, including floppy or other disks, hard drives, printer memory, software or other data compilations from which information can be obtained, charts, graphs and surveys, provided, however, that the documents and supporting information are developed for the purpose of and in the course of a voluntary compliance review.

C.17:23C-3 Voluntary compliance review report privileged.

3. A voluntary compliance review report shall be privileged and neither it nor its existence shall be discoverable or admissible as evidence in any legal action or administrative proceeding of any nature involving the insurance carrier, except as provided in section 5 of this act.

C.17:23C-4 Privilege regarding preparation of report.

4. Persons involved in the preparation of a voluntary compliance review report shall not be required to give answers to any questions or provide testimony regarding the existence, contents or conclusions of any voluntary compliance review report, except as provided in section 5 of this act.

C.17:23C-5 Limited disclosure, circumstances.

5. a. The provisions of sections 3 and 4 of this act shall not apply if:

(1) an enforcement action is taken, that enforcement action is contested, and an administrative law judge or a court of competent jurisdiction determines that a voluntary compliance review report is relevant to that enforcement action; provided however, that disclosure of a voluntary

compliance review report shall be made under seal, with no disclosure beyond the department, the administrative law judge or court of competent jurisdiction, and resulting in no waiver of the privilege to any other individuals or entities seeking disclosure; or

(2) there is a statutory requirement that the violation identified or discovered as a result of the voluntary compliance review be reported; provided however, that a court may order disclosure only in accordance with the terms of this act.

b. The disclosure authorized under paragraphs (1) and (2) of subsection a. of this section shall apply only to those sections and portions of the voluntary compliance review report that pertain to the specific violation which is the subject of the enforcement action. All other sections and portions of the voluntary compliance review report shall remain privileged.

c. If there is a dispute concerning the sections or portions of the voluntary compliance review report subject to disclosure, an administrative law judge or a court of competent jurisdiction, upon petition of either party, shall conduct an in camera review of those sections or portions subject to dispute.

C.17:23C-6 Reports placed under seal at conclusion of enforcement action.

6. At the conclusion of an enforcement action in which a court or administrative law judge determines that an insurance carrier has committed no statutory or regulatory violation, all voluntary compliance review reports contained within the case file of the proceeding shall be placed under seal and the department shall treat that material as confidential, as if no enforcement action had been taken.

C.17:23C-7 Materials not considered privileged.

7. The following materials described in this section shall not become privileged pursuant to the provisions of sections 3 and 4 of this act because they are utilized or incorporated in a voluntary compliance review report:

(1) documents, communications, data, reports or other information required to be collected, developed, maintained, reported or made available to a regulatory agency pursuant to any federal or State law, regulation, permit, bulletin or order or in the normal processing of customer transactions;

(2) information obtained by observation, sampling, examining, auditing or monitoring by any regulatory agency;

(3) information obtained from a source independent of the voluntary compliance review; and

(4) information exchanged by and among the department and other appropriate regulators pursuant to an agreement between or among the regulatory agencies; provided, however, that notwithstanding this permitted

exchange of information by the regulatory agencies, sections 3 and 4 of this act shall continue to apply with respect to a person who is not a regulatory agency.

C.17:23C-8 Inadmissibility of privileged information.

8. No person shall use any information privileged pursuant to this act to discover any other information and any information so discovered shall be inadmissible in any action or proceeding. If an administrative law judge or a court of competent jurisdiction determines that any information is not privileged, it shall, by the entry of appropriate protective orders, ensure that information is disclosed only to the extent required for the proper conduct of the subject action or proceeding.

C.17:23C-9 Privileges unaffected.

9. Nothing in this act shall limit, waive or abrogate the scope or nature of any statutory or common law privilege, including, without limitation, the work product doctrine and the attorney-client privilege.

C.17:23C-10 Circumvention prohibited.

10. No regulatory agency shall adopt a rule for the purpose of circumventing the privilege established in this act by requiring disclosure of a voluntary compliance review report.

C.17:23C-11 Continuing privilege of disclosed information.

11. a. If an insurance carrier timely discloses information it obtained from a voluntary compliance review to the department or to another appropriate regulatory agency, that information and the voluntary compliance review which resulted in the information shall remain subject to sections 3 and 4 of this act, except that the agency receiving the information may use it with respect to an enforcement action.

b. The regulatory agency, in deciding on the appropriate penalty or sanction, if any, for a violation shall consider the timely disclosure as a mitigating factor if the violation is disclosed and the insurance carrier responsible for the violation demonstrates, and the regulator determines, that the violation is not the result of knowing, purposeful, reckless or criminally negligent conduct, that reasonable corrective action has been or is being taken to rectify and eliminate any detected violation and that the insurance carrier has made or is making a good-faith effort to prevent similar violations.

C.17:23C-12 Construction of act relative to third party access.

12. Nothing in this act shall be construed to permit any third party access to any voluntary compliance review report subject to the provisions of this act. For the purpose of this section, "third party" means a person

other than a federal, State or local governmental agency; however, those agencies shall only be provided access to voluntary compliance review reports if they agree in writing to be bound by the terms of this act.

C.17:23C-13 Production of documents not a waiver of privilege; penalty.

13. a. The department may require production of any document from an insurance carrier through timely disclosure or pursuant to compulsion of law, for its review. This production shall not constitute a waiver of the privilege established by this act.

b. The privilege provided by this act shall not be waived if the department or an employee of the department discloses a document provided to the department to a third-party. For the purpose of this section, "third party" means a person other than a federal, State or local governmental agency; however, those agencies shall only be provided access to voluntary compliance reports if they agree in writing to be bound by the terms of this act.

c. Any person who is found to have intentionally or recklessly disclosed any document to a third party in violation of this act shall be guilty of a crime of the third degree.

14. This act shall take effect immediately and shall apply to all voluntary compliance reviews and reports.

Approved August 16, 1999.

CHAPTER 184

AN ACT establishing a public library project grant program, supplementing Title 18A of the New Jersey Statutes and amending N.J.S.18A:72A-3.

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

C.18A:74-24 Definitions relative to public library project grant program.

1. For the purposes of this act:

"Area" means all or part of one or more political subdivisions of the State of New Jersey;

"Authority" means the "New Jersey Educational Facilities Authority" established pursuant to N.J.S.18A:72A-1 et seq.;

"Board" means the Public Library Construction Advisory Board established pursuant to section 3 of P.L.1999, c.184 (C.18A:74-26);

"Eligible project costs" means costs incurred in a project approved by the board;

"Fund" means the "Public Library Project Fund" established pursuant to section 2 of P.L.1999, c.184 (C.18A:74-25);

"Project" means any construction, expansion, rehabilitation or acquisition project eligible for a grant under regulations promulgated under section 3 of P.L.1999, c.184 (C.18A:74-26);

"Public library" means a library that serves free of charge all residents of an area as established pursuant to chapter 33 or chapter 54 of Title 40 of the New Jersey Statutes;

"Secretary" means the Secretary of State of the State of New Jersey or the Secretary's designated representative.

C.18A:74-25 "Public Library Project Fund."

2. The "Public Library Project Fund" is established as a separate account in the New Jersey Educational Facilities Authority to carry out the purposes of P.L.1999, c.184 (C.18A:74-24 et al.). The fund shall be administered by the authority and shall be credited with:

a. moneys received from the issuance of bonds, notes or other obligations issued pursuant to section 5 of P.L.1999, c.184 (C.18A:74-28);

b. moneys appropriated by the State for the purposes of the fund; and

c. all interest and investment earnings received on moneys in the fund.

C.18A:74-26 Public Library Construction Advisory Board.

3. There is created a Public Library Construction Advisory Board to be comprised of seven members as follows: the Secretary of State or the secretary's designee who shall serve as the chair; the State Librarian or the librarian's designee; a member of the State Library Advisory Council established pursuant to section 13 of P.L.1969, c.158 (C.18A:73-28), or the council's designee, who shall be chosen by the council and shall serve at the pleasure of the council and until a successor is chosen; and four persons with library, construction, or finance experience who shall be appointed by the Governor with the advice and consent of the Senate and who shall serve at the pleasure of the Governor and until their successors are appointed and shall have qualified.

Moneys in the fund shall be distributed as grants to public libraries for part of eligible project costs as enumerated in section 4 of P.L.1999, c.184 (C.18A:74-27), based on criteria and a competitive selection process established by the board. The board shall promulgate regulations prescribing procedures for applying for a grant and the terms and conditions for receiving a grant. A grant application shall include a complete description of the project to be financed and an identification of additional sources of revenue to be used. An application shall be reviewed, and approved or

denied by the board in accordance with uniform procedures by resolution of the board. When a grant is approved by the board, the board shall establish the recommended grant amount and shall submit to the Joint Budget Oversight Committee, or its successor, the board's approved amount of the grant and a brief description of the project for approval by the committee. Any grant not disapproved by the Joint Budget Oversight Committee within 30 days of such submission shall be deemed approved by the committee. After a grant application is approved by the committee, the board shall forward a copy of the application and certify the approved amount of the grant to the authority.

C.18A:74-27 Project costs eligible for grants.

4. The following project costs shall be eligible for grants, at the discretion of the board:

a. Construction of new buildings to be used for public library purposes;

b. Expansion, rehabilitation or acquisition of existing buildings to be used for public library purposes;

c. Expenses, other than interest and the carrying charge on bonds, incurred after the effective date of P.L.1999, c.184 (C.18A:74-24 et al.), related to the acquisition of land on which there is to be construction of new buildings or expansion of existing buildings to be used for public library purposes, provided the expenses constitute an actual cost or a transfer of public funds in accordance with the usual procedures generally applicable to all State and local agencies and institutions;

d. Site grading and improvement of land on which buildings used for public library purposes are located or are to be located;

e. Architectural, engineering, consulting and inspection services related to the specific project for which application for financial assistance is made;

f. Expenses, other than interest and the carrying charges on bonds, related to the acquisition of existing buildings to be used for public library purposes, provided the expenses constitute an actual cost or a transfer of public funds in accordance with the usual procedures generally applicable to all State and local agencies and institutions; and

g. Expenses relating to the acquisition and installation of equipment to be located in public library facilities, including all necessary building fixtures and utilities, office furniture and public library equipment, such as library shelving and filing equipment, catalogs, cabinets, circulation desks, reading tables, study carrels, and information retrieval devices including video, voice, and data telecommunications equipment and linkages with a

useful life of 10 years or more necessary for Internet access, but not including books or other library materials.

C.18A:74-28 Issuance of bonds, notes, other obligations; cap.

5. a. The authority shall from time to time issue bonds, notes or other obligations in an amount sufficient to finance the grants provided under P.L.1999, c.184 (C.18A:74-24 et al.) and to finance the administrative costs associated with the approval process and the issuance of the bonds, notes, or other obligations, provided however that the aggregate principal amount of the bonds, notes or other obligations shall not exceed $45,000,000 and the term of any bond, note, or other obligation issued shall not exceed 30 years. In computing the foregoing limitation as to amount, there shall be excluded all bonds, notes or other obligations which have been retired or which shall be issued for refunding purposes, provided that the refunding is determined by the authority to result in a debt service savings. The authority shall issue the bonds, notes or other obligations in such manner as it shall determine in accordance with the provisions of P.L.1999, c.184 (C.18A:74-24 et al.) and the "New Jersey educational facilities authority law," N.J.S.18A:72A-1 et seq., provided that no bonds, notes or other obligations shall be issued pursuant to this section without the prior written consent of the State Treasurer.

b. The State Treasurer is hereby authorized to enter into a contract with the authority pursuant to which the State Treasurer, subject to available appropriations, shall pay the amount necessary to pay the principal and interest on bonds, notes and other obligations of the authority issued pursuant to P.L.1999, c.184 (C.18A:74-24 et al.) plus any amounts payable in connection with an agreement authorized under subsection f. of this section.

c. The authority shall enter into a contractual agreement with the appropriate local governing entity in the area served by the public library, and the agreement shall be approved by a resolution of the authority. Each agreement with an appropriate entity shall include provisions as may be necessary to ensure that the entity shall provide an amount equal to 300% of the grant amount.

The authority may enter into a loan agreement with the appropriate local governing entity in the area served by the public library to finance the entity's matching amounts for the project including, but not limited to, the payment of principal and interest on the bonds, notes and other obligations of the authority issued pursuant to this section or its share of any amount payable in connection with an agreement authorized pursuant to this section or the entity's share of any amount payable in connection with an agreement authorized under subsection f. of this section. The loan may be secured by

the entity's guarantee or the issuance of county or municipal bonds to the authority in a private sale.

d. Bonds, notes or other obligations issued pursuant to P.L.1999, c.184 (C.18A:74-24 et al.) shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof, or be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof, but all bonds, notes or other obligations, unless funded or refunded by the bonds, notes or other obligations of the authority, shall be payable solely from revenues of funds pledged or available for their payment as authorized by P.L.1999, c.184 (C.18A:74-24 et al.). Each bond, note or other obligation shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenue or funds of the authority, and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon, and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of, redemption premium, if any, or the interest on the bonds, notes or other obligations.

e. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds, notes or other obligations issued pursuant to the authorization of P.L.1999, c.184 (C.18A:74-24 et al.) that the State shall not limit or alter the rights or powers hereby vested in the authority to perform and fulfill the terms of any agreement made with the holders of the bonds, notes or other obligations, or to fix, establish, charge and collect such rents, fees, rates, payments, or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and to fulfill the terms of any agreement made with the holders of the bonds, notes and other obligations together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, until the bonds, notes and other obligations, together with interest thereon, are fully met and discharged or provided for.

f. In connection with any bonds or refunding of bonds issued pursuant to this section, the authority may also enter into any revolving credit agreement; agreement establishing a line of credit or letter of credit; reimbursement agreement; interest rate exchange agreement; currency exchange agreement; interest rate floor cap, option, put or call to hedge payment, currency, rate, spread or similar exposure, or similar agreement; float agreement; forward agreement; insurance contract; surety bond; commitment to purchase or sell bonds; purchase or sale agreement; or

commitment or other contract or agreement or other security agreement approved by the authority.

6. N.J.S.18A:72A-3 is amended to read as follows:

Definitions.

18A:72A-3. As used in this act, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

"Authority" means the New Jersey Educational Facilities Authority created by this chapter or any board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers conferred upon the authority by this chapter shall be given by law;

"Bond" means bonds or notes of the authority issued pursuant to this chapter;

"County college capital project" means any capital project of a county college certified pursuant to section 2 of P.L.1971, c.12 (C.18A:64A-22.2) and approved by the State Treasurer for funding pursuant to the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

"Dormitory" means a housing unit with necessary and usual attendant and related facilities and equipment;

"Educational facility" means a structure suitable for use as a dormitory, dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, teaching hospital, and parking maintenance storage or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, and public libraries, and the necessary and usual attendant and related facilities and equipment, but shall not include any facility used or to be used for sectarian instruction or as a place for religious worship;

"Emerging needs program" means a program at one or more public or private institutions of higher education directed to meeting new and advanced technology needs or to supporting new academic programs in science and technology;

"Higher education equipment" means any property consisting of, or relating to, scientific, engineering, technical, computer, communications or instructional equipment;

"Participating college" means a public institution of higher education or private college which, pursuant to the provisions of this chapter, participates

with the authority in undertaking the financing and construction or acquisition of a project;

"Project" means a dormitory or an educational facility or any combination thereof, or a county college capital project;

"Private college" means an institution for higher education other than a public college, situated within the State and which, by virtue of law or charter, is a nonprofit educational institution empowered to provide a program of education beyond the high school level;

"Private institution of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license, are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid;

"Public institution of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the county colleges and any other public university or college now or hereafter established or authorized by law;

"University" means Rutgers, The State University.

7. This act shall take effect immediately.

Approved August 18, 1999.

CHAPTER 185

AN ACT concerning driving while on or within 1,000 feet of school property under the influence of alcohol or drugs 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.2C:11-5 is amended to read as follows:

Death by auto or vessel.

2C:11-5. Death by auto or vessel. a. Criminal homicide constitutes vehicular homicide when it is caused by driving a vehicle or vessel recklessly.

b. Except as provided in paragraph (3) of this subsection, vehicular homicide is a crime of the second degree.

(1) If the defendant was operating the auto or vessel while under the influence of any intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, or with a blood alcohol concentration at or above the prohibited level as prescribed in R.S.39:4-50, or if the defendant was operating the auto or vessel while his driver's license or reciprocity privilege was suspended or revoked for any violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), by the Director of the Division of Motor Vehicles pursuant to P.L.1982, c.85 (C.39:5-30a et seq.), or by the court for a violation of R.S.39:4-96, the defendant shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater, during which the defendant shall be ineligible for parole.

(2) The court shall not impose a mandatory sentence pursuant to paragraph (1) of this subsection unless the grounds therefor have been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the defendant was operating the auto or vessel while under the influence of any intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, or with a blood alcohol concentration at or above the level prescribed in R.S.39:4-50 or that the defendant was operating the auto or vessel while his driver's license or reciprocity privilege was suspended or revoked for any violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), by the Director of the Division of Motor Vehicles pursuant to P.L.1982, c.85 (C.39:5-30a et seq.), or by the court for a violation of R.S.39:4-96. In making its findings, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

(3) Vehicular homicide is a crime of the first degree if the defendant was operating the auto or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

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

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

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

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

It shall be no defense to a prosecution for a violation of subparagraph (a) or (b) of this paragraph that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be a defense to a prosecution under subparagraph (a) or (b) of this paragraph that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session.

(4) If the defendant was operating the auto or vessel in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the defendant's license to operate a motor vehicle shall be suspended for a period of between five years and life, which period shall commence upon completion of any prison sentence imposed upon that person.

c. For good cause shown, the court may, in accepting a plea of guilty under this section, order that such plea not be evidential in any civil proceeding.

d. Nothing herein shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for aggravated manslaughter under the provisions of subsection a. of N.J.S.2C:11-4.

As used in this section, "auto or vessel" means all means of conveyance propelled otherwise than by muscular power.

e. Any person who violates paragraph (3) of subsection b. of this section shall forfeit the auto or vessel used in the commission of the offense, unless the defendant can establish at a hearing, which may occur at the time of sentencing, by a preponderance of the evidence that such forfeiture would constitute a serious hardship to the family of the defendant that outweighs the need to deter such conduct by the defendant and others. In making its findings, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information. Forfeiture pursuant to this subsection shall be in addition to, and not in lieu of, civil forfeiture pursuant to chapter 64 of this title.

2. 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

(f) Any justice of the Supreme Court, judge of the Superior Court, judge of the Tax Court or municipal judge while clearly identifiable as being engaged in the performance of judicial duties or because of his status as a member of the judiciary; 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;

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

(8) Causes bodily injury by knowingly or purposely starting a fire or causing an explosion in violation of N.J.S.2C:17-1 which results in bodily injury to any emergency services personnel involved in fire suppression activities, rendering emergency medical services resulting from the fire or explosion or rescue operations, or rendering any necessary assistance at the scene of the fire or explosion, including any bodily injury sustained while responding to the scene of a reported fire or explosion. For purposes of this subsection, "emergency services personnel" shall include, but not be limited to, any paid or volunteer fireman, any person engaged in emergency first-aid or medical services and any law enforcement officer. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this paragraph upon proof of a violation of N.J.S.2C:17-1 which resulted in bodily injury to any emergency services personnel;

(9) Knowingly, under circumstances manifesting extreme indifference to the value of human life, points or displays a firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer; or

(10) Knowingly points, displays or uses an imitation firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer with the purpose to intimidate, threaten or attempt to put the officer in fear of bodily injury or for any unlawful purpose.

Aggravated assault under subsections b. (1) and b. (6) is a crime of the second degree; under subsections b. (2), b. (7), b. (9) and b. (10) 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. Aggravated assault under subsection b. (8) is a crime of the third degree if the victim suffers bodily injury; if the victim suffers significant bodily injury or serious bodily injury it is a crime of the second degree.

c. (1) 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.

(2) Assault by auto or vessel is a crime of the third degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily injury results and is a crime of the fourth degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

(3) Assault by auto or vessel is a crime of the second degree if serious bodily injury results from the defendant operating the auto or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

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

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

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

Assault by auto or vessel is a crime of the third degree if bodily injury results from the defendant operating auto or vessel in violation of this paragraph.

A map or true copy of a map depicting the location and boundaries of the area on or within 1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board produced pursuant to section 1 of P.L.1997, c.101 (C.2C:35-7) may be used in a prosecution under subparagraph (a) of paragraph (3) of this section.

It shall be no defense to a prosecution for a violation of subparagraph (a) or (b) of paragraph (3) of this subsection that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be a defense to a prosecution under subparagraph (a) or (b) of paragraph (3) of

this subsection that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session.

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 with a purpose to intimidate an individual or group of individuals because of race, color, religion, gender, handicap, sexual orientation, or ethnicity.

3. R.S.39:3-40 is amended to read as follows:

Penalties for driving while license suspended, etc.

39:3-40. No person to whom a driver's license has been refused or whose driver's license or reciprocity privilege has been suspended or revoked, or who has been prohibited from obtaining a driver's license, shall personally operate a motor vehicle during the period of refusal, suspension, revocation, or prohibition.

No person whose motor vehicle registration has been revoked shall operate or permit the operation of such motor vehicle during the period of such revocation.

A person violating this section shall be subject to the following penalties:

a. Upon conviction for a first offense, a fine of $500.00 and, if that offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended for a violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), revocation of the violator's motor vehicle registration privilege in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

b. Upon conviction for a second offense, a fine of $750.00, imprisonment in the county jail for not more than five days and, if the second offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended and that second offense occurs within five years of a conviction for that same offense, revocation of the violator's motor vehicle registration privilege in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

c. Upon conviction for a third offense or subsequent offense, a fine of $1,000.00, imprisonment in the county jail for 10 days and, if the third

offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended and that third offense occurs within five years of a conviction for the same offense, revocation of the violator's motor vehicle registration privilege in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

d. Upon conviction, the court shall impose or extend a period of suspension not to exceed six months;

e. Upon conviction, the court shall impose a period of imprisonment for not less than 45 days, if while operating a vehicle in violation of this section a person is involved in an accident resulting in personal injury to another person;

f. (1) Notwithstanding subsections a. through e., any person violating this section while under suspension issued pursuant to section 2 of P.L.1972, c.197 (C.39:6B-2), upon conviction, shall be fined $500.00, shall have his license to operate a motor vehicle suspended for an additional period of not less than one year nor more than two years, and may be imprisoned in the county jail for not more than 90 days.

(2) Notwithstanding the provisions of subsections a. through e. of this section and paragraph (1) of this subsection, any person violating this section under suspension issued pursuant to R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a) or P.L.1982, c.85 (C.39:5-30a et seq.), shall be fined $500, shall have his license to operate a motor vehicle suspended for an additional period of not less than one year or more than two years, and shall be imprisoned in the county jail for not less than 10 days or more than 90 days.

(3) Notwithstanding the provisions of subsections a. through e. of this section and paragraphs (1) and (2) of this subsection, a person shall have his license to operate a motor vehicle suspended for an additional period of not less than one year or more than two years, which period shall commence upon the completion of any prison sentence imposed upon that person, shall be fined $500 and shall be imprisoned for a period of 60 to 90 days for a first offense, imprisoned for a period of 120 to 150 days for a second offense, and imprisoned for 180 days for a third or subsequent offense, for operating a motor vehicle while in violation of paragraph (2) of this subsection while:

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

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

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

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

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

g. In addition to the other applicable penalties provided under this section, a person violating this section whose license has been suspended pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) or the regulations adopted thereunder, shall be fined $3,000. The court shall waive the fine upon proof that the person has paid the total surcharge imposed pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) or the regulations adopted thereunder. Notwithstanding the provisions of R.S.39:5-41, the fine imposed pursuant to this subsection shall be collected by the Division of Motor Vehicles pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35), and distributed as provided in that section, and the court shall file a copy of the judgment of conviction with the director and with the Clerk of the Superior Court who shall enter the following information upon the record of docketed judgments: the name of the person as judgment debtor; the Division of Motor Vehicles as judgment creditor; the amount of the fine; and the date of the order. These entries shall have the same force and effect as any civil judgment docketed in the Superior Court;

h. A person who owns or leases a motor vehicle and permits another to operate the motor vehicle commits a violation and is subject to suspension of his license to operate a motor vehicle and to revocation of registration pursuant to sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5) if the person:

(1) Knows that the operator's license to operate a motor vehicle has been suspended for a violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a); or

(2) Knows that the operator's license to operate a motor vehicle is suspended and that the operator has been convicted, within the past five

years, of operating a vehicle while the person's license was suspended or revoked.

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

Driving while intoxicated.

39:4-50. (a) Except as provided in subsection (g) of this section, a person who operates a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, or operates a motor vehicle with a blood alcohol concentration of 0.10% or more by weight of alcohol in the defendant's blood or permits another person who is under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug to operate a motor vehicle owned by him or in his custody or control or permits another to operate a motor vehicle with a blood alcohol concentration of 0.10% or more by weight of alcohol in the defendant's blood, shall be subject:

(1) For the first offense, to a fine of not less than $250.00 nor more than $400.00 and a period of detainment of not less than 12 hours nor more than 48 hours spent during two consecutive days of not less than six hours each day and served as prescribed by the program requirements of the Intoxicated Driver Resource Centers established under subsection (f) of this section and, in the discretion of the court, a term of imprisonment of not more than 30 days and shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period of not less than six months nor more than one year.

(2) For a second violation, a person shall be subject to a fine of not less than $500.00 nor more than $1,000.00, and shall be ordered by the court to perform community service for a period of 30 days, which shall be of such form and on such terms as the court shall deem appropriate under the circumstances, and shall be sentenced to imprisonment for a term of not less than 48 consecutive hours, which shall not be suspended or served on probation, nor more than 90 days, and shall forfeit his right to operate a motor vehicle over the highways of this State for a period of two years upon conviction, and, after the expiration of said period, he may make application to the Director of the Division of Motor Vehicles for a license to operate a motor vehicle, which application may be granted at the discretion of the director, consistent with subsection (b) of this section.

(3) For a third or subsequent violation, a person shall be subject to a fine of $1,000.00, and shall be sentenced to imprisonment for a term of not less than 180 days, except that the court may lower such term for each day, not exceeding 90 days, served performing community service in such form and on such terms as the court shall deem appropriate under the circum-

stances and shall thereafter forfeit his right to operate a motor vehicle over the highways of this State for 10 years.

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

A conviction of a violation of a law of a substantially similar nature in another jurisdiction, regardless of whether that jurisdiction is a signatory to the Interstate Driver License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior conviction under this subsection unless the defendant can demonstrate by clear and convincing evidence that the conviction in the other jurisdiction was based exclusively upon a violation of a proscribed blood alcohol concentration of less than.10%.

If the driving privilege of any person is under revocation or suspension for a violation of any provision of this Title or Title 2C of the New Jersey Statutes at the time of any conviction for a violation of this section, the revocation or suspension period imposed shall commence as of the date of termination of the existing revocation or suspension period. In the case of any person who at the time of the imposition of sentence is less than 17 years of age, the forfeiture, suspension or revocation of the driving privilege imposed by the court under this section shall commence immediately, run through the offender's seventeenth birthday and continue from that date for the period set by the court pursuant to paragraphs (1) through (3) of this subsection. A court that imposes a term of imprisonment under this section may sentence the person so convicted to the county jail, to the workhouse of the county wherein the offense was committed, to an inpatient rehabilitation program or to an Intoxicated Driver Resource Center or other facility approved by the chief of the Intoxicated Driving Program Unit in the Department of Health and Senior Services; provided that for a third or subsequent offense a person shall not serve a term of imprisonment at an Intoxicated Driver Resource Center as provided in subsection (f).

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

(b) A person convicted under this section must satisfy the screening, evaluation, referral, program and fee requirements of the Division of

Alcoholism and Drug Abuse's Intoxicated Driving Program Unit, and of the Intoxicated Driver Resource Centers and a program of alcohol and drug education and highway safety, as prescribed by the Director of the Division of Motor Vehicles. The sentencing court shall inform the person convicted that failure to satisfy such requirements shall result in a mandatory two-day term of imprisonment in a county jail and a driver license revocation or suspension and continuation of revocation or suspension until such requirements are satisfied, unless stayed by court order in accordance with Rule 7:8-2 of the Rules Governing the Courts of the State of New Jersey, or R.S.39:5-22. Upon sentencing, the court shall forward to the Division of Alcoholism and Drug Abuse's Intoxicated Driving Program Unit a copy of a person's conviction record. A fee of $100.00 shall be payable to the Alcohol Education, Rehabilitation and Enforcement Fund established pursuant to section 3 of P.L.1983, c.531 (C.26:2B-32) to support the Intoxicated Driving Program Unit.

(c) Upon conviction of a violation of this section, the court shall collect forthwith the New Jersey driver's license or licenses of the person so convicted and forward such license or licenses to the Director of the Division of Motor Vehicles. The court shall inform the person convicted that if he is convicted of personally operating a motor vehicle during the period of license suspension imposed pursuant to subsection (a) of this section, he shall, upon conviction, be subject to the penalties established in R.S.39:3-40. The person convicted shall be informed orally and in writing. A person shall be required to acknowledge receipt of that written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40. In the event that a person convicted under this section is the holder of any out-of-State driver's license, the court shall not collect the license but shall notify forthwith the director, who shall, in turn, notify appropriate officials in the licensing jurisdiction. The court shall, however, revoke the nonresident's driving privilege to operate a motor vehicle in this State, in accordance with this section. Upon conviction of a violation of this section, the court shall notify the person convicted, orally and in writing, of the penalties for a second, third or subsequent violation of this section. A person shall be required to acknowledge receipt of that written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of this section.

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

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

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

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

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

The centers shall conduct a program of alcohol and drug education and highway safety, as prescribed by the Director of the Division of Motor Vehicles.

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

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

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

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

(3) driving through a school crossing as defined in R.S.39:1-1 knowing that juveniles are present if the municipality has not designated the school crossing as such by ordinance or resolution, the convicted person shall: for a first offense, be fined not less than $500 or more than $800, be imprisoned for not more than 60 days and have his license to operate a motor vehicle suspended for a period of not less than one year or more than two years; for a second offense, be fined not less than $1,000 or more than $2000, perform community service for a period of 60 days, be imprisoned for not less than 96 consecutive hours, which shall not be suspended or served on probation, nor more than 180 days, except that the court may lower such term for each day, not exceeding 90 days, served performing community service in such form and on such terms as the court shall deem appropriate under the circumstances and have his license to operate a motor vehicle suspended for a period of not less than four years; and, for a third offense, be fined $2,000, imprisoned for 180 days and have his license to operate a motor vehicle suspended for a period of 20 years; the period of license suspension shall commence upon the completion of any prison sentence imposed upon that person.

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

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

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

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

2. a. Except as provided in subsection b. of this section, the municipal court shall revoke the right to operate a motor vehicle of any operator who, after being arrested for a violation of R.S.39:4-50, shall refuse to submit to a test provided for in section 2 of P.L.1966, c.142 (C.39:4-50.2) when requested to do so, for six months unless the refusal was in connection with a second offense under this section, in which case the revocation period shall be for two years or unless the refusal was in connection with a third or subsequent offense under this section in which case the revocation shall be for ten years. A conviction or administrative determination of a violation of a law of a substantially similar nature in another jurisdiction, regardless of whether that jurisdiction is a signatory to the Interstate Driver License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior conviction under this section.

The municipal court shall determine by a preponderance of the evidence whether the arresting officer had probable cause to believe that the person had been driving or was in actual physical control of a motor vehicle on the public highways or quasi-public areas of this State while the person was under the influence of intoxicating liquor or a narcotic, hallucinogenic, or habit-producing drug or marijuana; whether the person was placed under arrest, if appropriate, and whether he refused to submit to the test upon request of the officer; and if these elements of the violation are not established, no conviction shall issue. In addition to any other requirements provided by law, a person whose operator's license is revoked for refusing to submit to a test shall be referred to an Intoxicated Driver Resource Center established by subsection (f.) of R.S.39:4-50 and shall satisfy the same requirements of the center for refusal to submit to a test as provided for in section 2 of P.L.1966, c.142 (C.39:4-50.2) in connection with a first, second, third or subsequent offense under this section that must be satisfied by a person convicted of a commensurate violation of this section, or be subject to the same penalties as such a person for failure to do so. The revocation shall be independent of any revocation imposed by virtue of a conviction under the provisions of R.S.39:4-50. In addition to issuing a revocation, except as provided in subsection b. of this section, the municipal court shall fine a person convicted under this section, a fine of not less than $250.00 nor more than $500.00.

b. The fine imposed upon the convicted person shall be not less than $500 or more than $1,000 and the period of license suspension shall be one year for a first offense, four years for a second offense and 20 years for a

third or subsequent offense, which period shall commence upon the completion of any prison sentence imposed upon that person when a violation of this section occurs while:

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

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

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

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

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

6. This act shall take effect on the first day of the fourth month after enactment.

Approved August 19, 1999.

CHAPTER 186

AN ACT concerning the unlawful manufacture, distribution and possession of certain dangerous substances and amending N.J.S.2C:35-2.

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

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

Definitions.

2C:35-2. Definitions.

As used in this chapter:

"Administer" means the direct application of a controlled dangerous substance or controlled substance analog, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (1) a practitioner (or, in his presence, by his lawfully authorized agent), or (2) the patient or research subject at the lawful direction and in the presence of the practitioner.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser but does not include a common or contract carrier, public warehouseman, or employee thereof.

"Controlled dangerous substance" means a drug, substance, or immediate precursor in Schedules I through V, any substance the distribution of which is specifically prohibited in N.J.S.2C:35-3, in section 3 of PL. 1997, c.194 (C.2C:35-5.2) or in section 5 of PL. 1997, c. 194 (C.2C:35-5.3) and any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance in the human body. When any statute refers to controlled dangerous substances, or to a specific controlled dangerous substance, it shall also be deemed to refer to any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance or the specific controlled dangerous substance, and to any substance that is an immediate precursor of a controlled dangerous substance or the specific controlled dangerous substance. The term shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in R.S.33:1-1 et seq., or tobacco and tobacco products. The term, wherever it appears in any law or administrative regulation of this State, shall include controlled substance analogs.

"Controlled substance analog" means a substance that has a chemical structure substantially similar to that of a controlled dangerous substance and that was specifically designed to produce an effect substantially similar to that of a controlled dangerous substance. The term shall not include a substance manufactured or distributed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1052 (21 U.S.C. s. 355).

"Counterfeit substance" means a controlled dangerous substance or controlled substance analog which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed or dispensed such substance and which thereby

falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled dangerous substance or controlled substance analog, whether or not there is an agency relationship.

"Dispense" means to deliver a controlled dangerous substance or controlled substance analog to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. "Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled dangerous substance or controlled substance analog. "Distributor" means a person who distributes.

"Drugs" means (a) substances recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (c) substances (other than food) intended to affect the structure or any function of the body of man or other animals; and (d) substances intended for use as a component of any article specified in subsections (a), (b) and (c) of this section; but does not include devices or their components, parts or accessories.

"Drug dependent person" means a person who is using a controlled dangerous substance or controlled substance analog and who is in a state of psychic or physical dependence, or both, arising from the use of that controlled dangerous substance or controlled substance analog on a continuous basis. Drug dependence is characterized by behavioral and other responses, including but not limited to a strong compulsion to take the substance on a recurring basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

"Hashish" means the resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin.

"Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled dangerous substance or controlled substance analog, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled dangerous substance or

controlled substance analog by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled dangerous substance: (1) by a practitioner as an incident to his administering or dispensing of a controlled dangerous substance or controlled substance analog in the course of his professional practice, or (2) by a practitioner (or under his supervision) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

"Marijuana" means all parts of the plant Genus Cannabis L., whether growing or not; the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds, except those containing resin extracted from such plant; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium, coca leaves, and opiates;

(b) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(c) A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in subsections (a) and (b), except that the words "narcotic drug" as used in this act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecogine.

"Opiate" means any dangerous substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled pursuant to the provisions of section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

"Person" means any corporation, association, partnership, trust, other institution or entity or one or more individuals.

"Plant" means an organism having leaves and a readily observable root formation, including, but not limited to, a cutting having roots, a rootball or root hairs.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, veterinarian, scientific investigator, laboratory, pharmacy, hospital or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance or controlled substance analog in the course of professional practice or research in this State.

(a) "Physician" means a physician authorized by law to practice medicine in this or any other state and any other person authorized by law to treat sick and injured human beings in this or any other state.

(b) "Veterinarian" means a veterinarian authorized by law to practice veterinary medicine in this State.

(c) "Dentist" means a dentist authorized by law to practice dentistry in this State.

(d) "Hospital" means any federal institution, or any institution for the care and treatment of the sick and injured, operated or approved by the appropriate State department as proper to be entrusted with the custody and professional use of controlled dangerous substances or controlled substance analogs.

(e) "Laboratory" means a laboratory to be entrusted with the custody of narcotic drugs and the use of controlled dangerous substances or controlled substance analogs for scientific, experimental and medical purposes and for purposes of instruction approved by the State Department of Health and Senior Services.

"Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled dangerous substance or controlled substance analog.

"Immediate precursor" means a substance which the State Department of Health and Senior Services has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance or controlled substance analog, the control of which is necessary to prevent, curtail, or limit such manufacture.

"Residential treatment facility" means any facility approved by any county probation department for the inpatient treatment and rehabilitation of drug dependent persons.

"Schedules I, II, III, IV, and V" are the schedules set forth in sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified by any regulations issued by

the Commissioner of Health and Senior Services pursuant to his authority as provided in section 3 of P.L.1970, c.226 (C.24:21-3).

"State" means the State of New Jersey.

"Ultimate user" means a person who lawfully possesses a controlled dangerous substance or controlled substance analog for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household.

"Prescription legend drug" means any drug which under federal or State law requires dispensing by prescription or order of a licensed physician, veterinarian or dentist and is required to bear the statement "Caution: Federal law prohibits dispensing without a prescription" and is not a controlled dangerous substance or stramonium preparation.

"Stramonium preparation" means a substance prepared from any part of the stramonium plant in the form of a powder, pipe mixture, cigarette, or any other form with or without other ingredients.

"Stramonium plant" means the plant Datura Stramonium Linne, including Datura Tatula Linne.

2. This act shall take effect immediately.

Approved August 19, 1999.

CHAPTER 187

AN ACT appropriating funds from the Developmental Disabilities' Waiting List Reduction and Human Services Facilities Construction Fund established pursuant to P.L.1994, c.108.

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

1. a. There is appropriated to the Department of Human Services from the Developmental Disabilities' Waiting List Reduction and Human Services Facilities Construction Fund created by the "Developmental Disabilities' Waiting List Reduction and Human Services Construction Bond Act of 1994," P.L.1994, c. 108, the sum of $27,950,000 for the following community-based projects:

Grants, including grants that create
revolving funds, for the Division of
Developmental Disabilities $25,000,000

Grants for the Division of Developmental Disabilities for costs associated with the North Princeton Developmental Center Closure	$1,000,000
Grants for the Division of Developmental Disabilities for community programs' major maintenance projects	$1,950,000

b. Of the funds appropriated in subsection a. of this section for the Division of Developmental Disabilities, $25,000,000 shall be used for projects to reduce the division's community services waiting list. The $25,000,000 represents a portion of the $80,000,000 to be expended on projects intended to reduce the community services waiting list. Of the funds appropriated in subsection a. of this section for costs associated with the North Princeton Developmental Center Closure, the monies shall be used to pay off any outstanding mortgages community agencies may have incurred relating to the closure; any unexpended balances may be transferred to Grants for the Division of Developmental Disabilities for community programs' major maintenance projects account.

c. Prior to the formal awarding of any funds appropriated pursuant to this section, the Commissioner of Human Services shall provide the Joint Budget Oversight Committee, or its successor, information as to the agency that will receive the funds, the amount of funds the agency is to receive, the manner in which the funds are to be used and the estimated amount of State funds required to operate the program. Unless the Joint Budget Oversight Committee, or its successor, formally notifies the Commissioner of Human Services within 10 working days that it does not approve of the specific project, the department may award the funds. The provisions of this subsection shall not apply to funds for renovations that do not increase the capacity of a facility, for emergency repairs and for life-safety and accreditation improvements to existing facilities.

2. The Commissioner of Human Services, consistent with the 1994 Bond Issue Master Plan, may provide grants to the New Jersey Housing and Mortgage Finance Agency, the New Jersey Health Care Facilities Financing Authority, the New Jersey Economic Development Authority and other similar agencies established by the State, or to private, nonprofit agencies. These agencies or entities may leverage the grants, use equity contributions and take advantage of other financial mechanisms and create revolving funds for community capital projects. An applicant applying for these funds from these agencies may be assessed an application fee consistent with the normal business practice of the agency. The plan for the establishment of

the revolving fund shall be reviewed and approved by the Joint Budget Oversight Committee pursuant to the provisions of subsection c. of section 1 of this act.

a. An application fee or equity contribution shall not be required for renovations that do not increase the capacity of a facility, for emergency repairs or for life-safety and accreditation improvements for existing facilities. The application fee and any equity contribution may be waived, with the approval of the Commissioner of Human Services, if an applicant is able to document a financial inability to pay the fee or make an equity contribution.

b. An application fee or equity contribution that is required of an applicant shall be an unallowable item of cost for purposes of the most recent Department of Human Services' Contract Reimbursement Manual.

c. Grants provided to the New Jersey Housing and Mortgage Finance Agency, the New Jersey Health Care Facilities Financing Authority, the New Jersey Economic Development Authority and other similar agencies established by the State shall be exempt from an application fee and equity contribution.

d. As a condition of receiving monies from the Developmental Disabilities' Waiting List Reduction and Human Services Facilities Construction Fund, an applicant shall apply for applicable grants, loans, mortgages and tax credits that may be available through governmental and non-governmental entities for financing the cost of the project or to reduce the total cost of the project. An applicant shall document to the department that it has or is in the process of applying for such grants, loans, mortgages and tax credits.

In the case of any loans or mortgages for which the applicant may apply, the department shall review the terms and conditions of the loan or mortgage recommended by the lending agency to determine if the total cost of the loan or mortgage exceeds direct State financing or the cost of financing the loan through the New Jersey Housing and Mortgage Finance Agency, the New Jersey Health Care Facilities Financing Authority, the New Jersey Economic Development Authority, or other similar agencies established by the State. Costs in excess of what the State would incur through these mechanisms shall be an unallowable cost for purposes of the most recent Department of Human Services' Contract Reimbursement Manual.

3. There is appropriated to the Department of Law and Public Safety from the Developmental Disabilities' Waiting List Reduction and Human Services Facilities Construction Fund created by the "Developmental Disabilities' Waiting List Reduction and Human Services Facilities

Construction Bond Act of 1994," P.L.1994, c.108, the sum of $3,100,000 for the following Juvenile Justice Commission projects:

Essex Residential renovations	$1,100,000
Pinelands Residential septic system	$100,000
Pinelands Residential new classroom building	$175,000
Ocean Residential security upgrades and renovations	$450,000
Warren Residential septic system	$500,000
Wharton Bootcamp capacity increase	$275,000
Elias Residential renovations	$500,000

4. The Director of the Division of Budget and Accounting in the Department of the Treasury shall make those corrections in the title or text, or both, or any appropriation item authorized under this act necessary to make the appropriation available for the purposes for which it was intended. The corrections shall be made by a written ruling which shall set forth an explanation of the need for correction and which shall be signed by the Director of the Division of Budget and Accounting and shall be filed by the director in his office as an official record. Any action pursuant to that ruling, including disbursement and the audit thereof, shall be legally binding and of full effect. An official copy of each written ruling shall be transmitted to the Legislative Budget and Finance Officer upon the effective date of the ruling.

5. The Director of the Division of Budget and Accounting may approve expenditures for predesign program planning and other related costs for capital projects authorized under this act.

6. In order to provide flexibility in administering the provisions of this act, the Commissioner of Human Services, with respect to monies appropriated to Division of Developmental Disabilities, or the Attorney General, with respect to monies appropriated to the Juvenile Justice Commission, may apply to the Director of the Division of Budget and Accounting for permission to transfer a part of any item or appropriation to any other item or appropriation within the respective department accounts. The transfer shall be made upon the written approval of the director and the Joint Budget Oversight Committee, or its successor.

7. The Commissioner of Human Services and the Attorney General shall report to the Joint Budget Oversight Committee, or its successor on the status of the appropriation provided in this act six months from the effective date of this act and annually thereafter until all of the funds have been

expended. The status report shall specify the projects that are funded and the amount of funds appropriated, obligated and expended for each project. The status report shall include information of the revolving funds established pursuant to section 2 of this act.

8. This act shall take effect immediately.

Approved August 19, 1999.

CHAPTER 188

AN ACT concerning the transfer of certain surplus real property owned by the State.

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

1. a. The Department of the Treasury, on behalf of the Department of Human Services, shall transfer to the Department of Environmental Protection all lands and associated buildings and other structures at Greystone Park Psychiatric Hospital in Morris county declared to be surplus to the needs of the hospital and deemed by the Department of Environmental Protection, in consultation with the Department of Agriculture, to be appropriate and useable for preservation, management, and maintenance as a State park for recreation and conservation purposes, or for historic preservation or farmland preservation purposes.

b. The Department of Environmental Protection shall, pursuant to the provisions of P.L.1983, c.324 (C.13:1L-1 et seq.), designate for recreation and conservation purposes the property so transferred as a State park, and preserve, manage, and maintain it accordingly, except as otherwise provided pursuant to section 3 of this act.

2. Prior to determining which lands and associated buildings and other structures are appropriate and useable for preservation, management, and maintenance as a State park for recreation and conservation purposes, or for historic preservation or farmland preservation purposes, as provided pursuant to section 1 of this act, the Department of Environmental Protection shall consult with county and municipal officials and shall conduct at least one public hearing in Morris county to receive public comment thereon. Following the consultation with local officials and the public hearing, the Department of Environmental Protection shall submit to

the Department of the Treasury an inventory of the lands and buildings and other structures to be transferred pursuant to section 1 of this act.

3. a. Following the transfer of the lands and associated buildings and other structures as required pursuant to section 1 of this act, notwithstanding any other law, or rule or regulation adopted pursuant thereto, to the contrary, the Department of Environmental Protection may:

(1) make available for conveyance to the county, the municipality in which it is located, or a charitable conservancy, as defined pursuant to P.L.1979, c.378 (C.13:8B-1 et seq.), at a cost consistent with the restricted use of the property as determined by the Department of Environmental Protection to the county, municipality, or charitable conservancy, all or a portion of such lands and any associated buildings and other structures as are deemed appropriate for use as a park, or to be otherwise preserved, for recreation and conservation purposes, or for historic preservation or farmland preservation purposes. Any property so conveyed shall be deed restricted for permanent preservation for recreation or conservation purposes, or for historic preservation or farmland preservation purposes, and the county, municipality in which it is located, or charitable conservancy shall agree to assume responsibility for the preservation, management, and maintenance of the property and to provide public access thereto; or

(2) enter into a lease agreement with the county, the municipality in which it is located, or a charitable conservancy, for the operation and maintenance of all or a portion of such lands and any associated buildings and other structures as are deemed appropriate for use as a park, or to be otherwise preserved, for recreation and conservation purposes, or for historic preservation or farmland preservation purposes, and any such lease agreement shall require public access as appropriate, to the lands and any associated facilities.

b. Notwithstanding any law, rule, or regulation to the contrary, any such conveyance pursuant to subsection a. of this section shall not require the approval of the Legislature.

4. This act shall take effect immediately.

Approved August 23, 1999.

CHAPTER 189

AN ACT concerning certain alcoholic beverage licenses and amending P.L.1947, c.94.

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

1. Section 2 of P.L.1947, c.94 (C.33:1-12.14) is amended to read as follows:

C.33:1-12.14 New retail licenses; limitation.

2. Except as otherwise provided in this act, no new plenary retail consumption or seasonal retail consumption license shall be issued in a municipality unless and until the combined total number of such licenses existing in the municipality is fewer than one for each 3,000 of its population according to the most recent estimates issued by the U.S. Bureau of the Census; provided, however, in the year that the official federal decennial counts are received by the Governor, those federal decennial counts shall be used. No new plenary retail distribution license shall be issued in a municipality unless and until the number of such licenses existing in the municipality is fewer than one for each 7,500 of its population according to the most recent estimates issued by the U.S. Bureau of the Census; provided, however, in the year that the official federal decennial counts are received by the Governor, those federal decennial counts shall be used

2. This act shall take effect immediately.

Approved August 31, 1999.

CHAPTER 190

AN ACT concerning kidnapping and interference with custody in certain circumstances and amending N.J.S.2C:13-1 and N.J.S.2C:13-4.

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

1. N.J.S.2C:13-1 is amended to read as follows:

Kidnapping.

2C:13-1. Kidnapping. a. Holding for ransom, reward or as a hostage. A person is guilty of kidnapping if he unlawfully removes another from the place where he is found or if he unlawfully confines another with the purpose of holding that person for ransom or reward or as a shield or hostage.

b. Holding for other purposes. A person is guilty of kidnapping if he unlawfully removes another from his place of residence or business, or a substantial distance from the vicinity where he is found, or if he unlawfully confines another for a substantial period, with any of the following purposes:

(1) To facilitate commission of any crime or flight thereafter;

(2) To inflict bodily injury on or to terrorize the victim or another;

(3) To interfere with the performance of any governmental or political function; or

(4) To permanently deprive a parent, guardian or other lawful custodian of custody of the victim.

c. Grading of kidnapping. (1) Except as provided in paragraph (2) of this subsection, kidnapping is a crime of the first degree and upon conviction thereof, a person may, notwithstanding the provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, be sentenced to an ordinary term of imprisonment between 15 and 30 years. If the actor releases the victim unharmed and in a safe place prior to apprehension, it is a crime of the second degree.

(2) Kidnapping is a crime of the first degree and upon conviction thereof, an actor shall be sentenced to a term of imprisonment by the court, if the victim of the kidnapping is less than 16 years of age and if during the kidnapping:

(a) A crime under N.J.S.2C:14-2 or subsection a. of N.J.S.2C:14-3 is committed against the victim;

(b) A crime under subsection b. of N.J.S.2C:24-4 is committed against the victim; or

(c) The actor sells or delivers the victim to another person for pecuniary gain other than in circumstances which lead to the return of the victim to a parent, guardian or other person responsible for the general supervision of the victim.

Notwithstanding the provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, the term of imprisonment imposed under this paragraph shall be either a term of 25 years during which the actor shall not be eligible for parole, or a specific term between 25 years and life imprisonment, of which the actor shall serve 25 years before being eligible for parole; provided, however, that the crime of kidnapping under this paragraph and underlying aggravating crimes listed in subparagraph (a), (b) or (c) of this paragraph shall merge for purposes of sentencing. If the actor is convicted of the criminal homicide of a victim of a kidnapping under the provisions of chapter 11, any sentence imposed under provisions of this paragraph shall be served consecutively to any sentence imposed pursuant to the provisions of chapter 11.

d. "Unlawful" removal or confinement. A removal or confinement is unlawful within the meaning of this section and of sections 2C:13-2 and 2C:13-3, if it is accomplished by force, threat or deception, or, in the case of a person who is under the age of 14 or is incompetent, if it is accomplished without the consent of a parent, guardian or other person responsible for general supervision of his welfare.

e. It is an affirmative defense to a prosecution under paragraph (4) of subsection b. of this section, which must be proved by clear and convincing evidence, that:

(1) The actor reasonably believed that the action was necessary to preserve the victim from imminent danger to his welfare. However, no defense shall be available pursuant to this subsection if the actor does not, as soon as reasonably practicable but in no event more than 24 hours after taking a victim under his protection, give notice of the victim's location to the police department of the municipality where the victim resided, the office of the county prosecutor in the county where the victim resided, or the Division of Youth and Family Services in the Department of Human Services;

(2) The actor reasonably believed that the taking or detaining of the victim was consented to by a parent, or by an authorized State agency; or

(3) The victim, being at the time of the taking or concealment not less than 14 years old, was taken away at his own volition by his parent and without purpose to commit a criminal offense with or against the victim.

f. It is an affirmative defense to a prosecution under paragraph (4) of subsection b. of this section that a parent having the right of custody reasonably believed he was fleeing from imminent physical danger from the other parent, provided that the parent having custody, as soon as reasonably practicable:

(1) Gives notice of the victim's location to the police department of the municipality where the victim resided, the office of the county prosecutor in the county where the victim resided, or the Division of Youth and Family Services in the Department of Human Services; or

(2) Commences an action affecting custody in an appropriate court.

g. As used in subsections e. and f. of this section, "parent" means a parent, guardian or other lawful custodian of a victim.

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

Interference with custody.

2C:13-4. Interference with custody. a. Custody of children. A person, including a parent, guardian or other lawful custodian, is guilty of interference with custody if he:

(1) Takes or detains a minor child with the purpose of concealing the minor child and thereby depriving the child's other parent of custody or parenting time with the minor child; or

(2) After being served with process or having actual knowledge of an action affecting marriage or custody but prior to the issuance of a temporary or final order determining custody and parenting time rights to a minor child, takes, detains, entices or conceals the child within or outside the State for the purpose of depriving the child's other parent of custody or parenting time, or to evade the jurisdiction of the courts of this State;

(3) After being served with process or having actual knowledge of an action affecting the protective services needs of a child pursuant to Title 9 of the Revised Statutes in an action affecting custody, but prior to the issuance of a temporary or final order determining custody rights of a minor child, takes, detains, entices or conceals the child within or outside the State for the purpose of evading the jurisdiction of the courts of this State; or

(4) After the issuance of a temporary or final order specifying custody, joint custody rights or parenting time, takes, detains, entices or conceals a minor child from the other parent in violation of the custody or parenting time order.

Interference with custody is a crime of the second degree if the child is taken, detained, enticed or concealed: (i) outside the United States or (ii) for more than 24 hours. Otherwise, interference with custody is a crime of the third degree but the presumption of non-imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first offense of a crime of the third degree shall not apply.

b. Custody of committed persons. A person is guilty of a crime of the fourth degree if he knowingly takes or entices any committed person away from lawful custody when he is not privileged to do so. "Committed person" means, in addition to anyone committed under judicial warrant, any orphan, neglected or delinquent child, mentally defective or insane person, or other dependent or incompetent person entrusted to another's custody by or through a recognized social agency or otherwise by authority of law.

c. It is an affirmative defense to a prosecution under subsection a. of this section, which must be proved by clear and convincing evidence, that:

(1) The actor reasonably believed that the action was necessary to preserve the child from imminent danger to his welfare. However, no defense shall be available pursuant to this subsection if the actor does not, as soon as reasonably practicable but in no event more than 24 hours after taking a child under his protection, give notice of the child's location to the police department of the municipality where the child resided, the office of the county prosecutor in the county where the child resided, or the Division of Youth and Family Services in the Department of Human Services;

(2) The actor reasonably believed that the taking or detaining of the minor child was consented to by the other parent, or by an authorized State agency; or

(3) The child, being at the time of the taking or concealment not less than 14 years old, was taken away at his own volition and without purpose to commit a criminal offense with or against the child.

d. It is an affirmative defense to a prosecution under subsection a. of this section that a parent having the right of custody reasonably believed he was fleeing from imminent physical danger from the other parent, provided that the parent having custody, as soon as reasonably practicable:

(1) Gives notice of the child's location to the police department of the municipality where the child resided, the office of the county prosecutor in the county where the child resided, or the Division of Youth and Family Services in the Department of Human Services; or

(2) Commences an action affecting custody in an appropriate court.

e. The offenses enumerated in this section are continuous in nature and continue for so long as the child is concealed or detained.

f. (1) In addition to any other disposition provided by law, a person convicted under subsection a. of this section shall make restitution of all reasonable expenses and costs, including reasonable counsel fees, incurred by the other parent in securing the child's return.

(2) In imposing sentence under subsection a. of this section the court shall consider, in addition to the factors enumerated in chapter 44 of Title 2C of the New Jersey Statutes:

(a) Whether the person returned the child voluntarily; and

(b) The length of time the child was concealed or detained.

g. As used in this section, "parent" means a parent, guardian or other lawful custodian of a minor child.

3. This act shall take effect immediately.

Approved August 31, 1999.

CHAPTER 191

AN ACT concerning municipal streets and amending R.S.39:4-8.

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

1. R.S.39:4-8 is amended to read as follows:

Commissioner of Transportation's approval required; exceptions.

39:4-8.a. Except as otherwise provided in this section, no ordinance or resolution concerning, regulating or governing traffic or traffic conditions, adopted or enacted by any board or body having jurisdiction over highways, shall be of any force or effect unless the same is approved by the Commissioner of Transportation, according to law. The commissioner shall not be required to approve any such ordinance, resolution or regulation, unless, after investigation by him, the same shall appear to be in the interest of safety and the expedition of traffic on the public highways.

b. In the case of totally self-contained streets under municipal jurisdiction which have no direct connection with any street in any other municipality, or in the case of totally self-contained streets under county jurisdiction which have no direct connection with any street in any other county, the municipality or county may, by ordinance or resolution, as appropriate, without the approval of the Commissioner of Transportation, designate parking restrictions, no passing zones, mid-block crosswalks and crosswalks at intersections, except that in the case of any streets under municipal jurisdiction, the municipality may, by ordinance, designate reasonable and safe speed limits and in the case of totally self-contained streets under county jurisdiction which have no direct connection with any street in any other county, the county may, by ordinance or resolution, as appropriate, designate reasonable and safe speed limits, and erect appropriate signs, designate any intersection as a stop or yield intersection and erect appropriate signs and place longitudinal pavement markings delineating the separation of traffic flows and the edge of the pavement, provided that the municipal or county engineer shall, under his seal as a licensed professional engineer, certify to the municipal or county governing body, as appropriate, that any designation or erection of signs or placement of markings: (1) has been approved by him after investigation by him of the circumstances, (2) appears to him to be in the interest of safety and the expedition of traffic on the public highways and (3) conforms to the current standards prescribed by the Manual of Uniform Traffic Control Devices for Streets and Highways, as adopted by the Commissioner of Transportation.

A certified copy of the adopted ordinance or resolution, as appropriate, shall be transmitted by the clerk of the municipality or county, as appropriate, to the commissioner within 30 days of adoption, together with a copy of the engineer's certification; a statement of the reasons for the engineer's decision; detailed information as to the location of streets, intersections and signs affected by any designation or erection of signs or placement of markings; and traffic count, accident and speed sampling data, when appropriate. The commissioner, at his discretion, may invalidate the

provisions of the ordinance or resolution within 90 days of receipt of the certified copy if he reviews it and finds that the provisions of the ordinance or resolution are inconsistent with the Manual of Uniform Traffic Control Devices for Streets or Highways; are inconsistent with accepted engineering standards; are not based on the results of an accurate traffic and engineering survey; or place an undue traffic burden or impact on streets in an adjoining municipality or negatively affect the flow of traffic on the State highway system.

Nothing in this subsection shall allow municipalities to designate any intersection with any highway under State or county jurisdiction as a stop or yield intersection or counties to designate any intersection with any highway under State or municipal jurisdiction as a stop or yield intersection.

c. Subject to the provisions of R.S.39:4-138, in the case of any street under municipal or county jurisdiction, a municipality or county may, without the approval of the Commissioner of Transportation, do the following:

By ordinance or resolution:

(1) prohibit or restrict general parking;

(2) designate restricted parking under section 1 of P.L.1977, c.309 (C.39:4-197.6);

(3) designate time limit parking;

(4) install parking meters.

By ordinance, resolution or regulation:

(1) designate loading and unloading zones and taxi stands;

(2) approve street closings for periods up to 48 continuous hours; and

(3) designate restricted parking under section 1 of P.L.1977, c.202 (C.39:4-197.5).

Nothing in this subsection shall allow municipalities or counties to establish angle parking or to reinstate or add parking on any street, or approve the closure of streets for more than 48 continuous hours, without the approval of the Commissioner of Transportation.

2. This act shall take effect immediately.

Approved August 31, 1999.

CHAPTER 192

AN ACT concerning the transfer of 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.39:3-33a Additional charge for personalized, courtesy, special license plates.

1. Whenever the Division of Motor Vehicles is authorized to charge an additional application fee for the issuance of a personalized, courtesy or special license plate, the division shall charge that additional application fee only upon the initial issuance of the plate. If a personalized, courtesy or special plate is issued to a lessee in a motor vehicle leasing agreement, upon termination of the lease the lessee may apply to the director to have the plate reissued to another motor vehicle leased or owned by the lessee upon payment of a fee of $4.50. If a personalized, courtesy or special license plate is issued to an owner of a motor vehicle, the owner may apply to the director to have the plate reissued to another motor vehicle leased or owned by the owner upon payment of a fee of $4.50. Nothing in this section shall be construed as prohibiting the division from charging, at the time of annual registration renewal, the payment of the additional fee which has been required under any other section of law for a special license plate.

2. This act shall take effect September 1, 2000.

Approved August 31, 1999.

CHAPTER 193

AN ACT concerning prepaid funeral agreements, amending P.L.1993, c.147 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:102-19 Funeral trust, insurance policy excluded from resource consideration in determining eligibility for certain benefits.

1. An aged, blind or disabled applicant for, or recipient of, benefits under the Supplemental Security Income program established pursuant to Title XVI of the federal Social Security Act, Pub.L.92-603 (42 U.S.C. s.1381 et seq.), or an applicant for, or recipient of, benefits under the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.) or the "Work First New Jersey General Public Assistance Act," P.L.1947, c.156 (C.44:8-107 et seq.), or any successor program thereof, shall have excluded from resource consideration, in

determining eligibility for benefits, any moneys of the applicant, applicant's spouse and any other member of his immediate family, as defined in N.J.A.C.10:71-4.4, in an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy, as those terms are defined in section 19 of P.L.1993, c.147 (C.2A:102-18), that are equivalent to the fair market value of funeral and burial goods and services selected and contracted for that are intended for the use of the applicant, applicant's spouse and any other member of his immediate family. All income paid to the irrevocable funeral trust or any increase in the face value or death benefit attributable to the irrevocably assigned newly issued funeral insurance policy, shall inure to the value or benefit of the irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy and shall not be countable as income for continuing eligibility.

C.2A:102-20 Difference between price, services provided paid to State.

2. Notwithstanding any provision of law to the contrary, any moneys remaining in an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy that are the result of a difference between the price of funeral and burial goods and services actually provided to the intended funeral recipient, as defined in section 19 of P.L.1993, c.147 (C.2A:102-18), upon that person's death, and the accumulated value of the irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy, shall be paid over to the State according to the provisions of this act if, at the time of death, the intended funeral recipient was receiving benefits pursuant to section 1 of this act, and the moneys that established the irrevocable funeral trust or the irrevocably assigned newly issued funeral insurance policy were those of the intended funeral recipient or the intended funeral recipient's spouse.

C.2A:102-21 Office of the Public Guardian for Elderly Adults considered purchaser, sole beneficiary under certain circumstances; disposition of remaining moneys.

3. a. If the intended funeral recipient is under the care and guardianship of the Office of the Public Guardian for Elderly Adults, established pursuant to section 4 of P.L.1985, c.298 (C.52:27G-23), in the creation of an irrevocable funeral trust fund or the purchase of an irrevocably assigned newly issued funeral insurance policy, or upon taking charge of such assets, the Office of the Public Guardian for Elderly Adults shall name itself as purchaser, as defined in section 19 of P.L.1993, c.147 (C.2A:102-18), or sole beneficiary, as appropriate. In the case of an irrevocably assigned newly issued funeral insurance policy that provides for a settlement of proceeds, the Office of the Public Guardian for Elderly Adults may, as an alternative to being named beneficiary, be named as payee of the balance of any remaining moneys subsequent to the delivery, as defined in section 19

of P.L.1993, c.147 (C.2A:102-18) of funeral and burial goods and services, but with a claim superior to any beneficial interest.

b. Any moneys remaining thereafter shall be paid to the Division of Medical Assistance and Health Services in the Department of Human Services, by the Office of the Public Guardian for Elderly Adults, in accordance with an order of the Superior Court discharging the Public Guardian for Elderly Adults as guardian of the decedent.

C.2A:102-22 Payment of remainder to Division of Medical Assistance and Health Services.

4. a. In the case of an irrevocable funeral trust of a decedent who is not under the care and guardianship of the Office of the Public Guardian for Elderly Adults, the entire remainder after the payment of funeral and burial goods and services shall be paid to the Division of Medical Assistance and Health Services in the Department of Human Services, as though the division were the purchaser of the trust.

b. In the case of an irrevocably assigned newly issued funeral insurance policy of a decedent who is not under the care and guardianship of the Office of the Public Guardian for Elderly Adults, the policy shall not be excluded as a resource pursuant to section 1 of this act unless the Division of Medical Assistance and Health Services in the Department of Human Services is named the sole beneficiary of the policy, either at the time of issue or during the time that the insured was an applicant for or recipient of benefits of programs specified in section 1 of this act. In the case of an irrevocably assigned newly issued funeral insurance policy that provides for a settlement of proceeds, the Division of Medical Assistance and Health Services in the Department of Human Services may, as an alternative to being named beneficiary, be named as a payee of the balance of any remaining moneys subsequent to the delivery of funeral and burial goods and services, but with a claim superior to any beneficial interest.

C.2A:102-23 Establishment of dedicated bank account.

5. The Division of Medical Assistance and Health Services in the Department of Human Services shall establish a dedicated bank account into which a pooled trust, depository institution or insurance company shall deposit, by means of electronic funds transfer, any moneys to which the State is entitled under the provisions of section 4 of this act and which are funds of decedents whom the pooled trust, depository institution or insurance company reasonably believes were recipients of benefits of programs specified in section 1 of this act at the time of death. A pooled trust, depository institution or insurance company so making deposits shall periodically, but not less than once each calendar quarter, provide to the Director of the Division of Medical Assistance and Health Services in the Department of Human Services, or his designee, a record of the deposits

made along with the names and other identifying information of those decedents. As the basis for the actions specified herein, the pooled trust, depository institution or insurance company shall use reasonable business standards of care and judgment, and is entitled to rely upon a designation of an account or contract as irrevocable as signifying program eligibility under section 1 of this act. A pooled trust, depository institution or insurance company, as a condition of offering or providing an irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy within the State, shall comply with the provisions of this act.

C.2A:102-24 Inclusion of statement in prepaid funeral agreement, insurance policy.

6. A prepaid funeral agreement as defined in section 19 of P.L.1993, c.147 (C.2A:102-18) which is subject to the provisions of this act shall include, in a conspicuous manner, the following statement: "New Jersey law requires this agreement to be irrevocable for applicants or recipients of public assistance programs (such as the Medicaid, Supplemental Security Income (SSI), Work First New Jersey and Work First New Jersey General Public Assistance programs, or any successor program thereof) and for the State of New Jersey to be named as beneficiary of any irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy purchased or created for the provision and payment of funeral and burial goods and services. Any moneys remaining after the provision of funeral goods and services shall be paid over to the State as required by law."

C.2A:102-25 Relief from liability for claims paid improperly to State.

7. A person, firm, corporation, association, funeral home, pooled trust, depository institution or insurance company and their employees or agents that, in accordance with the provisions of this act, pays money to the State in good faith is relieved of all liability for any claim then existing or which thereafter may arise or be made in respect to the money paid. The estate or personal representative of a deceased person may seek restitution on behalf of the estate for a payment that may have been improperly made to the State. The pooled trust, depository institution or insurance company shall forward the claim, together with its opinion as to whether the payment was improperly made to the State, to the Director of the Division of Medical Assistance and Health Services in the Department of Human Services, or his designee, who shall review the claim and, if the claim is justified, refund in a timely manner moneys found to have been improperly paid over to the State

C.2A:102-26 Inter-agency coordination of financial accounting.

8. The Division of Medical Assistance and Health Services in the Department of Human Services shall coordinate between itself and the

Division of Consumer Support in the Department of Health and Senior Services, such inter-agency and inter-governmental financial accounting as is necessary to accurately identify, allocate and transfer benefit credits resulting from this act between the departments on a program basis, and between them and such other agencies of federal, State and local governments as may be applicable.

9. Section 4 of P.L.1993, c.147 (C.45:7-85) is amended to read as follows:

C.45:7-85 Requirements for prepaid funeral agreements.

4. Every prepaid funeral agreement executed in this State shall:

a. Be signed by the provider, and the purchaser or the intended funeral recipient or the intended funeral recipient's guardian, agent or next of kin.

b. Include at least the following information:

(1) the name, address and telephone number of the mortuary to be utilized;

(2) the name of the individual licensee acting as or on behalf of the provider and the license number of that individual;

(3) the purchaser's name and address;

(4) the name of the intended funeral recipient;

(5) whether the agreement is a guaranteed price agreement or non-guaranteed price agreement, which term, as applicable, shall be defined in the agreement in accordance with section 1 of this act;

(6) how the agreement is to be funded; and

(7) a statement of funeral goods and services or, if not included as part of the agreement, that a statement of funeral goods and services shall be provided.

c. Provide that all funeral arrangements are revocable, and that all funeral funding arrangements are severable from those funeral arrangements by the purchaser if alive, and if not, then by the intended funeral recipient, where they are different persons. Upon the death of both the purchaser and the intended funeral recipient, the intended funeral recipient's next of kin, in the order provided in N.J.S.8A:5-18, shall have the right to revoke the funeral arrangements and to sever the funeral funding arrangements from the funeral arrangements. Notwithstanding the above, a prepaid funeral agreement may provide that the funeral trust shall be irrevocable during the lifetime of the intended funeral recipient pursuant to section 1 of P.L.1991, c.502 (C.2A:102-16.1) or section 1 of P.L.1999, c.193 (C.2A:102-19).

In those instances where a revocable prepaid funeral agreement is revoked, the moneys used to fund the agreement shall be paid to the purchaser, if alive, and if not, then to the personal representative or estate of

the deceased purchaser if the agreement is funded through a trust or, if the agreement is funded through a funeral insurance policy, to the named beneficiaries on the insurance policy or annuity.

d. Provide that, unless otherwise specified therein, a prepaid funeral agreement anticipates the provision of prepaid funeral goods and services in the area served by the provider. The agreement shall further provide that, if the intended funeral recipient's place of death is in a location other than that served by the provider, alternative funeral arrangements will be necessary.

e. Provide for the provider's substitution of any goods or services to be furnished or rendered thereunder for goods of equal quality, value and workmanship or services of equal quality and value in the event of the unavailability of any goods or services set forth in the agreement. Any changes in the price of the agreement resulting from such substitution of goods or services shall be reflected in the statement of funeral goods and services rendered.

f. Provide that, in the case of an agreement funded through a funeral trust, if the purchaser predeceases the intended funeral recipient where they are different persons, then the intended funeral recipient shall automatically assume the legal right to administer the funeral trust as purchaser, including the right to withdraw any and all funds held in the funeral trust, along with all other rights formerly held by the purchaser.

g. Provide that, upon the death of the intended funeral recipient, the provider shall calculate the current retail prices of the preneed funeral arrangements, and:

(1) in the case of a non-guaranteed prepaid funeral agreement, if there are insufficient funds to pay for the current retail prices of the prepaid funeral goods and services requested, the provider shall consult with the appropriate representative for the supplementation of the funds or the modification of the funeral arrangements set forth in the agreement prior to performance under the agreement.

(2) in the case of an agreement funded through a funeral trust, whether a guaranteed or non-guaranteed price agreement, if the provider determines that the funds or proceeds available exceed the current retail prices of the prepaid funeral goods and services to be provided, the surplus funds shall be paid to the purchaser, if alive, and if not, then to the personal representative of the estate of the deceased.

(3) in the case of an agreement funded through a funeral insurance policy, whether a guaranteed or non-guaranteed price agreement, if the provider determines that the funds or proceeds available exceed the current retail prices of the prepaid funeral goods and services to be provided, the

surplus funds shall be paid to the named beneficiaries of the funeral insurance policy.

h. Provide that, upon completion of performance under the agreement, the provider shall present a final bill.

i. Provide that if a prepaid funeral agreement is a guaranteed price agreement, the price guarantee is a guarantee and liability of the provider and not the guarantee and liability of the insurer issuing the funeral insurance policy when a funeral insurance policy is used or the trust depository administering the funeral trust when a funeral trust is used.

10. This act shall take effect 180 days from the date of enactment and shall apply to irrevocable funeral trusts or irrevocably assigned newly issued funeral insurance policies entered into on or after the effective date.

Approved August 31, 1999.

CHAPTER 194

AN ACT permitting the distribution of State surplus computers, computer equipment or software to local units, boards of education, nonpublic schools or nonprofit charitable corporations and supplementing P.L.1944, c.112 (C.52:27B-1 et seq.).

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

C.52:27B-67.1 Distribution of surplus computer equipment.

1. a. Whenever, in the opinion of the Director of the Division of Purchase and Property, any computers, computer equipment or software in the custody and control of any State department, institution, commission, board, body, or other agency of the State is deemed surplus, obsolete or no longer suitable for the purpose for which it was intended, the director may make a transfer of the custody and control of such computers, computer equipment or software to local units, boards of education, nonpublic schools or nonprofit charitable corporations organized pursuant to N.J.S.15A:1-1 et seq.

b. Whenever such computers, computer equipment or software deemed surplus cannot be used by local units, boards of education, nonpublic schools or nonprofit charitable corporations, the director may, with the State Treasurer's approval and after notification in writing to the

State Auditor, dispose thereof, and thereupon the director shall pay the proceeds arising from such disposition into the general fund of the State.

c. The director shall develop a plan for the notification and distribution to local units, boards of education, nonpublic schools or nonprofit charitable corporations of computers, computer equipment or software designated as surplus by any State department, institution, commission, board, body or other agency of the State.

d. The State shall not be liable for any damages that may result from the use or operation of any transferred computer, computer equipment or software.

2. This act shall take effect immediately.

Approved August 31, 1999.

CHAPTER 195

AN ACT concerning false alarms and amending N.J.S.2C:33-3 and supplementing Title 2C of the New Jersey Statutes.

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

1. N.J.S.2C:33-3 is amended to read as follows:

False public alarms.

2C:33-3. False Public Alarms. a. Except as provided in subsection b. or c., a person is guilty of a crime of the third degree if he initiates or circulates a report or warning of an impending fire, explosion, bombing, crime, catastrophe or emergency knowing that the report or warning is false or baseless and that it is likely to cause evacuation of a building, place of assembly, or facility of public transport, or to cause public inconveniences or alarm. A person is guilty of a crime of the third degree if he knowingly causes such false alarm to be transmitted to or within any organization, official or volunteer, for dealing with emergencies involving danger to life or property.

b. A person is guilty of a crime of the third degree if in addition to the report or warning initiated, circulated or transmitted under subsection a., he places or causes to be placed any false or facsimile bomb in a building, place of assembly, or facility of public transport or in a place likely to cause public inconvenience or alarm.

c. A person is guilty of a crime of the second degree if a violation of subsection a. of this section in fact results in serious bodily injury to another person. A person is guilty of a crime of the second degree if a violation of subsection a. of this section in fact results in death.

d. For the purposes of this section, "in fact" means that strict liability is imposed.

e. A person is guilty of a disorderly persons offense if the person knowingly places a call to a 9-1-1 emergency telephone system without purpose of reporting the need for 9-1-1 service.

C.2C:33-3.1 Penalties for juvenile violating N.J.S.2C:33-3.

2. a. In the case of a juvenile adjudicated delinquent for a violation of N.J.S. 2C:33-3 the court shall suspend or postpone the juvenile's right to operate a motor vehicle including a motorized bicycle for a period of six months, in addition to any other disposition ordered by the court under section 24 of P.L.1982, c.77 (C.2A:4A-43). In the case of a person who at the time of the disposition is less than 17 years of age, the period of the suspension of driving privileges authorized herein, including a suspension of the privilege of operating a motorized bicycle, shall commence on the day the disposition is imposed and shall run for a period of six months after the day the person reaches the age of 17 years.

b. In addition to any other sentence imposed by the court under this code, the court shall suspend or postpone a person's right to operate a motor vehicle including a motorized bicycle for any person who is convicted under N.J.S.2C:33-3 and is less than 21 years of age at the time of the conviction. The period of the suspension of driving privileges authorized herein, including a suspension of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months.

c. If the driving privilege of any person is under revocation, suspension, or postponement for a violation of any provision of this Title or Title 39 of the Revised Statutes at the time of any adjudication of delinquency for a violation of N.J.S.2C:33-3 or a conviction under N.J.S.2C:33-3, the revocation, suspension, or postponement period imposed herein shall commence as of the date of termination of the existing revocation, suspension, or postponement.

d. The court before whom any person is convicted or adjudicated delinquent for a violation of N.J.S.2C:33-3 shall collect forthwith the New Jersey driver's license or licenses of the person and forward such license or licenses to the Director of the Division of Motor Vehicles along with a report indicating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If the court is for any

reason unable to collect the license or licenses of the person, the court shall cause a report of the conviction or adjudication of delinquency to be filed with the director. That report shall include the complete name, address, date of birth, eye color, and sex of the person and shall indicate the first and last day of the suspension or postponement period imposed by the court pursuant to this section. The court shall inform the person orally and in writing that if the person is convicted of personally operating a motor vehicle during the period of license suspension or postponement imposed pursuant to this section the person shall, upon conviction, be subject to the penalties set forth in R.S.39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of violation of R.S.39:3-40. If the person is the holder of a driver's license from another jurisdiction, the court shall not collect the license but shall notify the director who shall notify the appropriate officials in the licensing jurisdiction. The court shall, however, in accordance with the provisions of this section, revoke the person's non-resident driving privileges in this State.

C.2C:33-3.2 Fines for violation of N.J.S.2C:33-3.

3. Any person who violates the provisions of N.J.S.2C:33-3 shall be liable for a civil penalty of not less than $1,000.00 or actual costs incurred by or resulting from the law enforcement and emergency services response to the false alarm, whichever is higher. Any monies collected pursuant to this section shall be made payable to the municipality or other entity providing the law enforcement or emergency services response to the false alarm. "Emergency services" includes, but is not limited to, paid or volunteer fire fighters, paramedics, members of an ambulance team, rescue squad or mobile intensive care unit.

4. This act shall take effect immediately.

Approved August 31, 1999.

CHAPTER 196

AN ACT concerning the acceptance of payment by counties for certain permits and supplementing chapter 23 of Title 40 of the Revised Statutes.

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

C.40:23-6.52 Acceptable forms of payment for road opening permits.

1. Notwithstanding any law, rule or regulation to the contrary, whenever the governing body of any county shall require the provision of a deposit as a condition of granting a road opening permit, the county shall accept as a deposit from the permit applicant either cash, or in lieu of cash, bonds, or a combination of cash and bonds, as determined by the permit applicant. Whenever bonds are used, the bonds may consist of registered book bonds, entry municipal bonds, State bonds or other appropriate bonds of the State of New Jersey, or negotiable bearer bonds or notes of any political subdivision of the State, the value of which is equal to the amount necessary to satisfy the amount that otherwise would be required to be deposited pursuant to the terms of the permit application and such requirements as set forth. The nature and amount of the bonds or notes to be deposited shall be subject to the approval by the governing body of the county. Such approval shall not be unreasonably withheld. For purposes of this section, "value" shall mean par value or current market value, whichever is lower.

If the permit applicant deposits cash for granting a road opening permit, such deposit shall be placed with a banking institution or savings and loan association insured by an agency of the Federal government, in an account bearing interest at the rate currently paid by such institutions or associations on time or savings deposits. Any interest accruing on cash deposits shall be credited to the governing body of the county. If the permit applicant deposits bonds for granting a road opening permit, the bonds shall be deposited with the county. The amount of any interest accruing on such bonds shall be returned to the bond applicant upon fulfillment of the terms of the permit application.

2. This act shall take effect immediately.

Approved August 31, 1999.

CHAPTER 197

AN ACT concerning the qualifications of bidders on State public works contracts and amending R.S.52:35-8.

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

1. R.S.52:35-8 is amended to read as follows:

Submission of statement required for bidder.

52:35-8. No person shall be qualified to bid on any contract, who shall not have submitted a statement as required by R.S.52:35-2 within a period of 18 months preceding the date of opening of bids for such contract.

2. This act shall take effect immediately.

Approved September 8, 1999.

CHAPTER 198

AN ACT concerning landfill reclamation improvement districts and amending P.L.1995, c.173.

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

1. Section 2 of P.L.1995, c.173 (C.40A:12A-51) is amended to read as follows:

C.40A:12A-51 Definitions used in C.40A:12A-50 et seq.

2. As used in P.L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.):

"Authority" means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.) or other instrumentality created by law with the power to incur debt and issue bonds and other obligations.

"Bonds" mean bonds, notes or other obligations issued to finance projects by the authority pursuant to P.L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.).

"Municipality" means the municipal governing body or, if a redevelopment agency or redevelopment entity is established in the municipality pursuant to P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so provides, the redevelopment agency or entity so established.

"Redeveloper" means any person that enters or proposes to enter, pursuant to P.L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory

and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.) and the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), 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, and the construction or rehabilitation of any commercial, industrial or public structures or improvements, landfill closure, remediation, or redevelopment, including, but not limited to, on-site and off-site infrastructure improvements, or rehabilitation of an area in need of redevelopment, or part thereof, under the provisions of P.L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.) and the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), 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).

"Financial agreement" means an agreement that meets the requirements of a financial agreement under P.L.1991, c.431 (C.40A:20-1 et seq.).

"Franchise assessment" means a gross receipts assessment on: (1) 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) all rental receipts from the rental of commercial property in a district; (3) receipts from parking in a district; (4) rents for every occupancy of a room or rooms in a hotel in a district that are subject to the sales and use tax pursuant to subsection (d) of section 3 of P.L.1966, c.30 (C.54:32B-3); (5) admission charges to or for the use of any place of amusement excluding movie theaters in a district and the amount paid as the charge of a roof garden, cabaret or other similar place in a district that are subject to the sales and use tax pursuant to subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3); or (6) any combination of items (1) through (5) above, as imposed pursuant to section 4 of P.L.1995, c.173 (C.40A:12A-53), and this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.), but excluding any tax imposed pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

"Landfill reclamation improvement district" or "district" means a tract of land of at least 150 acres in size, which may consist of one or more tax lots, of which not less than 100 acres were formerly or are presently used as a landfill, which has been delineated a "redevelopment area" or "area in

need of redevelopment" pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), and is an area 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).

"Special assessment" means an assessment upon the lands or improvements on such lands, or both, in the landfill reclamation improvement district benefitted by improvements undertaken pursuant to P.L.1995, c.173 (C.40A:12A-50 et seq.) and this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-50a et al.), assessed pursuant to chapter 56 of Title 40 of the Revised Statutes, R.S.40:56-1 et seq. except as otherwise provided in subsection b. of section 8 of this amendatory and supplementary act, P.L.1996, c.73 (C.40A:12A-56).

2. This act shall take effect immediately.

Approved September 8, 1999.

CHAPTER 199

AN ACT concerning alimony and amending N.J.S.2A:34-23 and N.J.S.2A:34-25.

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

1. N.J.S.2A:34-23 is amended to read as follows:

Alimony, maintenance.

2A:34-23. Pending any matrimonial action brought in this State or elsewhere, or after judgment of divorce or maintenance, whether obtained in this State or elsewhere, the court may make such order as to the alimony or maintenance of the parties, and also as to the care, custody, education and maintenance of the children, or any of them, as the circumstances of the parties and the nature of the case shall render fit, reasonable and just, and require reasonable security for the due observance of such orders, including, but not limited to, the creation of trusts or other security devices, to assure payment of reasonably foreseeable medical and educational expenses. Upon neglect or refusal to give such reasonable security, as shall be required, or upon default in complying with any such order, the court may award and issue process for the immediate sequestration of the personal estate, and the rents and profits of the real estate of the party so charged, and

appoint a receiver thereof, and cause such personal estate and the rents and profits of such real estate, or so much thereof as shall be necessary, to be applied toward such alimony and maintenance as to the said court shall from time to time seem reasonable and just; or the performance of the said orders may be enforced by other ways according to the practice of the court. Orders so made may be revised and altered by the court from time to time as circumstances may require.

The court may order one party to pay a retainer on behalf of the other for expert and legal services when the respective financial circumstances of the parties make the award reasonable and just. In considering an application, the court shall review the financial capacity of each party to conduct the litigation and the criteria for award of counsel fees that are then pertinent as set forth by court rule. Whenever any other application is made to a court which includes an application for pendente lite or final award of counsel fees, the court shall determine the appropriate award for counsel fees, if any, at the same time that a decision is rendered on the other issue then before the court and shall consider the factors set forth in the court rule on counsel fees, the financial circumstances of the parties, and the good or bad faith of either party.

a. In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, the court in those cases not governed by court rule shall consider, but not be limited to, the following factors:

(1) Needs of the child;

(2) Standard of living and economic circumstances of each parent;

(3) All sources of income and assets of each parent;

(4) Earning ability of each parent, including educational background, training, employment skills, work experience, custodial responsibility for children including the cost of providing child care and the length of time and cost of each parent to obtain training or experience for appropriate employment;

(5) Need and capacity of the child for education, including higher education;

(6) Age and health of the child and each parent;

(7) Income, assets and earning ability of the child;

(8) Responsibility of the parents for the court-ordered support of others;

(9) Reasonable debts and liabilities of each child and parent; and

(10) Any other factors the court may deem relevant.

b. In all actions brought for divorce, divorce from bed and board, or nullity the court may award one or more of the following types of alimony: permanent alimony; rehabilitative alimony; limited duration alimony or

reimbursement alimony to either party. In so doing the court shall consider, but not be limited to, the following factors:

(1) The actual need and ability of the parties to pay;

(2) The duration of the marriage;

(3) The age, physical and emotional health of the parties;

(4) The standard of living established in the marriage and the likelihood that each party can maintain a reasonably comparable standard of living;

(5) The earning capacities, educational levels, vocational skills, and employability of the parties;

(6) The length of absence from the job market of the party seeking maintenance;

(7) The parental responsibilities for the children;

(8) The time and expense necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment, the availability of the training and employment, and the opportunity for future acquisitions of capital assets and income;

(9) The history of the financial or non-financial contributions to the marriage by each party including contributions to the care and education of the children and interruption of personal careers or educational opportunities;

(10) The equitable distribution of property ordered and any payouts on equitable distribution, directly or indirectly, out of current income, to the extent this consideration is reasonable, just and fair;

(11) The income available to either party through investment of any assets held by that party;

(12) The tax treatment and consequences to both parties of any alimony award, including the designation of all or a portion of the payment as a non-taxable payment; and

(13) Any other factors which the court may deem relevant.

When a share of a retirement benefit is treated as an asset for purposes of equitable distribution, the court shall not consider income generated thereafter by that share for purposes of determining alimony.

c. In any case in which there is a request for an award of permanent alimony, the court shall consider and make specific findings on the evidence about the above factors. If the court determines that an award of permanent alimony is not warranted, the court shall make specific findings on the evidence setting out the reasons therefor. The court shall then consider whether alimony is appropriate for any or all of the following: (1) limited duration; (2) rehabilitative; (3) reimbursement. In so doing, the court shall consider and make specific findings on the evidence about factors set forth above. The court shall not award limited duration alimony as a substitute

for permanent alimony in those cases where permanent alimony would otherwise be awarded.

An award of alimony for a limited duration may be modified based either upon changed circumstances, or upon the nonoccurrence of circumstances that the court found would occur at the time of the award. The court may modify the amount of such an award, but shall not modify the length of the term except in unusual circumstances.

In determining the length of the term, the court shall consider the length of time it would reasonably take for the recipient to improve his or her earning capacity to a level where limited duration alimony is no longer appropriate.

d. Rehabilitative alimony shall be awarded based upon a plan in which the payee shows the scope of rehabilitation, the steps to be taken, and the time frame, including a period of employment during which rehabilitation will occur. An award of rehabilitative alimony may be modified based either upon changed circumstances, or upon the nonoccurrence of circumstances that the court found would occur at the time of the rehabilitative award.

This section is not intended to preclude a court from modifying permanent alimony awards based upon the law.

e. Reimbursement alimony may be awarded under circumstances in which one party supported the other through an advanced education, anticipating participation in the fruits of the earning capacity generated by that education.

f. Nothing in this section shall be construed to limit the court's authority to award permanent alimony, limited duration alimony, rehabilitative alimony or reimbursement alimony, separately or in any combination, as warranted by the circumstances of the parties and the nature of the case.

g. In all actions for divorce other than those where judgment is granted solely on the ground of separation the court may consider also the proofs made in establishing such ground in determining an amount of alimony or maintenance that is fit, reasonable and just. In all actions for divorce or divorce from bed and board where judgment is granted on the ground of institutionalization for mental illness the court may consider the possible burden upon the taxpayers of the State as well as the ability of the party to pay in determining an amount of maintenance to be awarded.

h. In all actions where a judgment of divorce or divorce from bed and board is entered the court may make such award or awards to the parties, in addition to alimony and maintenance, to effectuate an equitable distribution of the property, both real and personal, which was legally and beneficially acquired by them or either of them during the marriage. However, all such property, real, personal or otherwise, legally or beneficially acquired during

the marriage by either party by way of gift, devise, or intestate succession shall not be subject to equitable distribution, except that interspousal gifts shall be subject to equitable distribution.

2. N.J.S.2A:34-25 is amended to read as follows:

Termination of alimony.

2A:34-25. If after the judgment of divorce a former spouse shall remarry, permanent and limited duration alimony shall terminate as of the date of remarriage except that any arrearages that have accrued prior to the date of remarriage shall not be vacated or annulled. A former spouse who remarries shall promptly so inform the spouse paying permanent or limited duration alimony as well as the collecting agency, if any. The court may order such alimony recipient who fails to comply with the notification provision of this act to pay any reasonable attorney fees and court costs incurred by the recipient's former spouse as a result of such non-compliance.

The remarriage of a former spouse receiving rehabilitative or reimbursement alimony shall not be cause for termination of such alimony by the court unless the court finds that the circumstances upon which the award was based have not occurred or unless the payer spouse demonstrates an agreement or good cause to the contrary.

Alimony shall terminate upon the death of the payer spouse, except that any arrearages that have accrued prior to the date of the payer spouse's death shall not be vacated or annulled.

Nothing in this act shall be construed to prohibit a court from ordering either spouse to maintain life insurance for the protection of the former spouse or the children of the marriage in the event of the payer spouse's death.

3. This act shall take effect immediately.

Approved September 13, 1999.

CHAPTER 200

AN ACT concerning special emergency appropriations by a local unit and amending N.J.S.40A:4-53.

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

1. N.J.S.40A:4-53 is amended to read as follows:

Special emergency appropriations.

40A:4-53. A local unit may adopt an ordinance authorizing special emergency appropriations for the carrying out of any of the following purposes:

a. Preparation of an approved tax map.

b. Preparation and execution of a complete program of revaluation of real property for the use of the local assessor, or of any program to update and make current any previous revaluation program when such is ordered by the county board of taxation.

c. Preparation of a revision and codification of its ordinances.

d. Engagement of special consultants for the preparation, and the preparation of a master plan or plans, when required to conform to the planning laws of the State.

e. Preparation of drainage maps for flood control purposes.

f. Preliminary engineering studies and planning necessary for the installation and construction of a sanitary sewer system.

g. Authorized expenses of a consolidation commission established pursuant to the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et seq.).

h. Contractually required severance liabilities resulting from the layoff or retirement of employees, when the total liability is in excess of 10 per cent of the amount to be raised by taxes for municipal purposes in the fiscal year in which the layoffs or retirements take place.

i. Preparation of a sanitary or storm system map.

A copy of all ordinances or resolutions as adopted relating to special emergency appropriations shall be filed with the director.

2. This act shall take effect immediately.

Approved September 13, 1999.

CHAPTER 201

AN ACT establishing a New Jersey Commission on Spinal Cord Research, supplementing Title 52 of the Revised Statutes and amending R.S.39:5-41.

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

C.52:9E-1 Short title.

1. This act shall be known and may be cited as the "Spinal Cord Research Act."

C.52:9E-2 Definitions relative to spinal cord research.

2. As used in this act:

a. "Approved research project" means a peer reviewed scientific research project, which is approved by the commission and which focuses on the treatment and cure of spinal cord injuries and diseases that damage the spinal cord.

b. "Commission" means the New Jersey Commission on Spinal Cord Research established pursuant to this act.

c. "Institutional support services" means all services, facilities, equipment, personnel and expenditures associated with the creation and maintenance of approved research projects.

d. "Qualifying research institution" means the University of Medicine and Dentistry of New Jersey; Rutgers, The State University; Princeton University; the Kessler Medical Rehabilitation Research and Education Corporation; the Coriell Institute for Medical Research; and any other research institution in the State approved by the commission.

C.52:9E-3 New Jersey Commission on Spinal Cord Research.

3. a. There is established in the Executive Branch of the State government, the New Jersey Commission on Spinal Cord Research. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is allocated within the Department of Health and Senior Services, but notwithstanding that allocation, the commission shall be independent of any supervision or control by the department or by any board or officer thereof.

b. The commission shall consist of 11 members, including the Commissioner of Health and Senior Services, or his designee, who shall serve ex officio; one representative of the University of Medicine and Dentistry of New Jersey; one representative of Rutgers, The State University; one representative of the federally designated Spinal Cord Injury Model System; one representative from the American Paralysis Association; and six public members who are residents of the State knowledgeable about spinal cord injuries and who include at least one physician licensed in this State and at least one person with a spinal cord injury. The members shall be appointed by the Governor with the advice and consent of the Senate.

c. The term of office of each appointed member shall be three years, but of the members first appointed, three shall be appointed for a term of one year, four for terms of two years, and three for terms of three years. All

vacancies shall be filled for the balances of the unexpired terms in the same manner as the original appointments. Appointed members are eligible for reappointment upon the expiration of their terms. A member shall continue to serve upon the expiration of his term until a successor is appointed.

The members of the commission shall not receive compensation for their services, but shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties as members of the commission.

C.52:9E-4 Responsibilities of commission.

4. The commission shall:

a. Review and authorize approved research projects, for which purpose the commission may establish an independent scientific advisory panel composed of scientists and clinicians who are not members of the commission to review proposals submitted to the commission and make funding recommendations to the commission;

b. Apportion all available funds to qualifying research institutions to finance approved research projects and necessary institutional support services;

c. Ensure that funds so apportioned to approved research projects are not diverted to any other use;

d. Take steps necessary to encourage the development within the State of spinal cord research projects;

e. Compile a directory of all spinal cord research projects being conducted in the State; and

f. Provide the Governor and the Legislature with a report by January 30 of each year describing the status of the commission's activities and the results of its funded research efforts.

C.52:9E-5 Authority of commission.

5. The commission is authorized to:

a. Adopt rules and regulations concerning the operation of the commission, the functions and responsibilities of its officers and employees and other matters as may be necessary to carry out the purposes of this act;

b. Maintain offices at such places within the State as it may designate;

c. Employ an executive director and other personnel as may be necessary, whose employment shall be in the unclassified service of the State, except that employees performing stenographic or clerical duties shall be appointed pursuant to Title 11A (Civil Service) of the New Jersey Statutes;

d. Design a fair and equitable system for the solicitation, evaluation and approval of proposals for spinal cord research projects;

e. Apply for and accept any grant of money from the federal government, which may be available for programs relating to research on the spinal cord;

f. Enter into contracts with individuals, organizations and institutions necessary or incidental to the performance of its duties and the execution of its powers under this act; and

g. Accept gifts, grants and bequests of funds from individuals, foundations, corporations, governmental agencies and other organizations and institutions.

C.52:9E-6 Election, duties of officers.

6. The commission shall annually elect a chairman and a vice-chairman from among its members. The chairman shall be the chief executive officer of the commission, shall preside at all meetings of the commission and shall perform other duties that the commission may prescribe.

The executive director shall serve as secretary to the commission and shall carry out its policies under the direction of the chairman.

C.52:9E-7 Direct application for funds permitted.

7. Nothing in this act shall preclude a qualifying research institution or any other research facility in the State from directly applying for or receiving funds from any public or private agency to conduct spinal cord research.

C.52:9E-8 Establishment, maintenance of central registry.

8. a. The commission shall establish and maintain, in conjunction with the Department of Health and Senior Services, a central registry of persons who sustain spinal cord injuries other than through disease, whether or not the injury results in a permanent disability, in order to provide a database that indicates the incidence and prevalence of spinal cord injuries and which will serve as a resource for research, evaluation and information on spinal cord injuries and available services.

b. The commission shall require the reporting of all cases of spinal cord injuries, except those caused through disease, and the submission of specified additional information on reported cases as it deems necessary and appropriate.

The commission shall, by regulation, specify the health care facilities and providers required to make the report of a spinal cord injury to the registry, information that shall be included in the report to the registry, the method for making the report and the time period in which the report shall be made.

c. The reports made pursuant to this section are to be used only by the commission and the Department of Health and Senior Services and such

other agencies as may be designated by the commission or the department and shall not otherwise be divulged or made public so as to disclose the identity of any person to whom they relate; and to that end, the reports shall not be included under materials available to public inspection pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.).

d. No individual or organization providing information to the commission in accordance with this section shall be deemed to be, or held liable for, divulging confidential information. Nothing in this section shall be construed to compel any individual to submit to medical, commission or department examination or supervision.

e. A health care facility or health care provider who is required to report a spinal cord injury to the commission that fails to comply with the provisions of this section shall be liable to a penalty of up to $100 per unreported spinal cord injury case. A penalty sued for under the provisions of this section shall be recovered by and in the name of the commission and shall be deposited in the "New Jersey Spinal Cord Research Fund" established pursuant to this act.

C.52:9E-9 "New Jersey Spinal Cord Research Fund."

9. a. There is established in the Department of the Treasury a nonlapsing revolving fund to be known as the "New Jersey Spinal Cord Research Fund." This fund shall be the repository for moneys provided pursuant to subsection e. of R.S.39:5-41. Moneys deposited in the fund, and any interest earned thereon, shall be used exclusively for the purpose of making grants for approved spinal cord research projects at qualified research institutions.

b. Any costs incurred by the department in the collection or administration of the fund may be deducted from the funds deposited therein, as determined by the Director of the Division of Budget and Accounting.

10. R.S.39:5-41 is amended to read as follows:

Fines, penalties; forfeitures, disposition of; exceptions.

39:5-41. a. All fines, penalties and forfeitures imposed and collected under authority of law for any violations of R.S.39:4-63 and R.S.39:4-64 shall be forwarded by the judge to whom the same have been paid to the proper financial officer of a county, if the violation occurred within the jurisdiction of that county's central municipal court, established pursuant to N.J.S.2B:12-1 et seq. or the municipality wherein the violation occurred, to be used by the county or municipality to help finance litter control activities in addition to or supplementing existing litter pickup and removal activities in the municipality.

b. Except as otherwise provided by subsection a. of this section, all fines, penalties and forfeitures imposed and collected under authority of law for any violations of the provisions of this Title, other than those violations in which the complaining witness is the director, a member of his staff, a member of the State Police, a member of a county police department and force or a county park police system in a county that has established a central municipal court, an inspector of the Board of Public Utilities, or a law enforcement officer of any other State agency, shall be forwarded by the judge to whom the same have been paid as follows: one-half of the total amount collected to the financial officer, as designated by the local governing body, of the respective municipalities wherein the violations occurred, to be used by the municipality for general municipal use and to defray the cost of operating the municipal court; and one-half of the total amount collected to the proper financial officer of the county wherein they were collected, to be used by the county as a fund for the construction, reconstruction, maintenance and repair of roads and bridges, snow removal, the acquisition and purchase of rights-of-way, and the purchase, replacement and repair of equipment for use on said roads and bridges therein. Up to 25% of the money received by a municipality pursuant to this subsection, but not more than the actual amount budgeted for the municipal court, whichever is less, may be used to upgrade case processing.

All fines, penalties and forfeitures imposed and collected under authority of law for any violations of the provisions of this Title, in which the complaining witness is a member of a county police department and force or a county park police system in a county that has established a central municipal court, shall be forwarded by the judge to whom the same have been paid to the financial officer, designated by the governing body of the county, for all violations occurring within the jurisdiction of that court, to be used for general county use and to defray the cost of operating the central municipal court.

Whenever any county has deposited moneys collected pursuant to this section in a special trust fund in lieu of expending the same for the purposes authorized by this section, it may withdraw from said special trust fund in any year an amount which is not in excess of the amount expended by the county over the immediately preceding three-year period from general county revenues for said purposes. Such moneys withdrawn from the trust fund shall be accounted for and used as are other general county revenues.

c. (Deleted by amendment, P.L.1993, c.293.)

d. Notwithstanding the provisions of subsections a. and b. of this section, $1.00 shall be added to the amount of each fine and penalty imposed and collected under authority of any law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or

traffic violation in this State and shall be forwarded by the person to whom the same are paid to the State Treasurer. In addition, upon the forfeiture of bail, $1.00 of that forfeiture shall be forwarded to the State Treasurer. The State Treasurer shall annually deposit those moneys so forwarded in the "Body Armor Replacement" fund established pursuant to section 1 of P.L.1997, c.177 (C.52:17B-4.4). Beginning in the fiscal year next following the effective date of this act, the State Treasurer annually shall allocate from those moneys so forwarded an amount not to exceed $400,000 to the Department of Personnel to be expended exclusively for the purposes of funding the operation of the "Law Enforcement Officer Crisis Intervention Services" telephone hotline established and maintained under the provisions of P.L.1998, c.149 (C.11A:2-25 et al.).

e. Notwithstanding the provisions of subsections a. and b. of this section, $1 shall be added to the amount of each fine and penalty imposed and collected under authority of any law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State and shall be forwarded by the person to whom the same are paid to the State Treasurer. The State Treasurer shall annually deposit those moneys so forwarded in the "New Jersey Spinal Cord Research Fund" established pursuant to section 9 of P.L.1999, c.201 (C.52:9E-9). In order to comply with the provisions of Article VIII, Section II, paragraph 5 of the State Constitution, a municipal or county agency which forwards moneys to the State Treasurer pursuant to this subsection may retain an amount equal to 2% of the moneys which it collects pursuant to this subsection as compensation for its administrative costs associated with implementing the provisions of this subsection.

C.52:9E-10 Rules, regulations pertinent to spinal cord research.

11. The commission shall adopt such regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to carry out the provisions of this act.

12. This act shall take effect on the 90th day following enactment.

Approved September 13, 1999.

CHAPTER 202

AN ACT concerning dredging and amending P.L.1997, c.97.

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

1. Section 13 of P.L.1997, c.97 is amended to read as follows:

13. There is appropriated to the Department of Environmental Protection from the "1996 Dredging and Containment Facility Fund," established pursuant to section 18 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70, the sum of $26,700,000 for the following dredging and dredged material disposal projects, including infrastructure investments:

Project Name	**Channel/Reach**
New York and New Jersey Channels	Kill Van Kull
New York and New Jersey Channels	Arthur Kill
Upper New York Harbor	Port Jersey Channel
Upper New York Harbor	Claremont Channel
New York and New Jersey Channels	Wards Point Bend
Port Newark/Elizabeth	Reaches A,B,C and D
Hudson River & Adjacent Channels	New Jersey Anchorages
New York and New Jersey Channels	Shooter's Island Reach
Raritan River	Raritan River Channel
New York and New Jersey Channels	Raritan Bay Reach
Hudson River Channel	40 foot channel (New Jersey side)
Newark Bay, Hackensack and Passaic Rivers	Newark Bay Channels

2. This act shall take effect immediately.

Approved September 14, 1999.

CHAPTER 203

AN ACT appropriating $101,300,000 from the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70, to fund dredging projects in the port region.

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

1. There is appropriated to the Office of Maritime Resources in the New Jersey Commerce and Economic Growth Commission from the "1996 Dredging and Containment Facility Fund," established pursuant to section 18 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70, the sum of $101,300,000, to provide to the Port Authority of New York and New Jersey a portion of the local share of the cost of dredging the Kill Van Kull and the Newark Bay channels in the port region to a depth of 45 feet. The channels are located in the counties of Essex, Hudson, and Union.

2. Any amount of the monies appropriated pursuant to section 1 of this act which is not expended for the projects set forth therein shall be returned for deposit into the "1996 Dredging and Containment Facility Fund."

3. The expenditure of funds appropriated by this act is subject to the provisions and conditions of P.L.1996, c.70.

4. This act shall take effect immediately.

Approved September 15, 1999.

CHAPTER 204

AN ACT appropriating $10,732,000 from the "1996 Dredging and Containment Facility Fund," established pursuant to section 18 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70, for various projects authorized under the act.

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 "1996 Dredging and Containment Facility Fund," established pursuant to section 18 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70, the sum

of $732,000 for the cost of dredging the following navigation channels not located in the port region, in accordance with the provisions of section 7 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70, and for the cost of any necessary chemical testing and boring in connection with the dredging:

Project Name	**County**	**Amount**
Cape May Mosquito Commission Beach Project	Cape May	$32,000
Margate Channel Improvements	Atlantic	$700,000

2. a. There is appropriated to the Office of Maritime Resources in the New Jersey Commerce and Economic Growth Commission from the "1996 Dredging and Containment Facility Fund," established pursuant to section 18 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70, the sum of up to $10,000,000, in amounts as shall be determined by the Office of Maritime Resources in conjunction with the Department of the Treasury, to fund: (1) the Strip Mining Reclamation Demonstration Project, which utilizes dredged materials from Port of New Jersey dredging projects identified in P.L.1997, c.97, and located in Bergen, Essex, Hudson, Middlesex, and Union counties, for strip mine reclamation in the State of Pennsylvania until such time as the State of Pennsylvania issues a general permit or declares the demonstration project complete; and (2) the dredging, decontamination and beneficial reuse in New Jersey of dredged material from the port region. This sum is appropriated in accordance with the provisions of section 5 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70.

b. Not less than 45 days prior to entering into any contract, lease, obligation, or agreement concerning the expenditure of any monies appropriated pursuant to subsection a. of this section, the Director of the Office of Maritime Resources shall submit to the Joint Budget Oversight Committee a detailed spending plan for the use of the funds appropriated pursuant to subsection a. of this section. The spending plan shall include a description of the uses of the money, and shall enumerate any amounts to be spent for dredging, transportation, testing, decontamination, and deposition of the dredged materials. The plan shall detail capital costs and operation and maintenance costs. The plan shall also provide all available information concerning other sources that will be used to fund the Strip

Mining Reclamation Demonstration Project or the dredging, decontamination and beneficial reuse in New Jersey of dredged material from the port region.

c. Pursuant to the provisions of section 34 of P.L.1996, c.70, the Commissioner of Environmental Protection, after consultation with the Director of the Office of Maritime Resources, shall, not less than 30 days prior to the entering into of any contract, lease, obligation, or agreement concerning the expenditure of any monies appropriated pursuant to subsection a. of this section, report to and consult with the Joint Budget Oversight Committee.

3. Any amount of the monies appropriated in section 1 or section 2 of this act which is not expended for the projects set forth herein shall be returned for deposit into the "1996 Dredging and Containment Facility Fund," established pursuant to section 18 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70.

4. The expenditure of funds appropriated by this act is subject to the provisions and conditions of P.L.1996, c.70.

5. This act shall take effect immediately.

Approved September 15, 1999.

CHAPTER 205

AN ACT appropriating $27,000,000 from the "1996 Dredging and Containment Facility Fund," established pursuant to section 18 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70.

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

1. There is appropriated to the Office of Maritime Resources in the New Jersey Commerce and Economic Growth Commission from the "1996 Dredging and Containment Facility Fund," established pursuant to section 18 of the "Port of New Jersey Revitalization, Dredging, Environmental

Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70, the sum of $27,000,000, to provide the local share of the cost of dredging the Port Jersey Channel, Hudson county in the port region.

2. Any amount of the monies appropriated pursuant to section 1 of this act which is not expended for the projects set forth therein shall be returned for deposit into the "1996 Dredging and Containment Facility Fund" established pursuant to section 18 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70.

3. The expenditure of funds appropriated by this act is subject to the provisions and conditions of P.L.1996, c.70.

4. This act shall take effect immediately.

Approved September 15, 1999.

CHAPTER 206

AN ACT empowering the waterfront commission to accept applications for inclusion in the longshoremen's register upon the petition of certain employers, providing certain requirements for such petitions and for joint recommendations, and further empowering the commission to grant permanent registration to certain longshoremen and checkers with temporary registration, and amending P.L.1966, c.18.

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

1. Section 2 (5-p) of P.L.1966, c.18 (C.32:23-114) is amended to read as follows:

C.32:23-114 Longshoremen's register.

2. 5-p 1. The commission shall suspend the acceptance of applications for inclusion in the longshoremen's register for a period of 60 days after the effective date of this act. Upon the termination of such 60-day period the commission shall thereafter have the power to make determinations to suspend the acceptance of applications for inclusion in the longshoremen's register for such periods of time as the commission may from time to time

establish and, after any such period of suspension, the commission shall have the power to make determinations to accept applications for such period of time as the commission may establish or in such number as the commission may determine, or both. Such determinations to suspend or accept applications shall be made by the commission: (a) on its own initiative or (b) upon the joint recommendation in writing of stevedores and other employers of longshoremen in the Port of New York District, acting through their representative for the purposes of collective bargaining with a labor organization representing such longshoremen in such district and such labor organization or (c) upon the petition in writing of a stevedore or other employer of longshoremen in the Port of New York District which does not have a representative for the purposes of collective bargaining with a labor organization representing such longshoremen. The commission shall have the power to accept or reject such joint recommendation or petition.

A joint recommendation or petition filed for the acceptance of applications with the commission for inclusion in the longshoremen's register shall include:

(a) The number of employees requested;

(b) The category or categories of employees requested;

(c) A detailed statement setting forth the reasons for the joint recommendation or petition;

(d) In cases where a joint recommendation is made under this section, the collective bargaining representative of stevedores and other employers of longshoremen in the Port of New York District and the labor organization representing such longshoremen shall provide the allocation of the number of persons to be sponsored by each employer of longshoremen in the Port of New York District; and

(e) Any other information requested by the commission.

Upon the granting of any joint recommendation or petition under this section for the acceptance of applications for inclusion in the longshoremen's register, the commission shall accept applications upon written sponsorship from the prospective employer of longshoremen. The sponsoring employer shall furnish the commission with the name, address and such other identifying or category information as the commission may prescribe for any person so sponsored. The sponsoring employer shall certify that the selection of the persons so sponsored was made on a fair and non-discriminatory basis in accordance with the requirements of the laws of the United States and the states of New York and New Jersey dealing with equal employment opportunities.

Notwithstanding any of the foregoing, where the commission determines to accept applications for inclusion in the longshoremen's register on

its own initiative, that acceptance shall be accomplished in the manner deemed appropriate by the commission.

2. In administering the provisions of this section, the commission shall observe the following standards:

(a) To encourage as far as practicable the regularization of the employment of longshoremen;

(b) To bring the number of eligible longshoremen into balance with the demand for longshoremen's services within the Port of New York District without reducing the number of eligible longshoremen below that necessary to meet the requirements of longshoremen in the Port of New York District;

(c) To encourage the mobility and full utilization of the existing work force of longshoremen;

(d) To protect the job security of the existing work force of longshoremen by considering the wages and employment benefits of prospective registrants;

(e) To eliminate oppressive and evil hiring practices injurious to waterfront labor and waterborne commerce in the Port of New York District, including, but not limited to, those oppressive and evil hiring practices that may result from either a surplus or shortage of waterfront labor;

(f) To consider the effect of technological change and automation and such other economic data and facts as are relevant to a proper determination; and

(g) To protect the public interest of the Port of New York District.

In observing the foregoing standards and before determining to suspend or accept applications for inclusion in the longshoremen's register, the commission shall consult with and consider the views of, including any statistical data or other factual information concerning the size of the longshoremen's register submitted by, carriers of freight by water, stevedores, waterfront terminal owners and operators, any labor organization representing employees registered by the commission, and any other person whose interests may be affected by the size of the longshoremen's register.

Any joint recommendation or petition granted hereunder shall be subject to such terms and conditions as the commission may prescribe.

3. Any determination by the commission pursuant to this section to suspend or accept applications for inclusion in the longshoremen's register shall be made upon a record, shall not become effective until five days after notice thereof to the collective bargaining representative of stevedores and other employers of longshoremen in the Port of New York District and to the labor organization representing such longshoremen and the petitioning stevedore or other employer of longshoremen in the Port of New York District and shall be subject to judicial review for being arbitrary, capricious,

and an abuse of discretion in a proceeding jointly instituted by such representative and such labor organization or by the petitioning stevedore or other employer of longshoremen in the Port of New York District. Such judicial review proceeding may be instituted in either state in the manner provided by the law of such state for review of the final decision or action of administrative agencies of such state, provided, however, that such proceeding shall be decided directly by the appellate division as the court of first instance (to which the proceeding shall be transferred by order of transfer by the Supreme Court in the State of New York or in the State of New Jersey by notice of appeal from the commission's determination), and provided further that notwithstanding any other provision of law in either state no court shall have power to stay the commission's determination prior to final judicial decision for more than 15 days. In the event that the court enters a final order setting aside the determination by the commission to accept applications for inclusion in the longshoremen's register, the registration of any longshoremen included in the longshoremen's register as a result of such determination by the commission shall be canceled.

This section shall apply, notwithstanding any other provision of this act, provided, however, such section shall not in any way limit or restrict the provision of section 5 of article IX of this act empowering the commission to register longshoremen on a temporary basis to meet special or emergency needs or the provisions of section 4 of article IX of this act relating to the immediate reinstatement of persons removed from the longshoremen's register pursuant to article IX of this act. Nothing in this section shall be construed to modify, limit or restrict in any way any of the rights protected by article 15 of this act.

4. Notwithstanding any other provision of this act, the commission may include in the longshoremen's register under such terms and conditions as the commission may prescribe:

(a) A person issued registration on a temporary basis to meet special or emergency needs, who, on the effective date of this act, is still so registered by the commission;

(b) A person defined as a "longshoreman" in subdivision (6) of section 1(5-a) of P.L.1954, c.14 (C.32:23-85), who is employed by a stevedore as defined in paragraph (b) or (c) of subdivision (1) of the same section (C.32:23-85) and whose employment is not subject to the guaranteed annual income provisions of any collective bargaining agreement relating to longshoremen;

(c) No more than 20 persons issued and holding registration pursuant to paragraph (b) of this subdivision who are limited to acting as scalemen and who are no longer employed as scalemen on the effective date of this 1987 amendatory act;

(d) A person issued registration on a temporary basis as a checker to meet special or emergency needs who applied for such registration prior to January 15, 1986 and who is still so registered by the commission;

(e) A person issued registration on a temporary basis as a checker to meet special or emergency needs in accordance with a waterfront commission resolution of September 4, 1996 and who is still so registered by the commission;

(f) A person issued registration on a temporary basis as a container equipment operator to meet special or emergency needs in accordance with a waterfront commission resolution of September 4, 1996 and who is still so registered by the commission; and

(g) A person issued registration on a temporary basis as a longshoreman to meet special or emergency needs in accordance with a waterfront commission resolution of September 4, 1996 and who is still so registered by the commission.

5. The commission may include in the longshoremen's register, under such terms and conditions as the commission may prescribe, persons issued registration on a temporary basis as a longshoreman or a checker to meet special or emergency needs and who are still so registered by the commission upon the effective date of P.L.1999, c.206.

2. If any part or provision of this act or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this act or the application thereof to other persons or circumstances and the two states hereby declare that they would have entered into this act or the remainder thereof had the invalidity of such provisions or application thereof been apparent.

3. This act constitutes an agreement between the states of New Jersey and New York, supplementary to the waterfront commission compact and amendatory thereof, and shall be liberally construed to effectuate the purposes of that compact and the powers vested in the waterfront commission hereby shall be construed to be in aid of and supplemental to and not in limitation of or in derogation of any of the powers heretofore conferred upon or delegated to the waterfront commission.

4. This act shall take effect immediately but shall remain inoperative until the enactment into law by the State of New York of legislation of

substantially similar substance and effect; but if such legislation already has been enacted, this act shall take effect immediately.

Approved September 15, 1999.

CHAPTER 207

AN ACT appropriating $20,000,000 from the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70, to fund certain demonstration projects for the decontamination of dredged materials.

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

1. a. There is appropriated to the Office of Maritime Resources in the New Jersey Commerce and Economic Growth Commission from the "1996 Dredging and Containment Facility Fund," established pursuant to section 18 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70, the sum of up to $20,000,000, in amounts as shall be determined by the Office of Maritime Resources in conjunction with the Department of the Treasury, to fund demonstration projects, pursuant to the Decontamination Demonstration Technologies Request for Proposals issued by the Department of the Treasury and the Office of Maritime Resources, for the decontamination of dredged materials from the port region that would produce a marketable product at a cost of no more than $35 per cubic yard. The demonstration projects may use sediment washing, georemediation or thermal destruction to decontaminate the dredged materials. This sum is appropriated in accordance with the provisions of section 5 of P.L.1996, c.70. Contracts for the performance of the demonstration projects may be entered into with respondents to the Decontamination Demonstration Technologies Request for Proposals, issued on March 4, 1998, by the Department of the Treasury and the Office of Maritime Resources.

b. Not less than 45 days prior to entering into any contract, lease, obligation, or agreement concerning the expenditure of any monies appropriated pursuant to subsection a. of this section, the Director of the Office of Maritime Resources shall submit to the Joint Budget Oversight Committee a detailed spending plan for the use of the funds appropriated

pursuant to subsection a. of this section. The spending plan shall include a description of the uses of the money, and shall enumerate any amounts to be spent for dredging, transportation, testing, decontamination, and deposition of the dredged materials. The plan shall also provide all available information concerning other sources that will be used to fund decontamination demonstration projects.

c. Pursuant to the provisions of section 34 of P.L.1996, c.70, the Commissioner of Environmental Protection, after consultation with the Director of the Office of Maritime Resources, shall, not less than 30 days prior to the entering into of any contract, lease, obligation, or agreement concerning the expenditure of any monies appropriated pursuant to subsection a. of this section, report to and consult with the Joint Budget Oversight Committee.

2. Any amount of the monies appropriated pursuant to section 1 of this act which is not expended for the projects set forth therein shall be returned for deposit into the "1996 Dredging and Containment Facility Fund."

3. The expenditure of funds appropriated by this act is subject to the provisions and conditions of P.L.1996, c.70.

4. This act shall take effect immediately.

Approved September 15, 1999.

CHAPTER 208

AN ACT concerning certain Tax Court procedures, amending various sections of the statutory law, and supplementing Title 54 of the Revised Statutes.

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

1. R.S.54:1-35 is amended to read as follows:

Preparation of abstract of total ratables.

54:1-35. The Director of the Division of Taxation shall prepare an abstract of the total ratables of the State, as returned by the county boards of taxation and corrected or confirmed by him in accordance with the State equalization table, and transmit a certified copy thereof to the Tax Court, the

county boards of taxation and the State Comptroller, who shall apportion the State school tax, State tax or State moneys, as provided by law, upon the ratables as shown in such abstract, which shall take the place for all such purposes of the annual abstracts heretofore filed by county boards of taxation in the office of the comptroller under the provisions of section 54:4-52 of this Title.

2. R.S.54:3-21 is amended to read as follows:

Appeal by taxpayer or taxing district; petition; complaint.

54:3-21. A taxpayer feeling aggrieved by the assessed valuation of the taxpayer's property, or feeling discriminated against by the assessed valuation of other property in the county, or a taxing district which may feel discriminated against by the assessed valuation of property in the taxing district, or by the assessed valuation of property in another taxing district in the county, may on or before April 1, or 45 days from the date the bulk mailing of notification of assessment is completed in the taxing district, whichever is later, appeal to the county board of taxation by filing with it a petition of appeal; provided, however, that any such taxpayer or taxing district may on or before April 1, or 45 days from the date the bulk mailing of notification of assessment is completed in the taxing district, whichever is later, file a complaint directly with the Tax Court, if the assessed valuation of the property subject to the appeal exceeds $750,000.00. Within ten days of the completion of the bulk mailing of notification of assessment, the assessor of the taxing district shall file with the county board of taxation a certification setting forth the date on which the bulk mailing was completed. If a county board of taxation completes the bulk mailing of notification of assessment, the tax administrator of the county board of taxation shall within ten days of the completion of the bulk mailing prepare and keep on file a certification setting forth the date on which the bulk mailing was completed. A taxpayer shall have 45 days to file an appeal upon the issuance of a notification of a change in assessment. An appeal to the Tax Court by one party in a case in which the Tax Court has jurisdiction shall establish jurisdiction over the entire matter in the Tax Court. All appeals to the Tax Court hereunder shall be in accordance with the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

If a petition of appeal or a complaint is filed on April 1 or during the 19 days next preceding April 1, a taxpayer or a taxing district shall have 20 days from the date of service of the petition or complaint to file a cross-petition of appeal with a county board of taxation or a counterclaim with the Tax Court, as appropriate.

3. R.S.54:3-26 is amended to read as follows:

Hearing, determination of appeals.

54:3-26. The county board of taxation shall hear and determine all such appeals within three months after the last day for filing such appeals, and shall keep a record of its judgments thereon in permanent form, and shall transmit a written memorandum of its judgments to the assessor of the taxing district and to the taxpayer, setting forth the reasons on which such judgment was based, and in all cases where the amount of tax to be paid shall be changed as the result of an appeal, to the collector of the taxing district. The Director of the Division of Taxation shall prescribe such procedures and forms for the setting forth of such written memorandums of judgments as may be necessary.

Whenever any review is sought of the determination of the county board of taxation, the complaint shall contain a copy of the memorandum of judgment of the county board.

Where no request for review is taken to the Tax Court to review the action or determination of the county board involving real property the judgment of the county board shall be conclusive and binding upon the municipal assessor and the taxing district for the assessment year, and for the two assessment years succeeding the assessment year, covered by the judgment, except as to changes in value of the property occurring after the assessment date. The conclusive and binding effect of such judgment shall terminate with the tax year immediately preceding the year in which a program for a complete revaluation or complete reassessment of all real property within the district has been put into effect. If as of October 1 of the pretax year, the property in question has been the subject of an addition qualifying as an added assessment, a condominium or cooperative conversion, a subdivision or a zoning change, the conclusive and binding effect of such judgment shall terminate with said pretax year.

If the assessor increases the assessment or fails to reflect on the tax duplicate a county board of taxation or Tax Court judgment issued prior to the final preparation of the tax duplicate in either of the two years following the year for which the judgment of the county board was rendered, and if said judgment is a final judgment not further appealed, the burden of proof shall be on the taxing district to establish that the assessor acted reasonably in increasing the assessment. If the county board finds that the assessor did not act reasonably in increasing the assessment or failed to reflect said judgment on the tax duplicate, the county board shall award to the taxpayer reasonable counsel fees, appraisal costs and other costs which shall be paid by the taxing district.

4. Section 1 of P.L.1976, c.114 (C.54:3-26.1) is amended to read as follows:

C.54:3-26.1 Extension of time for hearing appeal.

1. In the event a county board of taxation cannot hear and determine any one or more appeals within the time prescribed in R.S.54:3-26, it may at any time apply to the Director of the Division of Taxation for extension of the time within which the appeal or appeals may be heard and determined. The application shall be granted upon a showing by the board that the number of appeals before it is disproportionate to the number of members hearing said appeals or that the number of appeals has increased sufficiently to warrant an extension of time or for other good cause shown. If the application is granted, the Director of the Division of Taxation shall indicate the amount of tax, if any, a taxpayer shall pay during the period of such extension.

5. R.S.54:3-27 is amended to read as follows:

Payment of taxes pending appeal.

54:3-27. A taxpayer who shall file an appeal from an assessment against him shall pay to the collector of the taxing district no less than the total of all taxes and municipal charges due, up to and including the first quarter of the taxes and municipal charges assessed against him for the current tax year in the manner prescribed in R.S.54:4-66.

A taxpayer who shall file an appeal from an added or omitted assessment shall, in order to maintain an action contesting the added or omitted assessment, pay to the collector of the taxing district all unpaid prior years' taxes and all of the taxes for the current year as said taxes become due and payable, exclusive of the taxes imposed under the added or omitted assessment.

If an appeal involves Class 3B (Farm Qualified) or Classes 15A, B, C, D, E and F (Exempt Property as defined in R.S.54:4-52) and the subject of the appeal is statutory qualification, the taxpayer shall not be required to meet the payment requirements specified herein.

The collector shall accept such amount, when tendered, give a receipt therefor and credit the taxpayer therewith, and the taxpayer shall have the benefit of the same rate of discount on the amount paid as he would have on the whole amount.

Notwithstanding the foregoing, the county board of taxation may relax the tax payment requirement and fix such terms for payment of the tax as the interests of justice may require. If the county board of taxation refuses to relax the tax payment requirement and that decision is appealed, the Tax

Court may hear all issues without remand to the county board of taxation as the interests of justice may require.

The payment of part or all of the taxes upon any property, due for the year for which an appeal from an assessment upon such property has been or shall hereafter be taken, or of taxes for subsequent years, shall in nowise prejudice the status of the appeal or the rights of the appellant to prosecute such appeal, before the county board of taxation, the Tax Court, or in any court to which the judgment arising out of such appeal shall be taken, except as may be provided for in R.S.54:51A-1.

6. Section 5 of P.L.1971, c.370 (C.54:4-3.3e) is amended to read as follows:

C.54:4-3.3e Jurisdiction over dispute.

5. In the event of any dispute between the owner and the State or State agency, or such authority, as the case may be, in respect to the apportionment and payment of the said taxes or proportion thereof, the Tax Court shall have jurisdiction to determine the matter in a summary manner on the application of either the owner or of the State, State agency, or authority, as the case may be, and make any order as may be required and appropriate to carry out the court's determination.

7. Section 11 of P.L.1941, c.397 (C.54:4-63.11) is amended to read as follows:

C.54:4-63.11 Appeals from added assessments.

11. Appeals from added assessments may be made to the county board of taxation on or before December 1 of the year of levy, or 30 days from the date the collector of the taxing district completes the bulk mailing of tax bills for added assessments, whichever is later, and the county board of taxation shall hear and determine all such appeals within one month after the last day for filing such appeals; provided, however, that appeals from added assessments may be made directly to the Tax Court on or before December 1 of the year of levy, or 30 days from the date the collector of the taxing district completes the bulk mailing of tax bills for added assessments, whichever is later, if the aggregate assessed valuation of the property exceeds $750,000.00. Within ten days of the completion of the bulk mailing of tax bills for added assessments, the collector of the taxing district shall file with the county board of taxation a certification setting forth the date on which the bulk mailing was completed. Appeals to the Tax Court from the judgment of the county board of taxation shall be made within 45 days from the date fixed for final decisions by the county board of taxation

on appeals from added assessments. In all other respects such appeals shall be governed by the laws concerning appeals from real property assessments.

C.54:4-63.11a Extension for hearing of appeal for added assessments.

8. In the event a county board of taxation cannot hear and determine any one or more appeals from assessor's added assessments within the time prescribed in section 11 of P.L.1941, c.397 (C.54:4-63.11), it may at any time apply to the Director of the Division of Taxation for an extension of the time within which the appeal or appeals may be heard and determined. The application shall be granted upon a showing by the board that the number of appeals before it is disproportionate to the number of members hearing said appeals or that the number of appeals has increased sufficiently to warrant an extension of time or for other good cause shown.

9. Section 9 of P.L.1968, c.184 (C.54:4-63.39) is amended to read as follows:

C.54:4-63.39 Appeals to county board of taxation from omitted assessments.

9. Appeals from assessor's omitted assessments may be made to the county board of taxation on or before December 1 of the year of levy or 30 days from the date the collector of the taxing district completes the bulk mailing of tax bills for omitted assessments, whichever is later, and the county board shall hear and determine all such appeals within one month after the last day for filing such appeals, provided, however, that appeals from assessor's omitted assessments may be made directly to the Tax Court on or before December 1 of the year of levy, or 30 days from the date the collector of the taxing district completes the bulk mailing of tax bills for omitted assessments, whichever is later, if the aggregate assessed valuation of the property exceeds $750,000.00. Within ten days of completion of the bulk mailing of tax bills for omitted assessments, the collector of the taxing district shall file with the county board of taxation a certification setting forth the date on which the bulk mailing was completed. Appeals to the Tax Court from the judgment of the county board of taxation shall be made within 45 days from the date fixed for final decisions by the county board of taxation on appeals from assessor's omitted assessments. In all other respects such appeals shall be governed by the laws concerning appeals from real and personal property assessments.

C.54:4-63.39a Extension for hearing of appeal for omitted assessments.

10. In the event a county board of taxation cannot hear and determine any one or more appeals from assessor's omitted assessments within the time prescribed in section 9 of P.L.1968, c.184 (C.54:4-63.39), it may at any time apply to the Director of the Division of Taxation for an extension of the

time within which the appeal or appeals may be heard and determined. The application shall be granted upon a showing by the board that the number of appeals before it is disproportionate to the number of members hearing said appeals or that the number of appeals has increased sufficiently to warrant an extension of time or for other good cause shown.

11. Section 1 of P.L.1944, c.220 (C.54:38A-1) is amended to read as follows:

C.54:38A-1 Reasonable doubt as to domicile of decedent; settlement.

1. Where the Director of the Division of Taxation claims that a decedent was domiciled in this state at the time of death and the taxing authorities of another state or states make a similar claim with respect to their state or states, and investigation discloses a reasonable doubt regarding domicile, the director may, in his discretion, enter into a written agreement with such taxing authorities and the executor, administrator or trustee, fixing the sum acceptable to this State in full settlement of the transfer inheritance tax imposable under chapters 33 to 36, inclusive, of Title 54 of the Revised Statutes; provided, that said agreement also fixes the sum acceptable to such other state or states in full settlement of the death taxes imposable by such state or states; and provided further, that said agreement has the approval of a judge of the Tax Court of New Jersey. If the aggregate amount payable under such agreement to the states involved is less than the maximum sum allowable as a credit to the estate against the federal estate tax imposed thereon, then the executor, administrator or trustee shall also pay to the director so much of the difference between such aggregate amount and the amount of such credit as the amount payable to the director under the agreement bears to such aggregate amount, and the agreement aforesaid shall so provide. Payment of the sum or sums fixed by said agreement shall be accepted by the director in full satisfaction of this State's claim for transfer inheritance and estate taxes which would otherwise be chargeable under subtitle five of Title 54 of the Revised Statutes, and the executor, administrator or trustee is hereby empowered to enter into the agreement provided for herein.

12. R.S.54:48-1 is amended to read as follows:

Short title.

54:48-1. This subtitle may be cited as the State Uniform Tax Procedure Law.

13. R.S.54:51A-1 is amended to read as follows:

Review of judgment, action or determination of county board of taxation.

54:51A-1. Review of judgment, action or determination of county board of taxation. a. Any party who is dissatisfied with the judgment, action or determination of the county board of taxation may seek review of that judgment, action or determination in the Tax Court by filing a complaint in the Tax Court, pursuant to rules of court.

b. At the time that a complaint has been filed with the Tax Court seeking review of judgment of county tax boards, all taxes or any installments thereof then due and payable for the year for which review is sought must have been paid. Notwithstanding the foregoing, the Tax Court may relax the tax payment requirement and fix such terms of payments as the interests of justice may require.

c. If the Tax Court shall determine that the appeal to the county board of taxation has been (1) withdrawn at the hearing, or previously thereto in writing by the appellant or his agent; (2) dismissed because of appellant's failure to prosecute the appeal at a hearing called by the county tax board; (3) settled by mutual consent of the taxpayer and assessor of the taxing district, there shall be no review. This provision shall not preclude a review by the Tax Court in the event that the appeal was "dismissed without prejudice" by the county board of taxation.

14. R.S.54:51A-2 is amended to read as follows:

Direct appeal to tax court in certain cases.

54:51A-2. Direct appeal to tax court in certain cases. Where any taxpayer or taxing district shall file a direct appeal to the Tax Court pursuant to R.S.54:3-21, a copy of the complaint shall also be filed with the assessor and the clerk of the taxing district, who shall forthwith notify the collector and all other municipal officials as the governing body shall direct of the content thereof.

15. R.S.54:51A-3 is amended to read as follows:

Exemption of Class 3B (Farm Qualified) and Class 15D, E and F (Exempt Property) from provisions of subsection b. of R.S.54:51A-1.

54:51A-3. Exemption of Class 3B (Farm Qualified) and Class 15D, E and F (Exempt Property) from provisions of subsection b. of R.S.54:51A-1. Class 3B (Farm Qualified) and Classes 15A, B, C, D, E and F (Exempt Property as defined in R.S.54:4-52) in appeal where a statutory qualification is the subject of the appeal are exempt from those provisions contained in subsection b. of R.S.54:51A-1.

16. R.S.54:51A-8 is amended to read as follows:

Conclusiveness of judgment; changes in value; effect of revaluation program.

54:51A-8. Conclusiveness of judgment; changes in value; effect of revaluation program. Where a judgment not subject to further appeal has been rendered by the Tax Court involving real property, the judgment shall be conclusive and binding upon the municipal assessor and the taxing district, parties to the proceeding, for the assessment year and for the two assessment years succeeding the assessment year covered by the final judgment, except as to changes in the value of the property occurring after the assessment date. The conclusive and binding effect of the judgment shall terminate with the tax year immediately preceding the year in which a program for a complete revaluation or complete reassessment of all real property within the district has been put into effect. If as of October 1 of the pretax year, the property in question has been the subject of an addition qualifying as an added assessment, a condominium or cooperative conversion, a subdivision or a zoning change, the conclusive and binding effect of such judgment shall terminate with said pretax year.

If the assessor increases the assessment or fails to reflect on the tax duplicate a county board of taxation or Tax Court judgment issued prior to the final preparation of the tax duplicate in either of the two years following the year for which the judgment of the Tax Court was rendered and if said judgment is a final judgment not subject to further appeal, the burden of proof is on the taxing district to establish that the assessor acted reasonably in increasing the assessment. If the Tax Court finds that the assessor did not act reasonably in increasing the assessment or failed to reflect said judgment on the tax duplicate, the Tax Court shall award to the taxpayer reasonable counsel fees, appraisal costs and other costs which shall be paid by the taxing district.

17. R.S.54:51A-9 is amended to read as follows:

Time for taking real property tax cases to Tax Court.

54:51A-9. Time for taking real property tax cases to tax court.

a. Except as otherwise provided in this section, a complaint seeking review of adjudication or judgment of the county board of taxation shall be filed within 45 days of the service of the judgment.

b. Direct appeals to the Tax Court of assessments of property with an assessed valuation in excess of $750,000.00 as provided in R.S.54:3-21 shall be filed on or before April 1 of the tax year or 45 days from the date the bulk mailing of notifications of assessment is completed for the taxing district, whichever is later, or with regard to added or omitted assessments, on or before December 1 of the year of levy, or 30 days from the date the

collector of the taxing district completes the bulk mailing of tax bills for added assessment or omitted assessments, whichever is later.

c. All real property tax cases not provided for herein shall be taken in the manner and time prescribed for such appeals by the rules of the Tax Court.

18. The Director of the Division of Taxation is authorized to promulgate any rules or regulations necessary to implement the provisions of P.L.1999, c.208.

Repealer.

19. Sections 1 and 2 of P.L.1973, c.69 (C.54:3-21.4 and C.54:3-21.5) are repealed.

20. This act shall take effect immediately provided however, that the provisions of sections 2, 3, 4, 5, 7, 8, 9, 10, 13, 16 and 17 shall apply to tax assessments for years commencing on and after January 1 of the year next following the year of enactment

Approved September 17, 1999.

CHAPTER 209

AN ACT concerning the death penalty 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:

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, carjacking 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. (1) 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 be sentenced 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.

(2) If the victim was a law enforcement officer and was murdered while performing his official duties or was murdered because of his status as a law enforcement officer, the person convicted of that murder shall be sentenced, except as otherwise provided in subsection c. of this section, by the court to a term of life imprisonment, during which the person shall not be eligible for parole.

(3) A person convicted of murder and who is not sentenced to death under this section shall be sentenced to a term of life imprisonment without eligibility for parole if the murder was committed under all of the following circumstances:

(a) The victim is less than 14 years old; and

(b) The act is committed in the course of the commission, whether alone or with one or more persons, of a violation of N.J.S.2C:14-2 or N.J.S.2C:14-3.

The defendant shall not be entitled to a deduction of commutation and work credits from that sentence.

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 or the crime of contempt in violation of N.J.S.2C:29-9b.;

(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 September 17, 1999.

CHAPTER 210

AN ACT concerning the assignment of long term tax abatements and amending P.L.1991, c.431.

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

1. Section 10 of P.L.1991, c.431 (C.40A:20-10) is amended to read as follows:

C.40A:20-10 Provisions for transfer or sale.

10. The financial agreement may provide:

a. That the municipality will consent to a sale of the project by the urban renewal entity to another urban renewal entity organized under this act, their successors, assigns, all owning no other project at the time of the transfer and that, upon assumption by the transferee urban renewal entity of the transferor's obligations under the financial agreement, the tax exemption of the improvement shall continue and inure to the transferee urban renewal entity, its respective successors or assigns.

b. That the municipality will consent to a sale of the project to purchasers of units in the condominium if the project or any portion thereof has been devoted to condominium ownership, and to their successors, assigns, all owning (in the case of housing) no other condominium unit of a project at the time of the transfer, and that, upon assumption by the condominium unit purchaser of the transferor's obligations under the financial agreement, the tax exemption of the improvement shall continue and inure to the unit purchaser, his respective successors or assigns.

c. That the municipality will consent to a sale of the project to purchasers of units in fee simple, if the project or any portion thereof has been devoted to fee simple ownership, and to their successors, assigns, all owning (in the case of housing) no other fee simple unit of a project at the time of the transfer, and that, upon assumption by the fee simple unit purchaser of the transferor's obligations under the financial agreement, the tax exemption of the improvement shall continue and inure to the fee simple unit purchaser, his respective successors or assigns. The provisions of this subsection shall not be construed to authorize the sale of a project between an urban renewal entity and a for-profit developer.

2. This act shall take effect immediately.

Approved September 17, 1999.

CHAPTER 211

AN ACT concerning life insurance viatical settlements.

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

C.17B:30A-1 Definitions relative to life insurance viatical settlements.

1. As used in this act:

"Commissioner" means the Commissioner of Banking and Insurance.

"Financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a viatical settlement provider, credit enhancer, or any person who may be a party to a viatical settlement contract and who has a direct ownership in a policy or certificate that is the subject of a viatical settlement contract but whose sole activity related to the transaction is providing funds to effect the viatical settlement and who has an agreement in writing with a licensed viatical settlement provider to act as a participant in a financing transaction.

"Financing transaction" means a transaction in which a licensed viatical settlement provider or a financing entity obtains financing for viatical settlement contracts, viaticated policies or interests therein including, without limitation, any secured or unsecured financing, any securitization transaction or any securities offering either registered or exempt from registration under federal and State securities law, or any direct purchase of interests in a policy or certificate, if the financing transaction complies with federal and State securities law.

"Viatical settlement broker" means a person who on behalf of a viator and for a fee, commission or other valuable consideration, offers or attempts to negotiate viatical settlements between a viator and one or more viatical settlement providers. Irrespective of the manner in which the viatical settlement broker is compensated, a viatical settlement broker is deemed to represent only the viator and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interest of the viator. The term does not include an attorney, accountant or financial planner retained to represent the viator whose compensation is paid directly by or at the direction of the viator.

"Viatical settlement contract" means a written agreement entered into between a viatical settlement provider and a viator. The agreement shall establish the terms under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the viator's assignment, transfer, sale, devise or bequest of the death benefit or ownership of all or a portion of the insurance policy or certificate of insurance to the viatical settlement provider. A viatical settlement contract also includes a contract for a loan or other financial transaction secured primarily by an individual or group life insurance policy,

other than a loan by a life insurance company pursuant to the terms of the life insurance contract, or a loan secured by the cash value of a policy.

"Viatical settlement provider" means a person, other than a viator, who enters into a viatical settlement contract. Viatical settlement provider also means a person who obtains financing from a financing entity for the purchase, acquisition, transfer or other assignment of one or more viatical settlement contracts, viaticated policies or interests therein, or otherwise sells, assigns, transfers, pledges, hypothecates or otherwise disposes of one or more viatical settlement contracts, viaticated policies or interests therein. Viatical settlement provider does not include:

(1) A bank, savings bank, savings and loan association, credit union or other licensed lending institution that takes an assignment of a life insurance policy as collateral for a loan;

(2) The issuer of a life insurance policy providing accelerated benefits pursuant to N.J.A.C.11:4-30.1 et seq. and pursuant to the policy; or

(3) A natural person who enters into no more than one agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit.

"Viatical settlement representative" means a person who is an authorized agent of a licensed viatical settlement provider or viatical settlement broker, as applicable, who acts or aids in any manner in the solicitation of a viatical settlement. Viatical settlement representative shall not include:

(1) An attorney, an accountant, a financial planner or any person exercising a power of attorney granted by a viator; or

(2) Any person who is retained to represent a viator and whose compensation is paid by or at the direction of the viator, regardless of whether the viatical settlement is consummated.

A viatical settlement representative shall represent only the viatical settlement provider or viatical settlement broker.

"Viaticated policy" means a life insurance policy or certificate that has been acquired by a viatical settlement provider pursuant to a viatical settlement contract.

"Viator" means the owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual, who has a catastrophic, life-threatening or chronic illness or condition and who enters or seeks to enter into a viatical settlement contract.

C.17B:30A-2 Licensing required.

2. a. A person shall not operate as a viatical settlement provider, viatical settlement representative or viatical settlement broker without first having obtained a license from the commissioner.

b. Application for a viatical settlement provider, viatical settlement representative or viatical settlement broker license shall be made to the commissioner by the applicant on a form prescribed by the commissioner, and the application shall be accompanied by a fee, the amount of which shall be set by the commissioner by regulation.

c. Licenses may be renewed from year to year on the anniversary date upon payment of the annual renewal fee in an amount set by the commissioner by regulation. Failure to pay the fee by the renewal date shall result in expiration of the license.

d. The applicant shall provide information on forms required by the commissioner. The commissioner shall have authority, at any time, to require the applicant to fully disclose the identity of all stockholders, partners, officers, members and employees, and the commissioner may refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner or member thereof who may materially influence the applicant's conduct meets the standards of this act.

e. A license issued to a legal entity authorizes all members, officers and designated employees to act as viatical settlement providers, viatical settlement brokers or viatical settlement representatives, as applicable, under the license, and all those persons shall be named in the application and any supplements to the application.

f. Upon the filing of an application and the payment of the license fee, the commissioner shall make an investigation of each applicant and issue a license if the commissioner finds that the applicant:

(1) Has provided a detailed plan of operation;

(2) Is competent and trustworthy and intends to act in good faith in the capacity of the license applied for;

(3) Has a good business reputation and has had experience, training or education so as to be qualified in the business for which the license is applied for; and

(4) If a legal entity, provides a certificate of good standing from the state of its domicile.

g. The commissioner shall not issue a license to a nonresident applicant unless a written designation of an agent for service of process is filed and maintained with the commissioner, or the applicant has filed with the commissioner the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the commissioner.

h. A viatical settlement provider, viatical settlement representative or viatical settlement broker transacting business in this State prior to the effective date of this act may continue to do so pending approval or disapproval of the provider, representative or broker's application for a

license as long as the application is filed with the commissioner on or before the 180th day after the effective date of this act.

C.17B:30A-3 Suspension, revocation, refusal to renew license.

3. a. The commissioner may suspend, revoke or refuse to renew the license of a viatical settlement provider, viatical settlement representative or viatical settlement broker if the commissioner finds that:

(1) There was any material misrepresentation in the application for the license;

(2) The licensee or any officer, partner, member or key management personnel has been convicted of fraudulent or dishonest practices, is subject to a final administrative action or is otherwise shown to be untrustworthy or incompetent;

(3) The viatical settlement provider demonstrates a pattern of unreasonable payments to viators;

(4) The licensee has been found guilty of, or has pleaded guilty or nolo contendere to, any felony, or to a misdemeanor involving fraud or moral turpitude, regardless of whether a judgment of conviction has been entered by the court;

(5) The viatical settlement provider has entered into any viatical settlement contract that has not been approved pursuant to this act;

(6) The viatical settlement provider has failed to honor contractual obligations set out in a viatical settlement contract;

(7) The licensee no longer meets the requirements for initial licensure;

(8) The viatical settlement provider has assigned, transferred or pledged a viaticated policy to a person other than a viatical settlement provider licensed in this State or a financing entity; or

(9) The licensee has violated any provision of this act.

b. Before the commissioner shall deny a license application or suspend, revoke or refuse to renew the license of a viatical settlement provider, viatical settlement broker or viatical settlement representative, the commissioner shall conduct a hearing.

C.17B:30A-4 Approval of contracts, disclosure statements by commissioner required.

4. A person shall not use a viatical settlement contract or provide to a viator a disclosure statement form in this State unless filed with and approved by the commissioner. The commissioner shall disapprove a viatical settlement contract or disclosure statement form if, in the commissioner's opinion, the contract or provisions contained therein are unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the viator.

C.17B:30A-5 Annual statement.

5. a. Each licensee shall file with the commissioner on or before March 1 of each year an annual statement containing that information which the commissioner by regulation may prescribe.

b. Except as otherwise allowed or required by law, a viatical settlement provider, viatical settlement representative, viatical settlement broker, insurance company, insurance agent, insurance broker, information bureau, rating agency or company, or any other person with actual knowledge of a viator's identity, shall not disclose that identity as a viator to any other person unless the disclosure:

(1) Is necessary to effect a viatical settlement between the viator and a viatical settlement provider and the viator has provided prior written consent to the disclosure;

(2) Is provided in response to an investigation by the commissioner or any other governmental officer or agency; or

(3) Is a term of or condition to the transfer of a viaticated policy by one viatical settlement provider to another viatical settlement provider.

C.17B:30A-6 Examination of business, affairs of licensee, applicant.

6. a. The commissioner may, when he determines it reasonably necessary to protect the interests of the public, examine the business and affairs of any licensee or applicant for a license under this act. The commissioner shall have the authority to order any licensee or applicant to produce any records, books, files or other information reasonably necessary to ascertain whether or not the licensee or applicant is acting, or has acted in violation of the law or otherwise contrary to the interests of the public. The expenses incurred in conducting any examination shall be paid by the licensee or applicant.

b. Names and individual identification data for all viators shall be considered private and confidential information and shall not be disclosed by the commissioner, unless required by law.

c. Records of all transactions of viatical settlement contracts shall be maintained by the viatical settlement provider and shall be available to the commissioner for inspection during reasonable business hours. A viatical settlement provider shall maintain records of each viatical settlement for five years after the death of the insured.

C.17B:30A-7 Disclosure of information to viator.

7. a. A viatical settlement provider, viatical settlement representative or viatical settlement broker shall disclose the following information to the viator no later than the time of application:

(1) Possible alternatives to viatical settlement contracts for individuals with catastrophic, life threatening or chronic illnesses or conditions, including any accelerated death benefits offered under the viator's life insurance policy;

(2) Some or all of the proceeds of the viatical settlement may be free from federal income tax and from State franchise and income taxes, and that assistance should be sought from a professional tax advisor;

(3) Proceeds of the viatical settlement could be subject to the claims of creditors;

(4) Receipt of the proceeds of a viatical settlement may adversely affect the viator's eligibility for Medicaid or other government benefits or entitlements, and that advice should be obtained from the appropriate government agencies;

(5) The viator's right to rescind a viatical settlement contract 15 calendar days after the receipt of the viatical settlement proceeds by the viator, as provided in subsection c. of section 8 of this act;

(6) Funds will be sent to the viator within two business days after the viatical settlement provider has received the insurer or group administrator's acknowledgment that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated pursuant to the viatical settlement contract; and

(7) Entering into a viatical settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy or certificate, to be forfeited by the viator and that assistance should be sought from a financial adviser.

b. A viatical settlement provider shall disclose the following information to the viator prior to the date the viatical settlement contract is signed by all parties:

(1) The affiliation, if any, between the viatical settlement provider and the issuer of an insurance policy to be viaticated;

(2) If an insurance policy to be viaticated has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be viaticated, the viator shall be informed of the possible loss of coverage on the other lives and be advised to consult with his insurance producer or the company issuing the policy for advice on the proposed viatication; and

(3) The dollar amount of the current death benefit payable to the viatical settlement provider under the policy or certificate. The viatical settlement provider shall also disclose the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate and the viatical settlement provider's interest in those benefits.

C.17B:30A-8 Requirements for viatical settlement contract.

8. a. A viatical settlement provider entering into a viatical settlement contract shall first obtain:

(1) If the viator is the insured, a written statement from a licensed attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a viatical settlement contract;

(2) A witnessed document in which the viator consents to the viatical settlement contract, acknowledges that the insured has a catastrophic, life threatening or chronic illness or condition, represents that the viator has a full and complete understanding of the viatical settlement contract, that he has a full and complete understanding of the benefits of the life insurance policy and acknowledges that he has entered into the viatical settlement contract freely and voluntarily; and

(3) A document in which the insured consents to the release of his medical records to a viatical settlement provider or viatical settlement broker.

b. All medical information solicited or obtained by any licensee shall be confidential.

c. All viatical settlement contracts entered into in this State shall provide the viator with an unconditional right to rescind the contract for at least 15 calendar days from the receipt of the viatical settlement proceeds. If the insured dies during the rescission period, the viatical settlement contract shall be deemed to have been rescinded, subject to repayment to the viatical settlement provider of all viatical settlement proceeds.

d. Immediately upon the viatical settlement provider's receipt of documents to effect the transfer of the insurance policy, the viatical settlement provider shall pay the proceeds of the viatical settlement to an escrow or trust account in a state or federally chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC). The account shall be managed by a trustee or escrow agent independent of the parties to the contract. The trustee or escrow agent shall transfer the proceeds to the viator immediately upon the viatical settlement provider's receipt of acknowledgment of the transfer of the insurance policy or interest therein.

e. Failure to tender consideration to the viator for the viatical settlement contract within the time disclosed pursuant to paragraph (6) of subsection a. of section 7 of this act renders the viatical settlement contract voidable by the viator for lack of consideration until consideration is tendered to and accepted by the viator.

f. Contacts with the insured for the purpose of determining the health status of the insured after the viatical settlement has occurred shall only be made by the viatical settlement provider or broker licensed in this State and shall be limited to once every three months for insureds with a life expectancy of more than one year, and to no more than one per month for insureds with a life expectancy of one year or less. The viatical settlement provider or broker shall explain the procedure for these contacts at the time the viatical settlement contract is entered into. The limitations set forth in this subsection shall not apply to any contacts with an insured under a viaticated policy for reasons other than determining the insured's health status.

C.17B:30A-9 Authority of commissioner.

9. The commissioner shall have the authority to:

a. Promulgate regulations implementing the provisions of this act;

b. Establish standards for evaluating reasonableness of payments under viatical settlement contracts. This authority includes, but is not limited to, regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise or bequest of a benefit under a life insurance policy or interest therein;

c. Establish appropriate licensing requirements, fees and standards for continued licensure for viatical settlement providers, representatives and brokers;

d. Require a bond or other mechanism for financial accountability for viatical settlement providers; and

e. Adopt rules governing the relationship and responsibilities of both insurers and viatical settlement providers, brokers and representatives during the viatication of a life insurance policy or certificate.

C.17B:30A-10 Violations, penalties.

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

11. Section 9 of this act shall take effect immediately and the remainder shall take effect on the 180th day after enactment.

Approved September 17, 1999.

CHAPTER 212

AN ACT appropriating the unappropriated balance of the moneys available in the "Natural Resources Fund" for grants to local governments for planning, designing, acquiring and constructing sewage treatment facilities, and amounts heretofore appropriated to the Department of Environmental Protection for sewerage treatment facilities, and authorizing the utilization of a portion of the unexpended balances from a prior appropriation to the department for grants made pursuant to the aforementioned act, for a grant to a local government for a clean water project.

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

1. There is appropriated to the Department of Environmental Protection from the "Natural Resources Fund" created pursuant to section 14 of the "Natural Resources Bond Act of 1980," P.L.1980, c.70 the sum of $2,400,000, which constitutes the unappropriated balance of the moneys available in the "Natural Resources Fund" for grants to local governments for planning, designing, acquiring and constructing sewage treatment facilities as provided in subsection b. of section 4 of P.L.1980, c.70, for the purpose of providing a grant to the following local government for a clean water project, as follows:

Federal I.D. No.	Local Government	County
340488-03	Hopatcong Borough	Sussex

2. There is appropriated to the Department of Environmental Protection from the "Natural Resources Fund" created pursuant to section 14 of the "Natural Resources Bond Act of 1980," P.L.1980, c.70 the sum of $2,600,000, which constitutes a portion of the unexpended balances of amounts heretofore appropriated to the department pursuant to section 1 of P.L.1981, c.386 and P.L.1985, c.456 for the purpose of providing grants to local governments for planning, designing, acquiring and constructing sewage treatment facilities, for the purpose of providing a grant to the following local government for a clean water project, as follows:

Federal I.D. No.	Local Government	County
340488-03	Hopatcong Borough	Sussex

3. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1980, c.70 and any regulations adopted by the department pursuant thereto.

4. This act shall take effect immediately.

Approved September 17, 1999.

CHAPTER 213

AN ACT concerning legal representation in certain proceedings under Title 30 of the Revised Statutes and amending P.L.1999, c.53.

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

1. Section 54 of P.L.1999, c.53 (C.30:4C-15.4) is amended to read as follows:

C.30:4C-15.4 Notice to parent of right to counsel; public defender appointments; law guardian, selection.

54. a. In any action concerning the termination of parental rights filed pursuant to section 15 of P.L.1951, c.138 (C.30:4C-15), the court shall provide the respondent parent with notice of the right to retain and consult with legal counsel. If the parent appears before the court, is indigent and requests counsel, the court shall appoint the Office of the Public Defender to represent the parent. The Office of the Public Defender shall appoint counsel to represent the parent in accordance with subsection c. of this section.

If the parent was previously represented by counsel from the Office of the Public Defender in a child abuse or neglect action filed pursuant to chapter 6 of Title 9 of the Revised Statutes on behalf of the same child, the same counsel, to the extent practicable, shall continue to represent the parent in the termination of parental rights action, unless that counsel seeks to be relieved by the court upon application for substitution of counsel or other just cause.

Nothing in this section shall be construed to preclude the parent from retaining private counsel.

b. A child who is the subject of an application for the termination of parental rights pursuant to section 15 of P.L.1951, c.138 (C.30:4C-15) shall be represented by a law guardian as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21).

If the child was represented by a law guardian in a child abuse and neglect action filed pursuant to chapter 6 of Title 9 of the Revised Statutes, the same law guardian, to the extent practicable, shall continue to represent the child in the termination of parental rights action, unless that law guardian seeks to be relieved by the court upon application for substitution of counsel or other just cause.

c. The Office of the Public Defender is authorized to provide representation to children and indigent parents in termination of parental rights proceedings under Title 30 of the Revised Statutes pursuant to the provisions of this section.

(1) In selecting attorneys to serve as law guardians or counsel for indigent parents, the Office of the Public Defender shall take into consideration the nature, complexity and other characteristics of the cases, the services to be performed, the status of the matters, the attorney's pertinent trial and other legal experience and other relevant factors. The Office of the Public Defender also shall take into consideration an attorney's willingness to make a commitment to represent a child or parent, as applicable, in any

actions taken under Titles 9 and 30 of the Revised Statutes related to child abuse and neglect and termination of parental rights.

(2) The Office of the Public Defender shall ensure that an attorney selected pursuant to this section has received training in representing clients in child abuse and neglect and termination of parental rights actions from the Office of the Public Defender or will receive such equivalent training, as soon as practicable, from other sources.

(3) The Office of the Public Defender shall provide for an internal administrative unit with the responsibility to supervise, evaluate and select non-staff counsel who will represent indigent parents independently from the Law Guardian Program staff in the Office of the Public Defender. All decisions of the Office of the Public Defender concerning the representation of indigent parents in particular cases shall be made by staff who have no actual involvement with the day-to-day legal representation being provided by the Law Guardian Program in the Office of the Public Defender.

Nothing in this paragraph shall be construed to limit the powers of the Public Defender pursuant to section 7 of P.L.1967, c.43 (C.2A:158A-7).

2. Section 34 of P.L.1974, c.119 (C.9:6-8.54) is amended to read as follows:

C.9:6-8.54 Placement of child.

34. a. For the purpose of section 31 of P.L.1974, c.119 (C.9:6-8.51), the court may place the child in the custody of a relative or other suitable person or the division for the placement of a child after a finding that the division has made reasonable efforts to prevent placement or that reasonable efforts to prevent placement were not required in accordance with section 24 of P.L.1999, c.53 (C.30:4C-11.2).

b. (1) Placements under this section may be for an initial period of 12 months and the court, in its discretion, may at the expiration of that period, upon a hearing make successive extensions for additional periods of up to one year each. The court on its own motion may, at the conclusion of any period of placement, hold a hearing concerning the need for continuing the placement.

(2) The court shall conduct a permanency hearing for the child no later than 30 days after placement in cases in which the court has determined that reasonable efforts to reunify the child with the parent or guardian are not required pursuant to section 25 of P.L.1999, c.53 (C.30:4C-11.3), or no later than 12 months after placement in cases in which the court has determined that efforts to reunify the child with the parent or guardian are required. The hearing shall include, but not necessarily be limited to, consideration and evaluation of information provided by the division and other interested

parties regarding such matters as those listed in subsection c. of section 50 of P.L.1999, c.53 (C.30:4C-61.2).

(3) The court shall review the permanency plan for the child periodically, as deemed appropriate by the court, to ensure that the permanency plan is achieved.

c. No placement may be made or continued under this section beyond the child's eighteenth birthday without his consent.

d. If the parent or person legally responsible for the care of any such child or with whom such child resides receives public assistance and care, any portion of which is attributable to such child, a copy of the order of the court providing for the placement of such child from his home shall be furnished to the appropriate county welfare board, which shall reduce the public assistance and care furnished to such parent or other person by the amount attributable to such child.

3. This act shall take effect immediately.

Approved September 17, 1999.

CHAPTER 214

AN ACT concerning financial assistance and grants from the Hazardous Discharge Site Remediation Fund and amending P.L.1993, c.139.

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

1. Section 27 of P.L.1993, c.139 (C.58:10B-5) is amended to read as follows:

C.58:10B-5 Financial assistance from remediation fund.

27. a. (1) Financial assistance from the remediation fund may only be rendered to persons who cannot establish a remediation funding source for the full amount of a remediation. Financial assistance pursuant to this act may be rendered only for that amount of the cost of a remediation for which the person cannot establish a remediation funding source. The limitations on receiving financial assistance established in this paragraph (1) shall not limit the ability of municipal governmental entities, the New Jersey Redevelopment Authority, persons who are not required to establish a remediation funding source for the part of the remediation involving an innovative technology, an unrestricted use remedial action or a limited

restricted use remedial action, persons performing a remediation in an environmental opportunity zone, or persons who voluntarily perform a remediation, from receiving financial assistance from the fund.

(2) Financial assistance rendered to persons who voluntarily perform a remediation or perform a remediation in an environmental opportunity zone may only be made for that amount of the cost of the remediation that the person cannot otherwise fund by any of the authorized methods to establish a remediation funding source.

(3) Financial assistance rendered to persons who do not have to provide a remediation funding source for the part of the remediation that involves an innovative technology, an unrestricted use remedial action, or a limited restricted use remedial action may only be made for that amount of the cost of the remediation that the person cannot otherwise fund by any of the authorized methods to establish a remediation funding source.

b. Financial assistance may be rendered from the remediation fund to (1) owners or operators of industrial establishments who are required to perform remediation activities pursuant to P.L.1983, c.330 (C.13:1K-6 et al.), upon closing operations or prior to the transfer of ownership or operations of an industrial establishment, (2) persons who are liable for the cleanup and removal costs of a hazardous substance pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.), and (3) persons who voluntarily perform a remediation of a discharge of a hazardous substance or hazardous waste.

c. Financial assistance and grants may be made from the remediation fund to a municipal governmental entity or the New Jersey Redevelopment Authority for real property:(1) on which it holds a tax sale certificate; (2) that it has acquired through foreclosure or other similar means; or (3) that it has acquired, or has passed a resolution or ordinance or other appropriate document to acquire, by voluntary conveyance for the purpose of redevelopment. Financial assistance and grants may only be awarded for real property on which there has been a discharge or on which there is a suspected discharge of a hazardous substance or hazardous waste. Financial assistance and grants may not be made to any entity listed in this subsection for any real property used by that entity for the conduct of its official business.

d. Grants may be made from the remediation fund to persons and the New Jersey Redevelopment Authority, who own real property on which there has been a discharge of a hazardous substance or a hazardous waste and that person or the authority qualifies for an innocent party grant pursuant to section 28 of P.L.1993, c.139 (C.58:10B-6).

e. Grants may be made from the remediation fund to qualifying persons who propose to perform a remedial action that uses an innovative technology or that would result in an unrestricted use remedial action or a limited restricted use remedial action.

For the purposes of this section, "person" shall not include any governmental entity.

2. Section 28 of P.L.1993, c.139 (C.58:10B-6) is amended to read as follows:

C.58:10B-6 Financial assistance and grants from the fund; allocations.

28. a. Except for moneys deposited in the remediation fund for specific purposes, financial assistance and grants from the remediation fund shall be rendered for the following purposes and, on an annual basis, obligated in the percentages as provided in this subsection. Upon a written joint determination by the authority and the department that the demand for financial assistance or grants for moneys allocated in any paragraph exceeds the percentage of funds allocated for that paragraph, financial assistance and grants dedicated for the purposes and in the percentages set forth in any other paragraph of this subsection, may, for any particular year, if the demand for financial assistance or grants for moneys allocated in that paragraph is less than the percentage of funds allocated for that paragraph, be obligated to the purposes set forth in the over allocated paragraph. The written determination shall be sent to the Senate Environment Committee, and the Assembly Agriculture and Waste Management Committee, or their successors. For the purposes of this section, "person" shall not include any governmental entity.

(1) At least 15% of the moneys shall be allocated for financial assistance to persons, and the New Jersey Redevelopment Authority established pursuant to P.L.1996, c.62 (C.55:19-20 et al.), for remediation of real property located in a qualifying municipality as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

(2) At least 10% of the moneys shall be allocated for financial assistance and grants to municipal governmental entities and the New Jersey Redevelopment Authority for real property: (1) on which they hold a tax sale certificate; (2) that they have acquired through foreclosure or other similar means; or (3) that they have acquired, or have passed a resolution or ordinance or other appropriate document to acquire, by voluntary conveyance for the purpose of redevelopment. Financial assistance and grants may only be awarded for real property on which there has been or on which there is suspected of being a discharge of a hazardous substance or a hazardous waste. Grants provided pursuant to this paragraph shall be used for performing preliminary assessments, site investigations, and remedial investigations on real property in order to determine the existence or extent of any hazardous substance or hazardous waste contamination on those properties. No grant shall be awarded pursuant to this paragraph for the

purposes of a remedial investigation until the municipal government entity or the New Jersey Redevelopment Authority actually owns the real property. A municipal governmental entity or the New Jersey Redevelopment Authority that has performed, or on which there has been performed, a preliminary assessment, site investigation or remedial investigation on property may obtain a loan for the purpose of continuing the remediation on those properties as necessary to comply with the applicable remediation regulations adopted by the department. No grant shall be awarded pursuant to this paragraph to a municipal government entity unless that entity has adopted by ordinance or resolution a comprehensive plan specifically for the development or redevelopment of contaminated or potentially contaminated real property in that municipality or the entity can demonstrate to the authority that a realistic opportunity exists that the subject real property will be developed or redeveloped within a three-year period from the completion of the remediation;

(3) At least 15% of the moneys shall be allocated for financial assistance to persons, the New Jersey Redevelopment Authority, or municipal governmental entities for remediation activities at sites that have been contaminated by a discharge of a hazardous substance or hazardous waste, or at which there is an imminent and significant threat of a discharge of a hazardous substance or hazardous waste, and the discharge or threatened discharge poses or would pose an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area;

(4) At least 10% of the moneys shall be allocated for financial assistance to persons who voluntarily perform a remediation of a hazardous substance or hazardous waste discharge;

(5) At least 15% of the moneys shall be allocated for financial assistance to persons who are required to perform remediation activities at an industrial establishment pursuant to P.L.1983, c.330 (C.13:1K-6 et al.), as a condition of the closure, transfer, or termination of operations at that industrial establishment;

(6) At least 15% of the moneys shall be allocated for grants to persons who own real property on which there has been a discharge of a hazardous substance or a hazardous waste and that person qualifies for an innocent party grant. A person qualifies for an innocent party grant if that person acquired the property prior to December 31, 1983, except as provided hereunder, the hazardous substance or hazardous waste that was discharged at the property was not used by the person at that site, and that person certifies that he did not discharge any hazardous substance or hazardous waste at an area where a discharge is discovered; provided, however, that notwithstanding any other provision of this section the New Jersey Redevelopment Authority established pursuant to P.L.1996, c.62

(C.55:19-20 et al.), shall qualify for an innocent party grant pursuant to this paragraph where the immediate predecessor in title to the authority would have qualified for but failed to apply for or receive such grant. A grant authorized pursuant to this paragraph may be for up to 50% of the remediation costs at the area of concern for which the person qualifies for an innocent party grant, except that no grant awarded pursuant to this paragraph to any person or the New Jersey Redevelopment Authority may exceed $1,000,000;

(7) At least 5% of the moneys shall be allocated for financial assistance to persons who own and plan to remediate an environmental opportunity zone for which an exemption from real property taxes has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-3.154);

(8) At least 5% of the moneys shall be allocated for matching grants for up to 25% of the project costs to qualifying persons who propose to perform a remedial action that uses an innovative technology except that no grant awarded pursuant to this paragraph to any qualifying person may exceed $100,000;

(9) At least 5% of the moneys shall be allocated for matching grants for up to 25% of the project costs to qualifying persons for the implementation of a limited restricted use remedial action or an unrestricted use remedial action except that no grant awarded pursuant to this paragraph to any qualifying person may exceed $100,000. The authority may use money allocated pursuant to this paragraph to provide loan guarantees to encourage financial institutions to provide loans to any person who may receive financial assistance from the fund who plans to implement a limited restricted use remedial action or an unrestricted use remedial action; and

(10) Five percent of the moneys in the remediation fund shall be allocated for financial assistance or grants for any of the purposes enumerated in paragraphs (1) through (9) of this subsection, except that where moneys in the fund are insufficient to fund all the applications in any calendar year that would otherwise qualify for financial assistance or a grant pursuant to this paragraph, the authority shall give priority to financial assistance applications that meet the criteria enumerated in paragraph (3) of this subsection.

For the purposes of paragraphs (8) and (9) of this subsection, "qualifying persons" means any person who has a net worth of not more than $2,000,000 and "project costs" means that portion of the total costs of a remediation that is specifically for the use of an innovative technology or to implement an unrestricted use remedial action or a limited restricted use remedial action, as applicable.

b. Loans issued from the remediation fund shall be for a term not to exceed ten years, except that upon the transfer of ownership of any real property for which the loan was made, the unpaid balance of the loan shall

become immediately payable in full. Loans to municipal governmental entities and the New Jersey Redevelopment Authority established pursuant to P.L.1996, c.62 (C.55:19-20 et al.), shall bear an interest rate equal to 2 points below the Federal Discount Rate at the time of approval or at the time of loan closing, whichever is lower, except that the rate shall be no lower than 3 percent. All other loans shall bear an interest rate equal to the Federal Discount Rate at the time of approval or at the time of the loan closing, whichever is lower, except that the rate on such loans shall be no lower than five percent. Financial assistance and grants may be issued for up to 100% of the estimated applicable remediation cost, except that the cumulative maximum amount of financial assistance which may be issued to a person, in any calendar year, for one or more properties, shall be $1,000,000. Financial assistance and grants to any one municipal governmental entity or the New Jersey Redevelopment Authority may not exceed $2,000,000 in any calendar year. Repayments of principal and interest on the loans issued from the remediation fund shall be paid to the authority and shall be deposited into the remediation fund.

c. No person, other than a qualified person planning to use an innovative technology for the cost of that technology, a qualified person planning to use a limited restricted use remedial action or an unrestricted use remedial action for the cost of the remedial action, a person performing a remediation in an environmental opportunity zone, or a person voluntarily performing a remediation, shall be eligible for financial assistance from the remediation fund to the extent that person is capable of establishing a remediation funding source for the remediation as required pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3).

d. The authority may use a sum that represents up to 2% of the moneys issued as financial assistance or grants from the remediation fund each year for administrative expenses incurred in connection with the operation of the fund and the issuance of financial assistance and grants.

e. Prior to March 1 of each year, the authority shall submit to the Senate Environment Committee and the Assembly Agriculture and Waste Management Committee, or their successors, a report detailing the amount of money that was available for financial assistance and grants from the remediation fund for the previous calendar year, the amount of money estimated to be available for financial assistance and grants for the current calendar year, the amount of financial assistance and grants issued for the previous calendar year and the category for which each financial assistance and grant was rendered, and any suggestions for legislative action the authority deems advisable to further the legislative intent to facilitate remediation and promote the redevelopment and use of existing industrial sites.

3. This act shall take effect immediately.

Approved September 20, 1999.

CHAPTER 215

AN ACT concerning the practice of public accountancy, and amending and supplementing P.L.1997, c.259.

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

1. Section 3 of P.L.1997, c.259 (C.45:2B-44) is amended to read as follows:

C.45:2B-44 Definitions relative to the practice of accounting.

3. As used in this act:

"Attest" means providing any of the following financial statement services: an audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS); a review of a financial statement or compilation of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS); or an examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE). The statements on standards specified herein shall be adopted by regulation by the board and shall be in accordance with standards developed for general application by recognized national accountancy organizations such as the American Institute of Certified Public Accountants.

"Board" means the New Jersey State Board of Accountancy.

"Financial statements" means statements and related footnotes that purport to present an actual or a prospective financial position at a particular time, or results of operations, cash flow, or changes in financial position for a period of time, in conformity with generally accepted accounting principles or another comprehensive basis of accounting. The term includes specific elements, accounts or items of such statements, but does not include: incidental financial data included in management advisory service reports to support recommendations to a client; or tax returns and supporting schedules.

"Firm" means a sole proprietorship, a professional corporation, a partnership, a limited liability company, a limited liability partnership, or any other lawful form of business organization.

"License" means a license or registration issued to an individual or firm permitting the individual or firm to practice public accountancy.

"Licensee" means the holder of a license issued pursuant to this act.

"Manager" means a manager of a limited liability company.

"Member" means a member of a limited liability company.

"Nonlicensee" means a person not licensed as a certified public accountant or a public accountant of any state or possession of the United States or the District of Columbia.

"Owner of a firm" means any person with an equity or equivalent interest in a firm, such as a shareholder with respect to a corporation or a partner with respect to a partnership, or an individual with respect to a sole proprietorship.

"Practice of public accountancy" or "practicing public accountancy" means the performance or the offering to perform attest services, by a person or firm holding itself out to the public for a client or potential client or the performance as a licensee of one or more of the following: a compilation of a financial statement to be performed in accordance with SSARS, management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. A compilation to be performed in accordance with SSARS shall be allowed on or after the 180th day following the effective date of this amendatory and supplementary act.

"Practice unit" means any office of a firm registered with the board to engage in the practice of public accountancy in the State of New Jersey.

"Quality review" means a study, appraisal or review of one or more aspects of the professional work of a person or firm in the practice of public accountancy, by a person who is a certified public accountant or public accountant and who is not affiliated with the person or firm being reviewed.

"Report" when used with reference to financial statements, means an opinion, report, or other form of language that states or implies assurance as to the reliability of any financial statement and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing, such as a statement or implication of special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term "report" includes any form of language which disclaims an opinion when that form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statement referred to or special competence on the part of the person or firm issuing that language, or both; and it includes any

other form of language that is conventionally understood to imply that assurance or that special knowledge or competence, or both.

2. Section 13 of P.L.1997, c.259 (C.45:2B-54) is amended to read as follows:

C.45:2B-54 Requirements for registration as firm of certified public accountants.

13. a. A firm engaged in this State in the practice of attest services shall be required to register with the board as a firm of certified public accountants and meet the following requirements:

(1) At least one owner of the firm shall be a certified public accountant in good standing, and licensed to practice public accountancy in this State;

(2) Each owner of the firm, other than a nonlicensee, shall be a certified public accountant of any state or possession of the United States or the District of Columbia in good standing, and licensed to practice public accountancy where licensed;

(3) There shall be a certified public accountant in the firm who has ultimate responsibility for each attest engagement. On all firm applications and renewal forms, a licensee shall be designated as responsible and in charge of all professional matters relating to the practice of accountancy by the registered firm. Each resident manager in charge of a practice unit of a firm in this State and each owner thereof personally engaged within this State in the practice of public accountancy shall be a certified public accountant in good standing, and licensed to practice public accountancy in this State.

b. Application for registration of a firm shall be made upon the affidavit of an owner of the firm who is a certified public accountant in good standing and licensed to practice public accountancy in this State. The board shall in each case determine whether the applicant is eligible for registration. A firm which is so registered may use the words "certified public accountant" or the abbreviation "CPAs" in connection with its firm name. Notification shall be given to the board within 90 days after admission or withdrawal of an owner licensed and practicing in this State from any firm so registered.

3. Section 14 of P.L.1997, c.259 (C.45:2B-55) is amended to read as follows:

C.45:2B-55 Requirements for registration as firm of public accountants.

14. a. A firm engaged in this State in the practice of public accountancy shall be eligible to register with the board as a firm of public accountants if it meets the following requirements:

(1) At least one owner of a firm shall be a public accountant in good standing, and licensed to practice public accountancy in this State;

(2) Each owner of the firm, other than a nonlicensee, shall be a public accountant of any state or possession of the United States or the District of Columbia in good standing, and licensed to practice public accountancy where licensed, except that nothing in this section shall preclude a certified public accountant from being an owner of a firm of public accountants;

(3) There shall be a public accountant in the firm who has ultimate responsibility for each attest engagement. On all firm applications and renewal forms, a licensee shall be designated as responsible and in charge of all professional matters relating to the practice of accountancy by the registered firm. Each resident manager in charge of a practice unit of a firm in this State and each owner thereof personally engaged within this State in the practice of public accounting shall be a public accountant or a certified public accountant of this State in good standing and licensed to practice public accountancy in this State.

b. Application for registration of a firm shall be made upon the affidavit of an owner of the firm who is a public accountant of this State in good standing and licensed to practice public accountancy in this State. The board shall in each case determine whether the applicant is eligible for registration. A firm which is so registered may use the words "public accountant" or the abbreviation "PAs" in connection with its firm name. Notification shall be given to the board within 90 days after admission or withdrawal of an owner licensed and practicing in this State from any firm so registered.

4. Section 21 of P.L.1997, c.259 (C.45:2B-62) is amended to read as follows:

C.45:2B-62 Use of title, designation requires licensure, registration; exceptions.

21. a. No person shall use or assume the title or designation "certified public accountant," or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant unless that person holds a current license as a certified public accountant under this act.

b. No firm shall assume or use the title or designation "certified public accountant," or the abbreviation "CPA," unless otherwise provided for by law, or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants, unless the firm holds a valid registration issued under this act, except that a financial services firm, the voting stock of which is traded on a recognized exchange or over the counter, shall not, solely by reason of any of its duly licensed employees holding themselves out as "certified public accountants," be deemed to be holding itself out as a firm of "certified public accountants".

c. No individual shall assume or use the title or designation "public accountant," or the abbreviation "PA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a public accountant unless that individual holds a valid registration as a public accountant as provided under this act.

d. No firm shall assume or use the title or designation "public accountant," or the abbreviation "PA," unless otherwise provided for by law, or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of public accountants, unless the firm holds a valid registration issued under this act.

e. No person or firm shall assume or use the title or designation "certified accountant," "chartered accountant," enrolled accountant," "licensed accountant," "registered accountant," "accredited accountant," or any other title or designation likely to be confused with the titles "certified public accountant" or "public accountant," or use any of the abbreviations "CA," "LA," "RA," "AA," or similar abbreviations likely to be confused with the abbreviations "CPA" or "PA," unless that person or firm holds a valid license or registration issued under this act.

f. No person or firm shall assume or use the title "enrolled agent" or "EA," unless so designated by the Internal Revenue Service.

g. No person or firm shall assume or use any title or designation that includes the words "accountant," "auditor," or "accounting" in connection with any other language, including the language of a report, that implies that the person or firm holds such a certificate, permit, or registration or has special competence as an accountant or auditor, unless that person or firm holds a valid license or registration issued under this act, except that this subsection shall not prohibit any officer, partner, member, manager, or employee of any firm or organization from affixing that person's own signature to any statement in reference to the financial affairs of that firm or organization with any wording designating the positions, title, or office that the person holds in the firm or organization, nor shall this subsection prohibit any act of a public official or employee in the performance of the person's duties.

h. No person holding a license or firm holding a registration under this act shall engage in the practice of public accountancy using a professional or firm name or designation that is misleading with regard to the form in which the firm is organized, or about the persons who are partners, officers, members, managers or shareholders of the firm, or about any other matter, except that names of one or more former partners, members, managers, or shareholders may be included in the name of a firm or its successor.

i. The provisions of this section shall not apply to a person or firm holding a certification, designation, degree, or license granted in a foreign country, entitling the holder thereof to engage in the practice of public

accountancy or its equivalent in that country, whose activities in this State are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds that entitlement, so long as that person or firm issues no reports with respect to the financial statements of any other persons, firms, or governmental units in this State, and does not use in this State any titles or designation other than the one under which the person practices in the foreign country, followed by a translation of that title or designation into the English language, if it is in a different language, and by the name of that country.

C.45:2B-54.1 Requirements for nonlicensed owners.

5. a. A firm lawfully engaged in this State in the practice of public accountancy may have owners who are not licensed as certified public accountants or public accountants if it meets the following requirements:

(1) Nonlicensee owners shall be natural persons or entities, including, but not limited to, partnerships and professional corporations, provided that each ultimate beneficial owner of an equity interest in that entity shall be a natural person materially participating in the business conducted by the firm or entity affiliated with the firm;

(2) The ownership interest of nonlicensee owners shall revert to the firm upon the cessation of any material participation by the nonlicensee owner in the business conducted by the firm or entity;

(3) Persons who are licensed to practice public accountancy in any state or possession of the United States or the District of Columbia shall in the aggregate, directly or beneficially, comprise not less than half of the owners, hold more than half of the equity capital, and possess majority voting rights of the firm; and

(4) Nonlicensee owners shall not hold themselves out as certified public accountants or public accountants.

A financial services corporation the voting stock of which is traded on a recognized exchange or over the counter, may use the truthful fact in advertising that the firm employs certified public accountants.

b. Except as otherwise permitted by the board, a person shall not become a nonlicensee owner or remain a nonlicensee owner if the person has:

(1) Been convicted of any crime, an element of which is dishonesty or fraud, under the laws of this State or any other state, of the United States, or of any other jurisdiction. A conviction includes the initial plea, verdict, or finding of guilty, pleas of no contest, or pronouncement of sentence by a trial court, notwithstanding that conviction may not be final or sentence actually imposed until appeals are exhausted;

(2) Had a professional license or the right to practice revoked or suspended for reasons other than nonpayment of fees, or has voluntarily

surrendered a license or right to practice with disciplinary charges or a disciplinary investigation pending, which license or right to practice has not been reinstated by a licensing agency of this State or any other state, of the United States, or of any other jurisdiction;

(3) Been in violation of P.L.1997, c.259 (C.45:2B-42 et seq.) or any regulation promulgated by the board under that act.

c. A nonlicensee owner of a licensed firm shall report to the board in writing of the occurrence of any of the events set forth in subsection b. of this section within 30 days of the date the nonlicensee owner has knowledge of the event. The report shall identify the event by the name of the agency or court, the title of the matter, the docket number, and the date of occurrence of the event.

6. This act shall take effect on the 90th day after enactment.

Approved September 20, 1999.

CHAPTER 216

AN ACT concerning revaluation relief for certain cities and amending and supplementing various sections of statutory law.

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

C.54:1-35.51 Short title.

1. This act shall be known and may be cited as the "Revaluation Relief Act of 1999."

C.54:1-35.52 Findings, determinations relative to revaluation relief.

2. The Legislature finds and determines that:

a. Article VIII, Section I, paragraph 1 of the Constitution of the State of New Jersey requires that all real property in this State be assessed for taxation under the same standard of value, which the Legislature has defined as "true" or "market" value, and taxed at a uniform general tax rate within each taxing district;

b. Because of such factors as civil disturbances, loss of an industrial tax base, an inordinately high ratio of tax exempt and abated properties to taxable properties, limited resources available to the tax assessor, a lack of uniform data processing standards, and the technological obsolescence of certain local assessment practices, the City of Newark has been unable to

implement a municipal revaluation since 1962, resulting in a haphazard patchwork of assessments for the properties within its corporate boundaries;

c. Through the statutory equalization process, the Legislature has addressed certain difficulties arising from differential assessment levels, by directing county boards of taxation to adjust aggregate assessments to presumed market levels for the purpose of equitable inter-municipal apportionment of county and school tax burdens; however, adequate resources have not been available for the provision of an ongoing adjustment process to address the assessment discrepancies which often arise within individual municipalities;

d. When intra-municipal discrepancies become too severe, it is necessary to periodically revalue all parcels of real property within a municipality, in order to reestablish fair and equitable taxation pursuant to the intent of our constitutional mandate, and to avoid costly and time consuming litigation;

e. While revaluations are thus necessary to maintain tax equity, implementing a revaluation in a municipality such as the City of Newark will result in "shocking," immediate increases in individual property tax bills, which severely strain the financial resources of many of the remaining property owners, particularly middle-class homeowners, and which threaten the stability and viability of long-standing neighborhoods and communities which are often already in need of rehabilitation; and

f. It is, therefore, incumbent upon the Legislature, as a compelling public purpose and a matter of the general public welfare in order to preserve the very existence of the largest urban center in the State and to establish and evaluate a procedure which the Legislature may use for other municipalities with similar problems, to provide the City of Newark with the authority to mitigate this fiscal shock by phasing in tax increases in areas determined to be in need of rehabilitation, thus maintaining the stability and viability of those neighborhoods and communities, while requiring the governing body of the City of Newark to conduct and implement a revaluation.

3. Section 3 of P.L.1993, c.101 (C.54:1-35.41) is amended to read as follows:

C.54:1-35.41 Definitions.

3. As used in P.L.1993, c.101 (C.54:1-35.39 et seq.) and P.L.1999, c.216 (C.54:1-35.51 et al.):

a. "Base year" means the tax year immediately preceding the revaluation year;

b. "Constant rate factor" means the result obtained by dividing the total tax levy for a municipality, excluding any special district tax levies, for the

base year by the net valuation taxable for that municipality for the revaluation year, as both are listed in the Abstract of Ratables and Exemptions compiled from the Table of Aggregates prepared for the municipality pursuant to R.S.54:4-52;

c. "Director" means the Director of the Division of Taxation in the Department of the Treasury;

d. "Eligible property" means any parcel of real property containing a building or structure and located within an area declared in need of rehabilitation pursuant to this act in a municipality in which the director and municipal governing body have determined to implement a revaluation phase-in program, and for which the net assessed valuation of that parcel after exemptions and abatements as it appears on the assessor's duplicate for the revaluation year is scheduled to increase from the value as it appeared on the assessor's duplicate for the base year at a ratio equal to or greater than the total ratio change in net valuation taxable of that municipality for the revaluation year;

e. "Revaluation" means the revaluation of all real property within the corporate boundaries of a municipality, performed under a contract approved by the director pursuant to P.L.1971, c.424 (C.54:1-35.35 et seq.);

f. "Revaluation relief abatement" means an exemption of that portion of the assessed value of an eligible property which results in a reduction of tax liability equivalent to the amount deducted from the tax liability of an eligible property, as part of a revaluation phase-in program;

g. "Revaluation impact study" means a calculation of the difference between the tax liability for each parcel of real property situated within the municipality for the revaluation year without benefit of a revaluation relief abatement, and that liability for the base year, and the average of all the differences within appropriate groupings of those parcels, which study is conducted under procedures established by the director and is reviewed and certified by the director;

h. "Revaluation management analysis" means a revaluation impact study and a revaluation phase-in analysis;

i. "Revaluation phase-in analysis" means a calculation of the increase in the tax liability for each parcel of eligible property within a municipality between the base year and the revaluation year after application of the constant rate factor, minus the revaluation relief abatement the municipality is authorized to allow for that property for each of the five years of a revaluation phase-in program provided for by this act, and the average of all such calculations within such groupings of those parcels as appropriate which study is conducted under procedures established by the director and is reviewed and certified by the director;

j. "Revaluation phase-in program" means the provision of revaluation relief abatement by a municipality for eligible properties pursuant to this act;

k. "Revaluation year" means the first tax year in which the tax liability of real property within a municipality is determined, pursuant to chapter 4 of Title 54 of the Revised Statutes, on the basis of assessed valuations of the property established by a revaluation within that municipality;

l. "Area in need of rehabilitation" means a municipality or a portion of a municipality in which at least 60% of the housing units are at least 30 years of age; or 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.) or a "blighted area" as determined pursuant to the Blighted Area 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 the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), 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 al.); and

m. "Act" means sections 1 through 10 of P.L.1993, c.101 (C.54:1-35.39 et seq.), as amended and supplemented by P.L.1999, c.216 (C.54:1-35.51 et al.).

4. Section 4 of P.L.1993, c.101 (C.54:1-35.42) is amended to read as follows:

C.54:1-35.42 Allowance of relvaluation relief abatements.

4. The director and the governing body of a municipality which has undertaken a revaluation may allow revaluation relief abatements for eligible properties as hereinafter provided:

a. On or before April 15 of the revaluation year for municipalities operating on the January 1 to December 31 fiscal year, or one week following the date established by law for the adoption of the municipal budget for municipalities operating on the State fiscal year, whichever is appropriate, the governing body of the municipality shall conduct a revaluation management analysis; provided, however, that a municipality which has conducted a revaluation that has not yet been used as the basis for a tax billing as of the effective date of this act may undertake the revaluation management analysis without regard for the deadline established herein. The governing body shall, at the same time, notify the county board of taxation of the county in which the municipality is situated of its intention to conduct a revaluation management analysis.

b. Within three days of filling out the Table of Aggregates for the county, the county board of taxation shall transmit to each municipality which has notified the county board of taxation of its intention to conduct

a revaluation management analysis certified copies of the assessor's duplicate for the revaluation year and the base year and include a certified copy of the Table of Aggregates for the municipality.

c. Upon receipt of the assessor's duplicates and Tables of Aggregates, as provided in subsection b. of this section, and the certified copy of the Table of Aggregates from the county treasurer, as provided in R.S.54:4-52, the municipality shall prepare a revaluation management analysis as soon as practicable thereafter.

d. After review of the revaluation management analysis, the governing body of the municipality may determine, by ordinance, to implement a revaluation phase-in program. That ordinance also shall contain a listing of the areas within the municipality declared in need of rehabilitation in accordance with subsection l. of section 3 of this act. A listing, by block and lot, shall be available for public inspection in the office of the municipal assessor immediately following adoption of the ordinance.

e. Upon the adoption of an ordinance pursuant to subsection d. of this section, the governing body shall immediately notify and transmit certified copies of the ordinance to the director and the county board of taxation. In addition, notwithstanding the provisions of R.S.54:4-64, the governing body shall direct the collector of the taxing district not to prepare and deliver any tax bills until the county board of taxation has prepared and delivered a revised tax duplicate for the municipality. Any collector so directed shall prepare and mail, or otherwise cause to be delivered, a statement to the individuals assessed and, if so authorized, to any mortgagee or other agent in substantially the following form: "The governing body of (municipality) has determined to phase in tax increases associated with the recently completed revaluation. Your tax bill incorporating the phase-in will be forthcoming."

5. Section 5 of P.L.1993, c.101 (C.54:1-35.43) is amended to read as follows:

C.54:1-35.43 Determination of eligible properties.

5. a. Upon the receipt of a certified copy of the ordinance, the director shall conduct a final review of the tax duplicate for the municipality, and make a final determination of which parcels of real property in the municipality are eligible properties.

b. The director shall determine the amount of the revaluation relief abatement for each eligible property for the revaluation year as follows:

$$RRA = 0.80 (A-B)$$

where:

"RRA" equals the revaluation relief abatement for the eligible property;

"A" equals the tax liability produced by multiplying the constant rate factor for the municipality for the revaluation year times the net assessed value of the eligible property as it appears on the assessor's duplicate for the revaluation year; and

"B" equals the tax liability produced by multiplying the general tax rate for the municipality for the base year times the net assessed value of the eligible property as it appeared on the assessor's duplicate for the base year.

6. Section 6 of P.L.1993, c.101 (C.54:1-35.44) is amended to read as follows:

C.54:1-35.44 Certification of aggregate amount of revaluation relief abatements allowable.

6. a. The director shall certify to the county board of taxation the aggregate amount of revaluation relief abatements to be allowed eligible properties within the municipality. The county board of taxation shall forthwith prepare a revised Table of Aggregates. In the revised Table of Aggregates, the board shall include, as part of the amount which must be raised for local municipal purposes through taxation, the aggregate amount of the revaluation relief abatements to be allowed eligible properties within the municipality. The revised Table of Aggregates for the municipality shall be signed and transmitted as provided in R.S.54:4-52.

b. The director shall provide, at the same time, the county board of taxation with a certified list of the eligible properties within the municipality and the amount of the revaluation relief abatement to which each is entitled. The county board shall immediately thereafter cause the corrected, revised and completed duplicate, certified by it to be a true record of the taxes assessed, to be delivered to the collector of the municipality. The revised tax list 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.

7. Section 7 of P.L.1993, c.101 (C.54:1-35.45) is amended to read as follows:

C.54:1-35.45 Delivery of tax bills to individuals assessed.

7. a. As soon as the tax duplicate is delivered to the collector of the municipality, the collector shall proceed with the work of preparing, completing, mailing or otherwise delivering tax bills to the individuals assessed pursuant to R.S.54:4-64 and R.S.54:4-66.

b. The tax bill shall be in a form prescribed by the Director of the Division of Local Government Services in the Department of Community

Affairs, after consultation with the director, and shall include, in addition to such other information as may be required by law, rule or regulation, notification as to whether and to what extent the local municipal purposes tax rate for the municipality includes a rate to support the revaluation phase-in program. The bill shall also indicate the amount of the revaluation relief abatement the taxpayer received for his eligible property.

8. Section 9 of P.L.1993, c.101 (C.54:1-35.47) is amended to read as follows:

C.54:1-35.47 Calculation of revaluation relief abatements.

9. Revaluation relief abatements for eligible properties in the revaluation year shall continue to be provided in the first, second and third tax year next following the revaluation year.

For the first, second and third year following the revaluation year, the director shall calculate, forthwith each year upon the receipt of a certified copy of a resolution from the municipality, the amount of the revaluation relief abatement for each eligible property.

For the purposes of this section:

"RRA" equals the revaluation relief abatement for the eligible property;

"A" equals the tax liability produced by multiplying the constant rate factor for the municipality for the revaluation year by the net assessed value of the eligible property as it appeared on the assessor's duplicate for the revaluation year; and

"B" equals the tax liability produced by multiplying the general tax rate for the municipality for the base year by the net assessed value of the eligible property as it appeared on the assessor's duplicate for the base year.

For the first tax year next following the revaluation year, the director shall determine the amount of the revaluation relief abatement as follows:

RRA=0.60 (A-B)

For the second tax year next following the revaluation year, the director shall determine the amount of the revaluation relief abatement for each eligible property as follows:

RRA= 0.40 (A-B)

For the third year next following the revaluation year, the director shall determine the amount of the revaluation relief abatement for each eligible property as follows:

RRA= 0.20 (A-B)

For the fourth year next following the revaluation year, there shall be no revaluation relief abatement given, and all properties shall be assessed and taxed at their taxable value.

In each of those tax years the director shall certify to the county board of taxation the aggregate amount of revaluation relief abatements to be provided for eligible properties within the municipality, and shall provide the county board of taxation with a certified list of eligible properties within the municipality and the amount of the revaluation relief abatement to which each is entitled. The county board of taxation shall incorporate the information provided on that list into the tax duplicate prepared for the taxing district pursuant to R.S.54:4-55.

9. Section 10 of P.L.1993, c.101 (C.54:1-35.48) is amended to read as follows:

C.54:1-35.48 Tax liability not less than base year.

10. The provision of revaluation relief abatements pursuant to this act shall not result in any tax year in a tax liability for an eligible property which is less than the tax liability for the base year.

C.54:1-35.53 Revaluing municipality authorized to impose certain taxes.

10. Notwithstanding any provisions of sections 8 and 19 of P.L.1970, c.326 (C.40:48C-8 and 40:48C-19) to the contrary, a municipality as defined in section 1 of P.L.1970, c.326 (C.40:48C-1) that undertakes a revaluation by entering into a contract approved by the director for the completion of a revaluation, and enters into that contract within 360 days following the effective date of P.L.1999, c.216 (C.54:1-35.51 et al.) pursuant to P.L.1993, c.101 (C.54:1-35.39 et seq.) is authorized to impose the taxes authorized by articles 3 and 5 of P.L.1970, c.326 until January 1 of the fourth year next following the revaluation year or until the date on which the tax expires, whichever is later.

C.54:1-35.54 Monies used for funding revaluation relief abatements in Newark.

11. All monies received by the City of Newark pursuant to a tax imposed pursuant to section 10 of P.L.1999, c.216, (C.54:1-35.53) shall be used for the sole purpose of funding revaluation relief abatements. The procedures and safeguards to implement the requirement that funds be used for the sole purpose of funding revaluation relief shall be as the Director of the Division of Local Government Services in the Department of Community Affairs shall prescribe.

C.54:1-35.55 Use of funds assured prior to imposition of tax in Newark.

12. Prior to imposition of any tax authorized by P.L.1999, c.216 (C.54:35.51 et al.), the director shall present a plan to the Legislature, in

consultation with the Essex County Board of Taxation, the tax assessor for the City of Newark, and the mayor and city council of the City of Newark, to maintain assessments at market value following implementation of the revaluation; and, prior to the imposition of any tax authorized by P.L.1999, c.216 (C.54:35.51 et al.), the Director of the Division of Local Government Services in the Department of Community Affairs, in consultation with the city, shall present to the Legislature a plan for assuring that the requirements of section 11 of P.L.1999, c.216 (C.54:35.54) that funds be used for the sole purpose of funding revaluation relief will be fulfilled; and provided further that the city shall report annually, on or before April 1 of the year following the revaluation year and each of the three years thereafter, on the implementation of that plan, the expenditure of those funds, and the impact of the plan on the level of expenditures in the city budget.

13. This act shall take effect immediately.

Approved September 21, 1999.

CHAPTER 217

AN ACT concerning facilities improvements at institutions of higher education, supplementing P.L.1970, c.13 (C.5:9-1 et seq.) and chapter 72A of Title 18A of the New Jersey Statutes and amending various parts of the statutory law.

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

C.18A:72A-72 Short title.

1. This act shall be known and may be cited as the "Higher Education Capital Improvement Fund Act."

C.18A:72A-73 Findings, declarations relative to facilities improvements at institutions of higher education.

2. The Legislature finds and declares that:

a. Higher education plays a vital role in the economic development of the nation and the State by providing education and training for the work force of the future, by advancing knowledge and technology through research, and by providing lifelong learning opportunities for all citizens.

b. New Jersey has made a significant investment in its public and private institutions of higher education, and that investment must be

protected to insure the continuing availability of affordable, accessible, and excellent higher educational opportunities within the State.

c. If New Jersey is to continue the expansion of its economic development through an adequately trained work force that retains and attracts industry to the State, the facilities and technology infrastructure at New Jersey's public and private institutions of higher education must be preserved and enhanced.

d. In order for New Jersey students and businesses to be competitive with their peers in today's global and technological society, the public and private sectors must continually take steps to preserve and enhance the facilities and technology at our colleges and universities. To do otherwise would result in the loss of potential students to more technologically advanced and well-developed and maintained institutions in other states.

e. In order to support the State's economy and preserve and enhance our higher education system, the State recently provided additional funds to capital needs at the two-year public colleges. There remains, however, a crucial need to provide additional funds to renew, renovate, improve, expand, construct, and reconstruct facilities and technology infrastructure at New Jersey's four-year public and private institutions of higher education.

C.18A:72A-74 "Higher Education Capital Improvement Fund."

3. There is created within the New Jersey Educational Facilities Authority, established pursuant to chapter 72A of Title 18A of the New Jersey Statutes, the "Higher Education Capital Improvement Fund," hereinafter referred to as the "capital improvement fund." The capital improvement fund shall be maintained as a separate account and administered by the authority to carry out the provisions of this act. The capital improvement fund shall consist of:

a. moneys received from the issuance of bonds, notes or other obligations issued pursuant to section 7 of P.L.1999, c.217 (C.18A:72A-78) and an annual appropriation from the net proceeds of the State lottery established by P.L.1970, c.13 (C.5:9-1 et seq.) in an amount sufficient to pay the principal and interest on the bonds, notes or other obligations;

b. all moneys appropriated by the State for the purposes of the capital improvement fund; and

c. all interest and investment earnings received on moneys in the capital improvement fund.

C.18A:72A-75 Use of capital improvement fund.

4. The capital improvement fund shall be used to provide grants to New Jersey's four-year public and private institutions of higher education for the cost, or a portion of the cost, of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technol-

ogy infrastructure. Each institution shall use the grants for existing renewal and renovations needs at instructional, laboratory, communication, research, and administrative facilities. An institution may use up to 5% of a grant within student-support facilities for fire code renovations, health-safety code renovations and other State and federal code-related renovations. If all such renewal and renovation is completed or is accounted for through other funding sources, or if an institution is granted an exemption by the Commission on Higher Education for the purpose of maximizing federal grant fund recoveries or for the purpose of replacing a building when projected renewal and renovation costs exceed the projected cost of replacement, then grant funds may be used for the improvement, expansion, construction, and reconstruction of instructional, laboratory, communication, and research facilities, or technology infrastructure.

As used in this act:

"renewal and renovation" means making the changes necessary to address deferred capital maintenance needs, to meet all State and federal health, safety, fire, and building code standards, or to provide a safe and appropriate educational or working environment;

"student-support facilities" mean student resident halls, student dining facilities, student activity centers, and student health centers; and

"technology infrastructure" means video, voice, and data telecommunications equipment and linkages with a life expectancy of at least 10 years.

C.18A:72A-76 Allocation of fund.

5. a. An amount not to exceed $550,000,000 in the capital improvement fund shall be allocated as follows:

$169,000,000 for Rutgers, The State University;

$95,062,500 for the University of Medicine and Dentistry of New Jersey;

$60,937,500 for the New Jersey Institute of Technology;

$175,000,000 for the State colleges and universities; and

$50,000,000 for the private institutions of higher education.

b. The commission may reallocate any balance in an amount authorized in subsection a. of this section which has not been approved by the commission for grants within 24 months of the adoption of regulations by the commission. The commission may allocate any additional moneys in the capital improvement fund to institutions for capital improvement projects as the commission determines and shall determine the allocation of moneys deposited into the fund resulting from the issuance by the authority of new bonds because of the retirement of bonds previously issued by the authority.

c. The facilities and technology infrastructure funded by grants from the capital improvement fund shall follow the principles of affirmative

action and equal opportunity employment. In furtherance of these principles, the commission shall continue its policy of encouraging institutions to solicit bids from, and award contracts to, minority and women-owned businesses.

C.18A:72A-77 Application for grant.

6. a. The governing board of a four-year public or private institution of higher education may determine, by resolution, to apply for a grant from the capital improvement fund. Upon adoption of the resolution, the board shall file an application with the commission, which application shall include a complete description of the project to be financed and an identification of any additional sources of revenue to be used.

b. In order to ensure the most effective utilization of the moneys in the capital improvement fund and to guide governing boards which elect to apply for a grant, the commission shall establish a list of grant criteria and shall specify the information to be included in a grant application.

c. The commission shall review the application and, by resolution, approve or disapprove the grant. When a grant is approved, the commission shall establish the amount and shall forward a copy of the resolution along with the amount of the grant to the authority.

d. The commission shall submit to the Legislature a copy of the resolution approving the grant along with the amount of the grant. If the Legislature does not disapprove the grant by the adoption of a concurrent resolution within 45 days, the grant shall be deemed to be authorized.

e. When a grant is awarded pursuant to this act, it shall be contingent upon the governing board of the recipient institution entering into a contract or contracts for the commencement of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure within one year of the date on which the funds for the grant are made available.

C.18A:72A-78 Issuance of bonds, notes, other obligations.

7. a. The authority shall from time to time issue bonds, notes or other obligations in an amount sufficient to finance the grants provided under this act and to finance the administrative costs associated with the approval process and the issuance of the bonds, notes, or other obligations, except that the total outstanding principal amount of the bonds, notes or other obligations shall not exceed $550,000,000, and the term of any bond, note, or other obligation issued shall not exceed 30 years. In computing the foregoing limitation as to amount, there shall be excluded all bonds, notes or other obligations which have been retired or which shall be issued for refunding purposes, provided that the refunding is determined by the authority to result in a debt service savings. The authority shall issue the

bonds, notes or other obligations in such manner as it shall determine in accordance with the provisions of P.L.1999, c.217 (C.18A:72A-72 et al.) and the "New Jersey educational facilities law," N.J.S.18A:72A-1 et seq., provided that no bonds, notes or other obligations shall be issued pursuant to this section without the prior written consent of the State Treasurer.

b. The State Treasurer is hereby authorized to enter into a contract with the authority pursuant to which the State Treasurer, subject to available appropriations, shall pay the amount necessary to pay the principal and interest on bonds, notes and other obligations of the authority issued pursuant to this act plus any amounts payable in connection with an agreement authorized under subsection e. of this section. The authority shall enter into a contractual agreement with each institution receiving a capital improvement fund grant, and the agreements shall be approved by a resolution of the authority. All agreements with the four-year public institutions of higher education shall include provisions as may be necessary to insure that each institution pays an amount equal to one-third of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued pursuant to this section to finance the projects approved at the institution plus its share of any amounts payable in connection with an agreement authorized under subsection e. of this section. All agreements with the four-year private institutions of higher education shall include provisions as may be necessary to insure that each institution pays an amount equal to one-half of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued pursuant to this section to finance the projects approved at the institution plus its share of any amounts payable in connection with an agreement authorized under subsection e. of this section. Upon receipt of the moneys from the public or private institutions of higher education, the authority shall apply the moneys in a manner specified in the contract with the State Treasurer.

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

thereof, redemption premium, if any, or interest thereon, and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of, redemption premium, if any, or the interest on the bonds, notes or other obligations.

d. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds, notes or other obligations issued pursuant to the authorization of P.L.1999, c.217 (C.18A:72A-72 et al.) that the State shall not limit or alter the rights or powers hereby vested in the authority to perform and fulfill the terms of any agreement made with the holders of the bonds, notes or other obligations, or to fix, establish, charge and collect such rents, fees, rates, payments, or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and to fulfill the terms of any agreement made with the holders of the bonds, notes and other obligations together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, until the bonds, notes and other obligations, together with interest thereon, are fully met and discharged or provided for.

e. In connection with any bonds or refunding of bonds issued pursuant to this section, the authority may also enter into any revolving credit agreement; agreement establishing a line of credit or letter of credit; reimbursement agreement; interest rate exchange agreement; currency exchange agreement; interest rate floor cap, option, put or call to hedge payment, currency, rate, spread or similar exposure, or similar agreement; float agreement; forward agreement; insurance contract; surety bond; commitment to purchase or sell bonds; purchase or sale agreement; or commitment or other contract or agreement or other security agreement approved by the authority.

C.18A:72A-79 Retention of amount to ensure repayment.

8. a. The authority shall require that if an institution of higher education fails or is unable to pay the authority in full, when due, any obligations of the institution to the authority, an amount sufficient to satisfy the deficiency shall be retained by the State Treasurer from State aid or an appropriation payable to the institution. As used in this section, "obligation of the institution" means any amount payable by the institution for the principal and interest on the bonds, notes or other obligations of the authority for the institution's capital improvement fund grant.

b. The amount retained by the State Treasurer shall be deducted from the appropriation or apportionment of State aid payable to the institution of higher education and shall not obligate the State to make, or entitle the institution to receive, any additional appropriation or apportionment.

C.5:9-22.4 Higher education capital improvement, eligibility for State aid through lottery proceeds.

9. For the purposes of P.L.1970, c.13 (C.5:9-1 et seq.), any capital improvement fund established to provide grants to New Jersey's four-year public and private institutions of higher education for the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure shall be considered eligible for State aid from the net proceeds of the State lottery, as shall be provided by law.

10. Section 31 of P.L.1986, c.43 (C.18A:64-82) is amended to read as follows:

C.18A:64-82 Indemnification agreement.

31. Any State college may enter into an agreement indemnifying the New Jersey Educational Facilities Authority or the United States of America, or any board, body, officer or agency thereof, from any liability for loss or damage to the person or property of others resulting from any project financed or to be financed by the New Jersey Educational Facilities Authority for the benefit of the State college, any project undertaken or to be undertaken by the federal government for the benefit of the State college or any project the cost of which or any part thereof is to be paid out of federal funds.

11. N.J.S.18A:72A-4 is amended to read as follows:

"New Jersey educational facilities authority."

18A:72A-4. (a) There is hereby established in but not of the Department of the Treasury a public body corporate and politic, with corporate succession to be known as the "New Jersey educational facilities authority." Notwithstanding this allocation, the authority shall be independent of any supervision or control by the department or any officer thereof. The authority shall constitute a political subdivision of the State established as an instrumentality exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by this chapter shall be deemed and held to be an essential governmental function of the State.

(b) The authority shall consist of seven members, two of whom shall be the chairman of the Commission on Higher Education, ex officio, and the State Treasurer, ex officio, or when so designated by them, their deputies and five citizens of the State to be appointed by the Governor with the advice and consent of the Senate for terms of five years; provided that the terms of the members first appointed shall be arranged by the Governor so that one of such terms shall expire on April 30 in each successive year

ensuing after such appointments. Each member shall hold office for the term of his appointment and shall continue to serve during the term of his successor unless and until his successor shall have been appointed and qualified. Any vacancy among the members appointed by the Governor shall be filled by appointment for the unexpired term only. A member of the authority shall be eligible for reappointment.

(c) Any member of the authority appointed by the Governor may be removed from office by the Governor for cause after a public hearing.

(d) The members of the authority shall serve without compensation, but the authority may reimburse its members for necessary expenses incurred in the discharge of their duties.

(e) The authority, upon the first appointment of its members and thereafter on or after April 30 in each year, shall annually elect from among its members a chairman and a vice chairman who shall hold office until April 30 next ensuing and shall continue to serve during the terms of their respective successors unless and until their respective successors shall have been appointed and qualified. The authority may also appoint, retain and employ, without regard to the provisions of Title 11, Civil Service, of the Revised Statutes, such officers, agents, employees and experts as it may require, and it shall determine their qualifications, terms of office, duties, services and compensation.

(f) The powers of the authority shall be vested in the members thereof in office from time to time and a majority of the total authorized membership of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of a majority of the members present, unless in any case the bylaws of the authority shall require a larger number. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

(g) Before the issuance of any bonds under the provisions of this chapter, the members and the officer of the authority charged with the handling of the authority's moneys shall be covered by a surety bond or bonds in a penal sum of not less than $25,000.00 per person conditioned upon the faithful performance of the duties of their respective offices, and executed by a surety company authorized to transact business in the State of New Jersey as surety. Each such bond shall be submitted to the Attorney General for his approval and upon his approval shall be filed in the Office of the Secretary of State prior to the issuance of any bonds by the authority. At all times after the issuance of any bonds by the authority the officer of the authority and each member charged with the handling of the authority's moneys shall maintain such surety bonds in full force and effect. All costs of such surety bonds shall be borne by the authority.

(h) Notwithstanding any other law to the contrary, it shall not be or constitute a conflict of interest for a trustee, director, officer or employee of a participating college to serve as a member of the authority; provided such trustee, director, officer or employee shall abstain from discussion, deliberation, action and vote by the authority under this chapter in specific respect to such participating college of which such member is a trustee, director, officer or employee.

(i) A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof, to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days, Saturdays, Sundays and public holidays excepted, after such copy of the minutes shall have been so delivered. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and of no effect. If the Governor shall not return the minutes within said 10-day period, any action therein recited shall have force and effect according to the wording thereof. At any time prior to the expiration of the said 10-day period, the Governor may sign a statement of approval of any such action of the authority, in which case the action so approved shall not thereafter be disapproved.

Notwithstanding the foregoing provisions of this subsection (i), with regard to the sale of bonds of the authority, the authority shall furnish to the Governor a certified copy of the minutes of the meeting at which the bonds are sold and the Governor shall indicate approval or disapproval of the action prior to the issuance of the bonds.

The powers conferred in this subsection (i) upon the Governor shall be exercised with due regard for the rights of the holders of bonds of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection (i) shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or for the benefit, protection or security of the holders thereof.

12. N.J.S.18A:72A-8 is amended to read as follows:

Issuance of negotiable bonds for corporate purpose.

N.J.S.18A:72A-8. (a) The authority is authorized from time to time to issue its negotiable bonds for any corporate purpose. In anticipation of the sale of such bonds the authority may issue negotiable bond anticipation notes and may renew the same from time to time, but the maximum

maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of the original note. Such notes shall be paid from any revenues or other moneys of the authority available therefor and not otherwise pledged, or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution of the authority may contain.

(b) Except as may otherwise be expressly provided by the authority, every issue of its bonds or notes shall be general obligations of the authority payable from any revenues or moneys of the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys. Notwithstanding that bonds and notes may be payable from a special fund, they shall be fully negotiable within the meaning of Title 12A, the Uniform Commercial Code, of the New Jersey Statutes, subject only to the provisions of the bonds and notes for registration.

(c) The bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the members of the authority and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds or notes may be sold at public or private sale for such price or prices as the authority shall determine. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

(d) Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to:

(i) pledging all or any part of the revenues of a project or any revenue producing contract or contracts made by the authority with any individual, partnership, corporation or association or other body, public or private, to secure the payment of the bonds or of any particular issue of bonds, subject to such agreements with bondholders as may then exist;

(ii) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(iii) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(iv) limitations on the right of the authority or its agent to restrict and regulate the use of a project;

(v) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;

(vi) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;

(vii) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(viii) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority; and

(ix) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default.

(e) Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The authority shall have power out of any funds available therefor to purchase its bonds or notes. The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

(g) In connection with any bonds or refunding bonds issued pursuant to this section, the authority may also enter into any revolving credit agreement; agreement establishing a line of credit or letter of credit; reimbursement agreement; interest rate exchange agreement; currency exchange agreement; interest rate floor or cap, option, put or call to hedge payment, currency, rate, spread or similar exposure, or similar agreement; float agreement; forward agreement; insurance contract; surety bond; commitment to purchase or sell bonds; purchase or sale agreement; or commitment or other contract or agreement and other security agreement approved by the authority.

13. N.J.S.18A:72A-27 is amended to read as follows:

Additional powers of boards of governors, trustees.

18A:72A-27. In addition thereto the board of governors of the university and the board of trustees of each of said colleges including county colleges shall have the following powers and shall be subject to the following duties as to its lands and dormitories:

a. The power to pledge and assign all or any part of the revenues derived from the operation of such new dormitories as security for the payment of rentals due and to become due under any lease or sublease of such new dormitories under subsection c. of the preceding section.

b. The power to covenant and agree in any lease or sublease of such new dormitories made under subsection c. of the preceding section to impose fees, rentals or other charges for the use and occupancy or other operation of such new dormitories in an amount calculated to produce net revenues sufficient to pay the rentals due and to become due under such lease or sublease.

c. The power to apply all or any part of the revenues derived from the operation of any dormitories to the payment of rentals due and to become due under any lease or sublease made under subsection c. of the preceding section.

d. The power to pledge and assign all or any part of the revenues derived from the operation of any dormitories to the payment of rentals due and to become due under any lease or sublease made under subsection c. of the preceding section.

e. The power to covenant and agree in any lease or sublease made under subsection c. of the preceding section to impose fees, rentals or other charges for the use and occupancy or other operation of any dormitories in an amount calculated to produce net revenues sufficient to pay the rentals due and to become due under such lease or sublease.

f. The power to indemnify the authority from any liability for loss or damage to any person or property of others resulting from any project financed or to be financed by the authority for the benefit of the college.

14. Section 2 of P.L.1988, c.159 (C.18A:72A-27.3) is amended to read as follows:

C.18A:72A-27.3 Submission of proposed projects to the Legislature.

2. The board of trustees of the public institution of higher education shall submit a copy of a resolution approving any non-revenue producing facility project to the President of the Senate and the Speaker of the General Assembly and shall submit informational copies of the proposal to the members of the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee and to the Commission on Higher Education. The submission shall include all appropriate supporting information including, but not limited to, a description of the project, its impact, cost and construction schedule, and a detailed explanation of the sources of revenue which will be dedicated to the financing of the project. If the Legislature does not disapprove the proposal by the adoption of a concurrent resolution within 45 days, the proposal shall be deemed to be approved.

C.18A:72A-80 Rules, regulations.

15. The Commission on Higher Education, in consultation with the New Jersey Educational Facilities Authority, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to carry out the provisions of this act.

16. This act shall take effect immediately.

Approved September 21, 1999.

CHAPTER 218

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

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

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

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

1. The following persons employed as full-time law enforcement officers by the Federal Government, who are empowered to effect an arrest with or without warrant for violations of the United States Code and who are authorized to carry firearms in the performance of their duties, shall be empowered to act as an officer for the arrest of offenders against the laws of this State where the person reasonably believes that a crime of the first, second or third degree is or is about to be committed or attempted in his presence:

Federal Bureau of Investigation special agents;

United States Secret Service special agents;

Immigration and Naturalization Service special agents, investigators and patrol officers;

United States Marshal Service deputies;

Drug Enforcement Administration special agents;

United States Postal inspectors;

United States Postal police officers while in the performance of their official duties;

United States Customs Service special agents, inspectors and patrol officers;

United States General Services Administration special agents;

United States Department of Agriculture special agents;
Bureau of Alcohol, Tobacco and Firearms special agents;
Internal Revenue Service special agents and inspectors;
Department of the Interior special agents, investigators, park police and park rangers.

2. This act shall take effect immediately.

Approved September 22, 1999.

CHAPTER 219

AN ACT concerning the eligibility of certain institutions for funding from the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987" and supplementing P.L.1966, c.214 (C.52:16A-25 et seq.).

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

C.52:16A-26.8 Eligibility for certain Council on the Arts funding.

1. Notwithstanding any law, rule or regulation to the contrary, the New Jersey State Council on the Arts, created pursuant to P.L.1966, c.214 (C.52:16A-25 et seq.), shall not exclude four-year colleges and universities, fraternal organizations, public and private elementary or secondary schools, or religious organizations from being eligible for funding with monies made available for cultural center development projects from the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265

2. This act shall take effect immediately.

Approved September 22, 1999.

CHAPTER 220

AN ACT concerning the duration of certain tax exemptions and amending P.L.1991, c.431.

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

1. Section 13 of P.L.1991, c.431 (C.40A:20-13) is amended to read as follows:

C.40A:20-13 Termination of tax exemption.

13. The tax exemption provided in this act shall apply only so long as the urban renewal entity and its project remain subject to the provisions of this act, but in no event more than 35 years from the date of the execution of the financial agreement. A tax exemption authorized in connection with a nonprofit limited dividend cooperative housing project under a financial agreement entered into pursuant to the "Limited-Dividend Nonprofit Housing Corporations or Associations Law," P.L.1949, c.184 (C.55:16-1 et seq.) may be extended to coincide with existing first mortgage financing. The terms of any such extension shall be set forth in an amended financial agreement between the urban renewal entity and the municipality. An urban renewal entity may at any time after the expiration of one year from the completion date of the project, notify the governing body of the municipality that, as of a certain date designated in the notice, it relinquishes its status under this act, and if the project includes housing units, that the urban renewal entity has obtained the consent of the Commissioner of Community Affairs to such a relinquishment. As of that date, the tax exemption, the service charges, and the profit and dividend restrictions shall terminate. The date of termination of tax exemption, whether by relinquishment by the entity or by terms of the financial agreement, shall be deemed the close of the fiscal year of the entity. Within 90 days of that date, the urban renewal entity shall pay to the municipality the amount of reserve, if any maintained pursuant to section 15 or 16 of this act, as well as the excess net profits, if any, payable as of that date.

2. This act shall take effect immediately.

Approved September 22, 1999.

CHAPTER 221

AN ACT providing expanded sales and use tax exemptions for the film and video industry, supplementing P.L.1966, c.30 (C.54:32B-1 et seq.).

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

C.54:32B-8.49 Film and video industry, sales, use tax exemptions.

1.a. Receipts from sales of tangible personal property for use or consumption directly and primarily in the production of film or video for sale are exempt from the tax imposed under the "Sales and Use Tax Act." This exemption shall apply to tangible personal property including motor vehicles, replacement parts without regard to useful life, tools and supplies, but shall not apply to tangible personal property the use of which is incidental to the production of film or video.

b. The receipts from sales of the services of installing, maintaining, servicing, or repairing tangible personal property for use or consumption directly and primarily in the production of film or video for sale are exempt from the tax imposed under the "Sales and Use Tax Act."

c. For the purposes of this section, "film or video" means motion pictures including feature films, shorts and documentaries, television films or episodes, similar film and video productions whether for broadcast, cable, closed circuit or unit distribution and whether in the form of film, tape, or other analog or digital medium, but does not include any film or video that is produced by or on behalf of a corporation or other person for its own internal use for advertising, educational, training, or similar purposes

2. This act shall take effect on the first day of the third month following enactment and apply to property sold and services rendered after that date.

Approved September 22, 1999.

CHAPTER 222

AN ACT allowing the self-employed to deduct health insurance costs under the gross income tax, supplementing Title 54A of the New Jersey Statutes and amending N.J.S.54A:3-3.

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

C.54A:3-5 Self-employed individuals, deduction for health insurance costs.

1. A taxpayer who is a "self-employed individual" within the meaning of clause (B) of paragraph (1) of subsection (c) of section 401 of the federal

Internal Revenue Code of 1986, 26 U.S.C.s.401, and a taxpayer treated as such a "self-employed individual" under that section pursuant to section 1372 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.1372, shall be allowed to deduct from the taxpayer's gross income an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents; provided however, that the amount of such deduction shall not exceed the taxpayer's "earned income," as defined pursuant to subsection (c) of section 401 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.401, derived by the taxpayer from the trade or business with respect to which the plan providing the medical care coverage is established, and provided further that no deduction shall be allowed for coverage of any month for which the taxpayer is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer.

2. N.J.S.54A:3-3 is amended to read as follows:

Medical expenses.

54A:3-3. Medical expenses. (a) Each taxpayer shall be allowed to deduct from the taxpayer's gross income medical expenses for the taxpayer, the taxpayer's spouse, and the taxpayer's dependents with respect to such expenses that were paid during the taxable year and to the extent that such medical expenses exceed 2% of the taxpayer's gross income. In the case of a nonresident, gross income shall mean gross income which such nonresident would have reported if the taxpayer had been subject to tax during the entire taxable year as a resident.

(b) Special Rule for Decedents.

(1) Treatment of expenses paid after death. Expenses for the medical care of the taxpayer which are paid out of the taxpayer's estate during the one-year period beginning with the day after the day of the death shall be treated as paid by the taxpayer at the time incurred.

(2) Limitation. Paragraph (1) shall not apply if the amount paid is not allowable as a deduction in computing medical expense deductions for federal income tax purposes.

(c) Disallowance of amounts allowed for other purposes.

(1) Any expenses allowed as a deduction of expenses for household and dependent care services necessary for gainful employment shall not be allowed as an expense paid for medical care for purposes of this section.

(2) Any amounts paid or distributed out of a medical savings account that are excluded from gross income pursuant to section 5 of P.L.1997, c.414 (C.54A:6-27) shall not be allowed as an expense paid for medical care for purposes of this section.

(3) Any amounts allowed as a deduction for the health insurance costs of the self-employed pursuant to section 1 of P.L.1999, c.222 (C.54A:3-5) shall not be allowed as an expense paid for medical care for purposes of this section.

3. This act shall take effect immediately and apply to taxable years beginning on or after the January 1 next following enactment.

Approved September 22, 1999.

CHAPTER 223

AN ACT establishing a Council on Gender Parity in Labor and Education and making an appropriation.

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

C.34:15C-21 Council on Gender Parity in Labor and Education.

1. a. There is created, in the New Jersey State Employment and Training Commission, a council which shall be known as the Council on Gender Parity in Labor and Education.

b. The council shall consist of 13 members who are individuals with experience in the fields of labor, education, training or gender equity. The 13 members shall include: four members appointed by the Director of the Division on Women; four members appointed by the Executive Director of the State Employment and Training Commission; and five members who shall serve ex officio, one of whom shall be appointed by the Commissioner of Community Affairs, one by the Commissioner of Education, one by the Commissioner of Human Services, one by the Commissioner of Labor and one by the Chairperson of the Commission on Higher Education. Not more than half of the members appointed by the Director of the Division on Women and not more than half of the members appointed by the Executive Director of the State Employment and Training Commission shall be of the same political party. The members appointed by the director and executive director shall serve for terms of three years, except that of the eight members first appointed by the director and the executive director, four shall be appointed for three years, two shall be appointed for two years, and two shall be appointed for one year. Each member shall hold office for the term of appointment and until his successor is appointed and qualified. A member appointed to fill a vacancy occurring in the membership of the

council for any reason other than the expiration of the term shall have a term of appointment for the unexpired term only. Vacancies shall be filled in the same manner as the original appointment. A member may be appointed for any number of successive terms. Any member appointed by the director or the executive director may be removed from the council by the director or the executive director, as the case may be, for cause, after a hearing and may be suspended by the director or the executive director pending the completion of the hearing.

c. Members of the council 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 council at a council meeting by an affirmative vote of a majority of the members. The council shall elect from its members a chairperson who shall be a nongovernmental member of the council. Advanced notification for, and copies of the minutes of, each meeting of the council shall be filed with the Governor, the President of the Senate and the Speaker of the General Assembly.

C.34:15C-22 Duties of council.

2. The Council shall:

a. Assess the effectiveness of State programs designed to provide gender equity in labor, education and training;

b. Make recommendations to the Commissioners of the Departments of Community Affairs, Education, Human Services and Labor, and the Chairperson of the Commission on Higher Education regarding the needs, priorities, programs and policies related to access and equity for labor, education and workforce training throughout the State;

c. Review current and proposed legislation and regulations pertaining to gender equity in labor, education and workforce training and make recommendations regarding possible legislation and regulations to the State Employment and Training Commission and the Division on Women;

d. Develop policies to insure that State agencies set benchmarks and integrate their data collection systems to assess progress toward achieving gender equity and take action to insure that appropriate data collection systems exist where needed;

e. Develop policies to promote linkages among individuals, schools, organizations and public agencies providing gender equity services and programs;

f. Educate and provide information to the public on the issues and current developments in gender equity by issuing reports and holding events such as conferences and symposia;

g. Annually assess the implementation of the recommendations of the Gender Equity Task Force of the State Employment and Training Commission which were published in the reports of the task force entitled, "Leveling the Playing Field: Removing Barriers for Women in New Jersey's Employment and Training Programs," and "Balancing the Equation: A Report on Gender Equity in Education"; and

h. Submit an annual report to the Governor, the Legislature, the State Employment and Training Commission and the Division on Women of its assessments and recommendations made pursuant to this section.

C.34:15C-23 Authority of council.

3. The council is authorized to:

a. Hold public hearings;

b. Employ staff, responsible to the Executive Director of the State Employment and Training Commission, to assist the council to implement the purposes of this act; and

c. Avail itself of the services of the employees and have access to the records of any instrumentality of the State, as necessary or useful to implement the purposes of this act.

4. There is appropriated $95,000 from the General Fund to the Council on Gender Parity in Labor and Education.

5. This act shall take effect immediately.

Approved September 22, 1999.

CHAPTER 224

AN ACT concerning homeless youth, supplementing Title 9 of the Revised Statutes and making an appropriation.

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

C.9:12A-2 Short title.

1. This act shall be known and may be cited as the "New Jersey Homeless Youth Act."

C.9:12A-3 Findings, declarations relative to homeless youth.

2. The Legislature finds and declares that: homeless youth are a largely invisible population; many of these children have no families and are

being exploited by adults or are turning to delinquency as a way to survive on the streets; these young people are urgently in need of services which will prevent them from becoming permanently homeless; therefore, it is in the best interest of the State to establish and support a continuum of services geared specifically for homeless youth, including street outreach or basic center shelter or transitional living programs.

C.9:12A-4 Definitions relative to homeless youth.

3. As used in this act:

"Department" means the Department of Human Services.

"Division" means the Division of Youth and Family Services in the Department of Human Services.

"Homeless youth" means a person 21 years of age or younger who is without shelter where appropriate care and supervision are available.

C.9:12A-5 Establishment, support of comprehensive program for homeless youth.

4. The department shall establish and support a comprehensive program for homeless youth in the State by contracting with organizations and agencies, licensed by the department, that provide street outreach or basic center shelter or transitional living services for homeless youth. The department shall establish licensure requirements and shall contract for programs that ensure that services, as specified by this act, are provided to homeless youth in the State in an appropriate and responsible manner. The commissioner may establish such other requirements for the homeless youth programs as he deems necessary.

C.9:12A-6 Street outreach program.

5. A street outreach program for homeless youth shall enhance the accessibility of resources to a homeless youth by locating, contacting and providing services to the youth through mobile outreach.

The services provided by the street outreach program, as determined by the department's contract, may include, but are not limited to:

a. Assistance in finding temporary or short-term shelter;

b. Assistance in obtaining food;

c. A clothing allowance;

d. Individual and group counseling in the area of violence prevention;

e. Information and referral services regarding organizations and agencies that provide support services to homeless youth; and

f. Assistance in obtaining medical care.

C.9:12A-7 Basic center shelter program.

6. a. A basic center shelter program shall provide a homeless youth with 24-hour, seven-day a week, walk-in access to emergency, short-term residential care. The services offered by the program shall provide a

homeless youth with a stable out-of-home placement and help reunite the youth with his parent or legal guardian, except in the case where family reunification is not in the youth's best interest.

The services provided at the basic center shelter, as determined by the department's contract, may include, but are not limited to, the following core services:

(1) Family reunification services;
(2) Individual, family and group counseling;
(3) Food;
(4) A clothing allowance;
(5) Medical care;
(6) Educational services;
(7) Recreational activities; and
(8) Advocacy and referral services.

b. If a homeless youth under the age of 18 is admitted to a basic center shelter, the shelter shall attempt to notify the youth's parent or legal guardian of the youth's admission within 24 hours after the admission. The notification shall include a description of the youth's physical and emotional condition and the circumstances surrounding the youth's admission to the basic center shelter, unless there are compelling reasons not to provide the parent or legal guardian with this information. Compelling reasons include, but are not limited to, circumstances in which the youth is or has been a victim of child abuse or neglect.

c. If a homeless youth under the age of 18 is admitted to a basic center shelter, the shelter shall notify the division of the youth's admission to the basic center shelter within 24 hours after the admission to determine if the youth is in the legal care or custody of the division. If the homeless youth is in the legal care or custody of the division, the division, in consultation with the basic center shelter, shall determine what services shall be provided to the youth. The services may include, but are not limited to: crisis intervention services, continued temporary placement in the basic center shelter for up to 30 days, placement in an alternative living arrangement or referral to a transitional living program established pursuant to section 7 of this act or to other appropriate organizations and agencies.

d. When the basic center shelter has reason to believe that the youth is an abused or neglected child as defined in P.L.1974, c.119 (C.9:6-8.21 et seq.), the basic center shelter shall report the allegation to the division pursuant to section 3 of P.L.1971, c.437 (C.9:6-8.10). A homeless youth may remain at a basic center shelter for up to 30 days pending the division's disposition of any case originated pursuant to this subsection.

e. If a homeless youth under the age of 18 is not in the legal care or custody of the division as provided in subsection c. of this section, and a basic

center shelter has not made a report to the division pursuant to subsection d. of this section, the basic center shelter shall notify a juvenile-family crisis intervention unit, established pursuant to P.L.1982, c.80 (C.2A:4A-76 et seq.), in the county of residence of the homeless youth, within 24 hours of the youth's admission to the basic center shelter, that a juvenile-family crisis exists as defined in section 3 of P.L.1982, c.77 (C.2A:4A-22).

f. In the event that a basic center shelter notifies a juvenile-family crisis intervention unit pursuant to subsection e. of this section, the homeless youth may remain at the basic center shelter for up to 10 days without the consent of the youth's parent or legal guardian. During this time, the juvenile-family crisis intervention unit and the basic center shelter shall help to reunite the youth with his parent or legal guardian. If reunification with the parent or legal guardian is not in the youth's best interest or not possible because the youth's parent or legal guardian cannot be located, the juvenile-family crisis intervention unit, in consultation with the basic center shelter, shall determine what services shall be provided to the youth. The services may include, but are not limited to, crisis intervention services and continued temporary placement in the basic center shelter for up to an additional 30 days.

g. In the case of a homeless youth from another state who is under the age of 18, a basic center shelter shall notify the Compact Administrator of the Interstate Compact on Juveniles, as soon as practicable, but within 24 hours of the youth's admission to the basic center shelter. The Compact Administrator shall facilitate the youth's return home to his parent or legal guardian or make other suitable care arrangements for the youth.

C.9:12A-8 Transitional living program.

7. A transitional living program shall provide residential care and treatment services for up to 18 months to a homeless youth 16 to 21 years of age who demonstrates the maturity to function with minimal adult supervision.

The program shall assist in the maintenance of a homeless youth in a living arrangement that will prepare the youth for independence and self-sufficiency through the direct provision of, or through referrals to, other organizations and agencies for services, as determined by the department's contract, which may include:

(1) Educational assessment and attachment to an educational program;

(2) Career planning, employment and life skills training;

(3) Job placement;

(4) Budgeting and money management;

(5) Assistance in securing housing appropriate to a homeless youth's needs and income; and

(6) Assistance in accessing other social services as may be appropriate.

C.9:12A-9 Rules, regulations.

8. Subject to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Human Services shall adopt rules and regulations for the licensing by the department of organizations and agencies that provide street outreach or basic center shelter or transitional living programs for homeless youth.

9. There is appropriated $1,000,000 from the General Fund to the Department of Human Services. The department shall contract with organizations and agencies licensed by the department pursuant to the provisions of this act, to provide street outreach or basic center shelter or transitional living programs to homeless youth.

Six percent of the annual appropriation to the department under this act shall be allocated to fund the department's administrative costs in implementing the provisions of this act.

10. This act shall take effect 90 days following enactment.

Approved September 22, 1999.

CHAPTER 225

AN ACT concerning certain watershed lands, supplementing Title 58 of the Revised Statutes, and making an appropriation.

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

C.58:29-8 Annual appropriation to municipalities for lands subject to moratorium on conveyance of watershed lands; amount per acre.

1. There shall be appropriated each State fiscal year from the General Fund to each municipality within which any lands subject to the moratorium on the conveyance of watershed lands imposed pursuant to section 1 of P.L.1988, c.163, as amended by section 1 of P.L.1990, c.19, are located an amount of $68.50 per acre of such lands located within the municipality. Notwithstanding the provisions of this section to the contrary, the per acre amount of watershed moratorium offset aid prescribed by this section shall be adjusted annually in direct proportion to the increase or decrease in the Consumer Price Index for all urban consumers in the New York City area as reported by the United States Department of Labor. The adjustment shall become effective on July 1 of the year in which the adjustment is made.

2. There is appropriated from the General Fund to the Department of Community Affairs the sum of $3,400,000 for the purposes of providing, for State fiscal year 2000, watershed moratorium offset aid to qualifying municipalities as required pursuant to section 1 of this act.

3. This act shall take effect July 1, 1999 and shall expire (1) on the repeal by law of section 1 of P.L.1988, c.163 and section 1 of P.L.1990, c.19, or (2) upon termination of the watershed land conveyance moratorium imposed pursuant to section 1 of P.L.1988, c.163 and section 1 of P.L.1990, c.19, by a final, unappealed order of a court of competent jurisdiction, whichever is sooner.

Approved September 22, 1999.

CHAPTER 226

AN ACT concerning higher education finance, supplementing chapter 62 of Title 18A of the New Jersey Statutes, and making an appropriation.

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

C.18A:62-29 Short title.

1. This act shall be known and may be cited as the "Higher Education Incentive Funding Act."

C.18A:62-30 Findings, declarations relative to higher education finance.

2. The Legislature finds and declares that a mechanism is needed to provide incentives that will assist the State's public and independent colleges and universities in their fund raising efforts, and that a State commitment to provide matching funds for private donors' investment in higher education has the potential to generate additional external support for programs and activities that could have a significant impact on the individual campuses of the State's higher education institutions.

C.18A:62-31 Definitions relative to higher education finance.

3. As used in this act:

"Amount" of a contribution or a donation means, in the case of property other than cash, the fair market value of the property contributed or donated as of the close of business on the day on which the recipient of that contribution or donation acquires ownership of the property.

"Contribution year" means the fiscal year in which the endowment contribution or contributions were made, with respect to which State matching funds under sections 5 through 7 of P.L.1999, c.226 (C.18A:62-33 through C.18A:62-35) are sought or have been paid.

"Donation" means the conveyance by gift of property consisting of cash or marketable securities, the corpus of which property may, under the terms of the gift, be expended by the donee, and the income from which property may, but need not, be restricted under those terms as to use for particular purposes stipulated by the donor.

"Donation year" means the fiscal year in which the donation or donations were made, with respect to which State matching funds under sections 9 through 11 of P.L.1999, c.226 (C.18A:62-37 through C.18A:62-39) are sought or have been paid.

"Endowment contribution" means the conveyance by gift of property consisting of cash or marketable securities, the corpus of which property may not, under the terms of the gift, be expended by the person to whom the contribution is made, and the income from which property may, but need not, be restricted under those terms as to use for particular purposes stipulated by the contributor.

"Fiscal year" means the State fiscal year.

"Gift" means a completed irrevocable transfer of property, including transfer by testamentary disposition, for which transfer the transferor receives no consideration, and in which property the transferee's interest is not subject to any retained interest of the transferor or to any concurrent or future interest of any other person.

C.18A:62-32 "Higher Education Incentive Endowment Fund."

4. There is created in the Department of the Treasury the "Higher Education Incentive Endowment Fund" (the "endowment fund"), which, subject to the availability of funds, shall be used to provide State matching funds against endowment contributions to four-year public institutions of higher education, two-year public institutions of higher education, and independent institutions of higher education that receive direct State aid, or their institutionally related foundations, in accordance with the provisions of sections 5 through 7 of this act and subject to the provisions of subsections a. and b. of section 12 of the act.

C.18A:62-33 State matching funds for endowment contributions to four-year public institutions.

5. With respect to a fiscal year in which at least one person shall have made a single endowment contribution to a four-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of $1,000,000 or more, the recipient institution or

foundation shall be eligible to receive State matching funds in subsequent fiscal years as follows:

a. In the fiscal year first following the contribution year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the amount of each such contribution received in the contribution year. There shall be no limit on the number of such single endowment contributions in that contribution year in the amount of $1,000,000 or more each for which such application may be made. Any such application shall be made only with respect to the entire contribution year and may be submitted at any time after the close of that contribution year. Not later than the 90th day following receipt of the application, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this subsection and shall pay that amount from the endowment fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied; and

b. In the second and in each of the subsequent fiscal years following the contribution year, the institution or foundation shall be entitled to receive from the endowment fund, without application, State matching funds in an amount equal to one-half of the amount paid under subsection a. of this section.

C.18A:62-34 State matching funds for endowment contributions to two-year public institutions.

6. a. With respect to a fiscal year in which at least one person shall have made a single endowment contribution to a two-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of $100,000 or more, the recipient institution or foundation shall be eligible to receive State matching funds in subsequent fiscal years as follows:

(1) In the fiscal year first following the contribution year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the amount of each such contribution received in the contribution year. There shall be no limit on the number of such single endowment contributions in that contribution year in the amount of $100,000 or more each for which such application may be made. Any such application shall be made only with respect to the entire contribution year and may be submitted at any time after the close of that contribution year. Not later than the 90th day following receipt of the application, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this paragraph and shall pay that amount from the endowment fund to the institution or foundation,

including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied; and

(2) In the second and in each of the subsequent fiscal years following the contribution year, the institution or foundation shall be entitled to receive from the endowment fund, without application, State matching funds in an amount equal to one-half of the amount paid under paragraph (1) of this subsection.

b. With respect to a fiscal year in which three or more persons each shall have made single endowment contributions to a two-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of $50,000 or more but less than $100,000, and the cumulative amount in that fiscal year of those single endowment contributions of $50,000 or more but less than $100,000 is at least $250,000, the recipient institution or foundation shall be eligible to receive State matching funds in subsequent fiscal years as follows:

(1) In the fiscal year first following the contribution year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the highest exact multiple of $250,000 that is less than or equal to that cumulative amount of such contributions received in the contribution year. There shall be no limit on the number of such single endowment contributions in that contribution year in the amount of $50,000 but less than $100,000 each with respect to which such application may be made. Any such application shall be made only with respect to the entire contribution year and may be submitted at any time after the close of that contribution year. Not later than the 90th day following receipt of the application, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this paragraph and shall pay that amount from the endowment fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied; and

(2) In the second and in each of the subsequent fiscal years following the contribution year, the institution or foundation shall be entitled to receive from the endowment fund, without application, State matching funds in an amount equal to one-half of the amount paid under paragraph (1) of this subsection.

C.18A:62-35 State matching funds for endowment contributions to four-year independent institutions.

7. With respect to a fiscal year in which at least one person makes a single endowment contribution to a four-year independent institution of

higher education that receives direct State aid, or to a foundation institutionally related to such an institution, in the amount of $1,000,000 or more, the recipient institution or foundation shall be eligible to apply for and to receive State matching funds in the amount of $100,000 with respect to each such contribution. There shall be no limit on the number of such single endowment contributions in a contribution year in the amount of $1,000,000 or more each for which such application may be made. Any such application shall be made only with respect to the entire contribution year and may be submitted at any time after the close of that contribution year. Not later than the 90th day following receipt of the application, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this section and shall pay that amount from the endowment fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied. An institution or foundation that shall have received payment of State matching funds under this section with respect to a contribution year shall not thereafter receive additional State matching funds with respect to the same contribution year.

C.18A:62-36 "Higher Education Incentive Grant Fund."

8. There is created in the Department of the Treasury the "Higher Education Incentive Grant Fund" (the "grant fund"), which, subject to the availability of funds, shall be used to provide State matching funds against donations to four-year public institutions of higher education, two-year public institutions of higher education, and independent institutions of higher education that receive direct State aid, r their institutionally related foundations, in accordance with the provisions of sections 9 through 11 of this act and subject to the provisions of subsections a. and b. of section 12 of the act.

C.18A:62-37 State matching funds for donations to four-year public institutions.

9. With respect to a fiscal year in which at least one person shall have made a single donation to a four-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of $1,000,000 or more, the recipient institution or foundation shall be eligible to receive State matching funds under this section. In the fiscal year next following the donation year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the amount of each such donation received in the donation year. There shall be no limit on the number of such single donations in that donation year in the amount of $1,000,000 or more each for which such application may be made. Any such application shall be made only with respect to the entire donation year and may be submitted at any time after

the close of that donation year. Not later than the 90th day following receipt of the application, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this subsection and shall pay that amount from the grant fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied. An institution or foundation that shall have received payment of State matching funds under this section with respect to a donation year shall not thereafter receive additional State matching funds with respect to the same donation year.

C.18A:62-38 State matching funds for donations to two-year public institutions.

10. a. With respect to a fiscal year in which at least one person shall have made a single donation to a two-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of $100,000 or more, the recipient institution or foundation shall be eligible to receive State matching funds under this subsection. In the fiscal year next following the donation year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the amount of each such donation received in the donation year. There shall be no limit on the number of such single donations in that donation year in the amount of $100,000 or more each for which such application may be made. Any such application shall be made only with respect to the entire donation year and may be submitted at any time after the close of that donation year. Not later than the 90th day following receipt of the application, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this subsection and shall pay that amount from the grant fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied. An institution or foundation that shall have received payment of State matching funds under this subsection with respect to a donation year shall not thereafter receive additional State matching funds with respect to the same donation year.

b. With respect to every fiscal year in which three or more persons, corporations or other business entities, or foundations each shall have made single donations to a two-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of $50,000 or more but less than $100,000, and the cumulative amount in that fiscal year of those single donations of $50,000 or more but less than $100,000 is at least $250,000, the recipient institution or foundation shall be eligible to receive State matching funds under this subsection. In the fiscal

year next following the donation year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the highest exact multiple of $250,000 that is less than or equal to that cumulative amount of such donations received in the donation year. There shall be no limit on the number of such single donations in that donation year in the amount of $50,000 but less than $100,000 each with respect to which such application may be made. Any such application shall be made only with respect to the entire donation year and may be submitted at any time after the close of that donation year. Not later than the 90th day following receipt of the application, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this subsection and shall pay that amount from the grant fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied. An institution or foundation that shall have received payment of State matching funds under this subsection with respect to a donation year shall not thereafter receive additional State matching funds with respect to the same donation year.

C.18A:62-39 State matching funds for donations to four-year independent institutions.

11. With respect to a fiscal year in which at least one person makes a single donation to a four-year independent institution of higher education that receives direct State aid, or to a foundation institutionally related to such an institution, in the amount of $1,000,000 or more, the recipient institution or foundation shall be eligible to apply for and to receive State matching funds in the amount of $100,000 with respect to each such donation. There shall be no limit on the number of such single donations in that donation year in the amount of $1,000,000 or more for which such application may be made. Any such application shall be made only with respect to the entire donation year and may be submitted at any time after the close of that donation year. Not later than the 90th day following receipt of the application, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this section and shall pay that amount from the grant fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied. An institution or foundation that shall have received payment of State matching funds under this section with respect to a donation year shall not thereafter receive additional State matching funds with respect to the same donation year.

C.18A:62-40 Ineligibility for receipt of State matching funds; use of matching funds.

12. a. No institution of higher education having a total endowment of more than $1,000,000,000, and no foundation institutionally related to such

an institution, shall be eligible to receive State matching funds under this act.

b. No endowment contribution or donation to an institution of higher education from a foundation institutionally related to that institution shall be eligible to be matched with State funds under the provisions of this act.

c. The matching funds provided to an institution of higher education or to a foundation institutionally related to such an institution pursuant to sections 4 through 11 of this act shall be used by the institution or foundation exclusively for academic purposes and shall not be used to fund any activity, program or project unrelated or only incidentally related to those purposes, such as the award of athletic scholarships or payment of the cost of building construction, but this restriction shall not to apply to the use by the institution or foundation of any of the endowment contributions and donations with respect to which those matching funds were paid.

C.18A:62-41 Documents included with application for State matching funds.

13. In order for an institution or foundation to receive in a fiscal year State matching funds pursuant to an application therefor under the provisions of this act, the governing body of the institution or foundation shall provide the State Treasurer with a copy of the institution's annual independent financial audit, the institution's education foundation audit, or other financial certification, as deemed appropriate by the Treasurer, that verifies that the institution has raised the necessary amount through endowment contributions or donations to qualify for the State matching funds.

C.18A:62-42 Funds administered separately.

14. a. The endowment fund and the grant fund shall be administered separately by the State Treasurer. Each fund shall consist of moneys appropriated or otherwise made available to it by the Legislature and any interest received on the investment of moneys in that fund.

b. If, in any fiscal year, the fund balance in either the endowment fund or the grant fund is insufficient to fund payment in full of the State matching funds authorized to be paid under the provisions of this act, the entitlement of an institution of higher education or institutionally related foundation to the amount of any underpayment shall not lapse, and shall have priority in the following fiscal year over any claim for payment of such matching funds arising in that following fiscal year.

C.18A:62-43 Rules, regulations.

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

16. There is appropriated from the General Fund to the Department of the Treasury $5,000,000 to be divided equally between the endowment fund and the grant fund to implement the provisions of this act.

17. This act shall take effect immediately and shall apply to any endowment contribution or donation made during the fiscal year of enactment or thereafter.

Approved September 22, 1999.

CHAPTER 227

AN ACT concerning obscene films or obscene materials for persons under 18 years of age and amending N.J.S.2C:34-3.

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

1. N.J.S.2C:34-3 is amended to read as follows:

Obscenity for persons under 18.

2C:34-3. Obscenity For Persons Under 18. a. Definitions for purposes of this section:

(1) "Obscene material" means any description, narrative account, display, depiction of a specified anatomical area or specified sexual activity contained in, or consisting of, a picture or other representation, publication, sound recording, live performance or film, which by means of posing, composition, format or animated sensual details, emits sensuality with sufficient impact to concentrate prurient interest on the area or activity.

(2) "Obscene film" means any motion picture film or preview or trailer to a film, not including newsreels portraying actual current events or pictorial news of the day, in which a scene, taken by itself:

(a) Depicts a specified anatomical area or specified sexual activity, or the simulation of a specified sexual activity, or verbalization concerning a specified sexual activity; and

(b) Emits sensuality sufficient, in terms of the duration and impact of the depiction, to appeal to prurient interest.

(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) Human genitals in a state of sexual stimulation or arousal; or

(b) Any act of human masturbation, sexual intercourse or deviate sexual intercourse; or

(c) Fondling or other erotic touching of covered or uncovered human genitals, pubic region, buttock or female breast.

(5) "Knowingly" means:

(a) Having knowledge of the character and content of the material or film described herein; or

(b) Having failed to exercise reasonable inspection which would disclose its character and content.

(6) "Exhibit" means the sale of admission to view obscene material.

(7) "Show" means cause or allow to be seen.

b. Promoting obscene material.

(1) A person who knowingly sells, distributes, rents or exhibits to a person under 18 years of age obscene material is guilty of a crime of the third degree.

(2) A person who knowingly shows obscene material to a person under 18 years of age with the knowledge or purpose to arouse, gratify or stimulate himself or another is guilty of a crime of the third degree if the person showing the obscene material is at least four years older than the person under 18 years of age viewing the material.

c. Admitting to exhibition of obscene film.

(1) Any person who knowingly admits a person under 18 years of age to a theatre then exhibiting an obscene film is guilty of a crime of the third degree.

(2) A person who knowingly shows an obscene film to a person under 18 years of age with the knowledge or purpose to arouse, gratify or stimulate himself or another is guilty of a crime of the third degree if the person showing the obscene film is at least four years older than the person under 18 years of age viewing the film.

d. Presumption of knowledge and age.

The requisite knowledge with regard to the character and content of the film or material and of the age of the person is presumed in the case of an actor who sells, distributes, rents, exhibits or shows obscene material to a person under 18 years of age or admits to a film obscene for a person under 18 years of age a person who is under 18 years of age.

e. Defenses.

(1) It is an affirmative defense to a prosecution under subsections b. and c. which the defendant must prove by a preponderance of evidence that:

(a) The person under age 18 falsely represented in or by writing that he was age 18 or over;

(b) The person's appearance was such that an individual of ordinary prudence would believe him to be age 18 or over; and

(c) The sale, distribution, rental, showing or exhibition to or admission of the person was made in good faith relying upon such written representation and appearance and in the reasonable belief that he was actually age 18 or over.

(2) It is an affirmative defense to a prosecution under subsection c. that the defendant is an employee in a motion picture theatre who has no financial interest in that motion picture theatre other than his wages and has no decision-making authority or responsibility with respect to the selection of the motion picture show which is exhibited.

2. This act shall take effect on the first day of the second month following enactment.

Approved September 30, 1999.

CHAPTER 228

AN ACT establishing the New Jersey William Carlos Williams Citation of Merit, supplementing Title 52 of the Revised Statutes and making an appropriation.

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

C.52:16A-26.9 New Jersey William Carlos Williams Citation of Merit.

1. a. There is hereby established the New Jersey William Carlos Williams Citation of Merit to be presented to a distinguished poet from New Jersey who shall be considered the poet laureate of the State of New Jersey for a period of two years. The poet laureate shall receive an honorarium of $10,000.

b. The New Jersey Council for the Humanities, in consultation with the New Jersey State Council on the Arts, shall biennially appoint and convene a panel of four persons who are either distinguished poets or persons who represent a range of stylistic approaches in the field of poetry. Each member of the first such panel shall be from New Jersey. After the term of the first poet laureate and each subsequent poet laureate has expired, that person shall serve as one of the members of the panel for a period of two years and participate in the selection of the next poet laureate. The panel shall submit to the Governor the name of the poet to whom the

citation of merit shall be presented and who shall be considered poet laureate of the State for the subsequent two years.

c. The Governor shall present biennially the New Jersey William Carlos Williams Citation of Merit.

d. The poet laureate shall engage in activities to promote and encourage poetry within the State and shall give no fewer than two public readings within the State each year while the poet holds the laureate designation.

e. The New Jersey Council for the Humanities, in consultation with the New Jersey State Council on the Arts, shall establish such guidelines as are deemed necessary to effectuate the purposes of this section.

2. There is appropriated $10,000 from the General Fund to the Department of State to effectuate the purposes of this act.

3. This act shall take effect immediately.

Approved October 4, 1999.

CHAPTER 229

AN ACT establishing a thermal imaging camera grant program.

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

C.52:27D-25b1 Thermal imaging camera grant program.

1. There is hereby established in the Division of Fire Safety in the Department of Community Affairs a thermal imaging camera grant program, under which grants shall be made available to governing fire organizations that apply to assist in the purchase of thermal imaging cameras or to reimburse governing fire organizations for public funds other than State funds that have been expended for the purchase of thermal imaging cameras. The appropriate State agency shall contract with a manufacturer to obtain the best price available. The Department of Community Affairs may require, pursuant to such uniform standards as the department may prescribe, fire districts that apply for such grants to provide matching funds of up to, but not more than, the amount of the grant awarded.

There shall be available for the support of the thermal imaging camera grant program such sums as shall be appropriated therefor in the Appropriations Act for the State Fiscal Year ending June 30, 2000.

As used in this section, "governing fire organizations" means a municipality, fire district, fire company or fire department responsible for providing fire protection in any given municipality.

2. This act shall take effect immediately.

Approved October 4, 1999.

CHAPTER 230

AN ACT concerning the election of certain trustees of the Teachers' Pension and Annuity Fund and amending N.J.S.18A:66-56.

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

1. N.J.S.18A:66-56 is amended to read as follows:

Board of trustees; duties, appointment or election, terms, vacancies, oaths, voting, expenses.

18A:66-56. Subject to the provisions of chapter 70 of the laws of 1955, the general responsibility for the proper operation of the teachers' pension and annuity fund shall be vested in the board of trustees. Subject to the limitations of the law, the board shall annually establish rules and regulations for the administration and transaction of its business and for the control of the funds created by this article. Such rules and regulations shall be consistent with those adopted by the other pension funds within the Division of Pensions in order to permit the most economical and uniform administration of all such retirement systems. The membership of the board shall consist of the following:

(a) The State Treasurer or the deputy State Treasurer, when designated for that purpose by the State Treasurer;

(b) Two trustees appointed by the Governor, with the advice and consent of the Senate, who shall serve for a term of office of three years and until their successors are appointed, and who shall be private citizens of the State of New Jersey and who are neither an officer thereof nor active or retired members of the system, except that of the two trustees initially appointed by the Governor pursuant to P.L.1992, c.41 (C.43:6A-33.1 et al.), one shall be appointed for a term of two years and one for a term of three years;

(c) Three trustees from among the active or retired members of the retirement system, elected by the membership or by the delegates elected for this purpose by the membership, one of whom shall be elected each year for

a three-year term commencing on January 1, following such election in such manner as the board of trustees may prescribe. If the board of trustees determines that the election of trustees under this subsection is to be made by delegates elected by the membership, it shall prescribe that those delegates shall be chosen from among active and retired members of the retirement system;

(d) One trustee not an active or retired teacher nor an officer of the State, elected by the other trustees, other than the State Treasurer, for a term of three years.

A vacancy occurring in the board of trustees shall be filled in the same manner as provided in this section for regular appointment or election to the position where the vacancy exists, except that a vacancy occurring in the trustees elected from among the active or retired members of the retirement system shall be filled for the unexpired term.

Each member of the board shall, upon appointment or election, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the board's affairs, and that he will not knowingly violate or willfully permit to be violated any provision of law applicable to this article. The oath shall be subscribed to by the member making it, certified by the officer before whom it is taken and filed immediately in the office of the Secretary of State.

Each trustee shall be entitled to one vote in the board and a majority of all the votes of the entire board shall be necessary for a decision by the board of trustees at a meeting of the board. The board shall keep a record of all its proceedings, which shall be open to public inspection.

The members of the board shall serve without compensation but shall be reimbursed for any necessary expenditures. No employee shall suffer loss of salary or wages through serving on the board.

The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions, subject to veto by the board for valid reason. It shall be composed of three physicians who are not eligible to participate in the retirement system. The medical board shall pass upon all medical examinations required under the provisions of this article, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

2. This act shall take effect immediately.

Approved October 4, 1999.

CHAPTER 231

AN ACT concerning hunting deer with bait and amending P.L.1997, c.424.

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

1. Section 1 of P.L.1997, c.424 (C.23:4-24.4) is amended to read as follows:

C.23:4-24.4 Hunting deer with bait; "baited area" defined.

1. a. Notwithstanding the provisions of section 1 and section 2 of P.L.1970, c.180 (C.23:4-24.2 and C.23:4-24.3), a person may: (1) use bait to attract, entice, or lure a deer; and (2) kill, destroy, injure, shoot, shoot at, take, wound, or attempt to take, kill, or wound, a deer, or have in possession or control any firearm or other weapon of any kind for such purposes, within any distance of a baited area. A person may be elevated in a standing tree or in a structure of any kind when using a baited area for hunting deer, and the baited area may be within any distance of the standing tree or structure.

b. For the purposes of this section, "baited area" means the presence of placed, exposed, deposited, distributed, or scattered agricultural products, salt, or other edible lure whatsoever capable of attracting, enticing, or luring deer.

2. This act shall take effect immediately.

Approved October 4, 1999.

CHAPTER 232

AN ACT concerning voting by certain voters, revising various parts of the statutory law and supplementing Title 19 of the Revised Statutes.

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

1. R.S.19:9-2 is amended to read as follows:

Preparation of information and election supplies.

19:9-2. The Director of the Division of Elections shall prepare and distribute on or before April 1 in each year prior to the primary election for the general election and the general election such information as may be needed relative to election procedures for the ensuing year.

The county board of elections shall prepare and distribute on or before April 1 of each year, registration and voting instructions printed in at least 14-point type for conspicuous display at each polling place at any election.

All other books, ballots, envelopes and other blank forms which the county clerk is required to furnish under any other section of this Title, stationery and supplies for the primary election for the general election, the primary election for delegates and alternates to national conventions and the general election, shall be furnished, prepared and distributed by the clerks of the various counties; except that all books, blank forms, stationery and supplies, articles and equipment which may be deemed necessary to be furnished, used or issued by the county board or superintendent shall be furnished, used or issued, prepared and distributed by such county board or superintendent, as the case may be.

The county board shall furnish and deliver to the county clerk, the municipal clerks and the district boards in municipalities having more than one election district: a map or description of the district lines of their respective election districts, together with the street and house numbers where possible in such election districts and a list or map of all of the polling places within the county to assist any voter in identifying the correct location of the polling place at which the voter should vote if that voter erroneously reports to the municipal clerk or the wrong polling place.

Nothing in subtitle 2 of the Title, Municipalities and Counties (R.S.40:16-1 et seq.), shall in anywise be construed to affect, restrict, or abridge the powers conferred on the county clerks, county boards or superintendents by this Title.

2. R.S.19:12-7 is amended to read as follows:

Publication of notice of elections.

19:12-7. a. The county board in each county shall cause to be published in a newspaper or newspapers which, singly or in combination, are of general circulation throughout the county, a notice containing the information specified in subsection b. hereof, except for such of the contents as may be omitted pursuant to subsection c. or d. hereof. Such notice shall be published once during the 30 days next preceding the day fixed for the closing of the registration books for the primary election, once during the calendar week next preceding the week in which the primary election is held, once during the 30 days next preceding the day fixed for the closing of the registration books for the general election, and once during the calendar week next preceding the week in which the general election is held.

b. Such notice shall set forth:

(1) For the primary election:

(a) That a primary election for making nominations for the general election, for the selection of members of the county committees of each political party, and in each presidential year for the selection of delegates and alternates to national conventions of political parties, will be held on the day and between the hours and at the places provided for by or pursuant to this Title.

(b) The place or places at which and hours during which a person may register, the procedure for the transfer of registration, and the date on which the books are closed for registration or transfer of registration.

(c) The several State, county, municipal and party offices or positions to be filled, or for which nominations are to be made, at such primary election.

(d) The existence of registration and voting aids, including: (i) the availability of registration and voting instructions at places of registration as provided under R.S.19:31-6; and (ii), if available, the accessibility of voter information to the deaf by means of a telecommunications device.

(e) The availability of assistance to a person unable to vote due to blindness, disability or inability to read or write.

(f) In the case of the notice published during the calendar week next preceding the week in which the primary election is held, that a voter who, prior to the election, shall have moved within the same county without (i) filing, on or before the 29th day preceding the election, a notice of change of residence with the commissioner of registration of the county or the municipal clerk of the municipality in which the voter resides on the day of the election, (ii) returning the confirmation notice sent to the voter by the commissioner of registration of the county, if such a notice has been sent to the voter, or (iii) otherwise notifying the commissioner of registration of the voter's change of address within the county shall be permitted to correct the voter's registration and to vote in the primary election by provisional ballot at the polling place of the district in which the voter resides on the day of the election. The notice shall further provide that the voter may contact the county commissioner of registration or municipal clerk to determine the proper polling place location for the voter.

(2) For the general election:

(a) That a general election will be held on the day and between the hours and at the places provided for by or pursuant to this Title.

(b) The place or places at which and hours during which a person may register, the procedure for transfer of registration, and the date on which the books are closed for registration or transfer of registration.

(c) The several State, county and municipal offices to be filled and, except as provided in R.S.19:14-33 of this Title as to publication of notice of any Statewide proposition directed by the Legislature to be submitted to the people, the State, county and municipal public questions to be voted upon at such general election.

(d) The existence of registration and voting aids, including: (i) the availability of registration and voting instructions at places of registration as provided under R.S.19:31-6; and (ii) the accessibility of voter information to the deaf by means of a telecommunications device.

(e) The availability of assistance to a person unable to vote due to blindness, disability or inability to read or write.

(f) In the case of the notice published during the calendar week next preceding the week in which the general election is held, that a voter who, prior to the election, shall have moved within the same county without (i) filing, on or before the 29th day preceding the election, a notice of change of residence with the commissioner of registration of the county or the municipal clerk of the municipality in which the voter resides on the day of the election, (ii) returning the confirmation notice sent to the voter by the commissioner of registration of the county, if such a notice has been sent to the voter, or (iii) otherwise notifying the commissioner of registration of the voter's change of address within the county shall be permitted to correct the voter's registration and to vote in the general election by provisional ballot at the polling place of the district in which the voter resides on the day of the election. The notice shall further provide that the voter may contact the county commissioner of registration or municipal clerk to determine the proper polling place location for the voter.

(3) For a school election:

(a) The day, time and place thereof,

(b) The offices, if any, to be filled at the election,

(c) The substance of any public question to be submitted to the voters thereat,

(d) That a voter who, prior to the election, shall have moved within the same county without (i) filing, on or before the 29th day preceding the election, a notice of change of residence with the commissioner of registration of the county or the municipal clerk of the municipality in which the voter resides on the day of the election, (ii) returning the confirmation notice sent to the voter by the commissioner of registration of the county, if such a notice has been sent to the voter, or (iii) otherwise notifying the commissioner of registration of the voter's change of address within the county shall be permitted to correct the voter's registration and to vote in the school election by provisional ballot at the polling place of the district in which the voter resides on the day of the election,

(e) That if the voter has any questions as to where to vote on the day of the election, the voter may contact the county commissioner of registration or municipal clerk to determine the proper polling place location for the voter; and

(f) Such other information as may be required by law.

c. If such publication is made in more than one newspaper, it shall not be necessary to duplicate in the notice published in each such newspaper all the information required under this section, so long as:

(1) The municipal officers or party positions to be filled, or nominations made, or municipal public questions to be voted upon by the voters of any municipality, shall be set forth in at least one newspaper having general circulation in such municipality;

(2) All offices to be filled, or nominations made therefor, or public questions to be voted upon, by the voters of the entire State or of the entire county shall be set forth in a newspaper or newspapers which, singly or in combination, have general circulation throughout the county;

(3) Information relating to nominations and elections in each Legislative District comprised in whole or part in the county, shall be published in at least a newspaper or newspapers which singly or in combination, have general circulation in every municipality of the county which is comprised in such legislative district.

d. Such part or parts of the original notices as published which pertain to day of registration or primary election which has occurred shall be eliminated from such notice in succeeding insertions.

e. (Deleted by amendment, PL.1999, c.232.)

f. The cost of publishing the notices required by this section shall be paid by the respective counties, unless otherwise provided for by law.

3. R.S.19:31-11 is amended to read as follows:

Change of residence notice.

19:31-11. a. In all counties within the State, change of residence notices shall be made by a written request, signed by the registrant, forwarded to the commissioner by mail, and actually received by the commissioner, or by calling in person at the office of the commissioner or the municipal clerk. The commissioner shall provide change of residence notices in card form for the use of any registered voter moving to another address within the same election district or to another election district within the same county. Copies of these notices shall also be available at the office of the municipal clerk in each municipality. Each municipal clerk shall transmit daily to the commissioner all the filled out change of residence notices that may be in the municipal clerk's office at the time. These notices shall be printed upon cards, shall contain a blank form showing where the applicant last resided and the address and exact location to which the applicant has moved and shall have a line for the applicant's signature, printed name and date of birth. Upon receipt of such change of residence notice the commissioner shall cause the signature to be compared with the

registration forms of the applicant and, if such signature appears to be of and by one and the same legal voter, the commissioner shall cause the entry of the change of residence to be made on those registration forms and the registrant shall thereupon be qualified to vote in the election district to which the registrant shall have so moved. If the commissioner is not satisfied as to the signature on the request for a change of residence, a confirmation notice as prescribed by subsection d. of R.S.19:31-15 shall be sent by mail with postage prepaid to the registrant at the new address.

The application for change of residence shall be filed with the commissioner or municipal clerk, as the case may be, on or before the twenty-ninth day preceding any election.

b. In any county any voter who, prior to an election, shall move within the same county after the time above prescribed for filing an application for change of residence without having made application for change of residence, or who has not returned a confirmation notice sent to the voter by the commissioner of registration of the county, if such a notice has been sent to the voter, or who has not moved since the previous election but whose registration information is missing or otherwise deficient, or has otherwise failed to notify the commissioner of registration of the voter's change of address within the county, shall be permitted to vote in that election in the district to which the voter has moved, upon making a written affirmation regarding the change of address at the polling place of the district in which the voter resides on the day of the election. No identifying document shall be required from the voter for this affirmation. A district board member shall provide the voter with a provisional ballot, and an envelope with an affirmation statement that conforms with the requirements for such documents contained in subsection b. of section 7 of P.L.1999, c.232 (C.19:53C-1). The voter shall complete the provisional ballot and affirmation statement, place the ballot in the envelope, seal and return it to the district board member. The board member shall review the information in the affirmation statement for completeness before forwarding it for inspection, tabulation and notation by the county board of elections, as provided for by sections 7 through 26 of P.L.1999, c.232 (C.19:53C-1 through C.19:53C-20). The affirmation statement shall constitute a transfer to the registrant's new residence for any subsequent election. However, if the voter has moved from one residence to another within the same election district at any time, the voter shall be permitted to vote in such election district at any election in the same manner as other voters at the polling place upon written affirmation by the registrant to the district board member of the registrant's change of address.

c. A voter who moves from an election district in one county to an election district in another county prior to the close of registration preceding

an election shall register in the new county of residence, in accordance with the provisions of R.S.19:31-6, in order to be permitted to vote.

4. Section 3 of P.L.1940, c.197 (C.19:48-3.2) is amended to read as follows:

C.19:48-3.2 Authorized ballots; emergency, provisional ballots.

3. No ballots shall be prepared or used at any election in any election district under the provisions of this act other than such ballots as are required for use in voting machines, emergency ballots for use if a voting machine fails to operate, as provided in P.L.1992, c.3 (C.19:53B-1 et al.), and provisional ballots for use by certain voters who no longer reside at the place from which they are registered, as provided in P.L.1999, c.232 (C.19:53C-1 et al.).

5. Section 11 of P.L.1944, c.7 (C.19:48-3.13) is amended to read as follows:

C.19:48-3.13 Ballots, type permitted.

11. No ballots other than ballots required for use in voting machines, emergency ballots for use if a voting machine fails to operate and provisional ballots for use by certain voters who no longer reside at the place from which they are registered, as provided in P.L.1999, c. 232 (C.19:53C-1 et al.), shall be prepared or used at any election in any election district.

6. R.S.19:52-1 is amended to read as follows:

Preparation of polling places.

19:52-1. The district boards of each election district shall meet at the polling place three-quarters of an hour before the time set for opening of the polls at each election and shall proceed to arrange the furniture, stationery and voting machine or machines for the conduct of the election. The district boards shall then and there have the voting machine, ballots and stationery required to be delivered to them for such election by the officials charged by law with that duty.

The keys to the voting machine shall be delivered to the district election officers in any manner that the county board of elections or the superintendent of elections or the municipal clerk, as the case may be, having custody of voting machines, may determine, at least three-quarters of an hour before the time set for opening the polls, in a sealed envelope, on which shall be written or printed the number and location of the voting machine, the number of the seal with which it is sealed, the number of the green seal with

which the emergency ballot box is sealed, and the number registered on the protective counter or device, as reported by the custodian.

The envelope containing the keys shall not be opened until at least two members of the board who are not members of the same political party shall be present at the polling place and shall have examined the envelope to see that it has not been opened. Before opening the envelope all election officers present shall examine the number on the seal on the machine and the number registered on the protective counter, and shall ascertain if they are the same as the numbers written on the envelope; and if they are not the same, the machine must not be opened until such county board of elections or such superintendent of elections or such municipal clerk, as the case may be, after due notice of such discrepancy, shall have caused such machine to be re-examined and properly arranged by any person or persons employed or appointed pursuant to R.S.19:48-6. If the numbers on the voting machine seal and the protective counter are found to agree with the numbers on the envelope, the district election officers shall proceed to open the doors concealing the counters, and each district election officer shall carefully examine every counter and ascertain whether or not it registers zero (000), and the same shall be subject to the inspection of official watchers.

In addition, each district election officer shall carefully examine the emergency ballot box to ascertain whether or not it is properly sealed with a numbered green seal and examine the number to ascertain if it is the same as the number written on the voting machine key envelope. If the numbers are not the same, the county board of elections, the superintendent of elections, or the municipal clerk, as the case may be, shall be notified of the discrepancy.

The machine shall remain locked against voting until the polls are formally opened and shall not be operated except by voters in voting. If any counter is found not to register zero (000) the district board shall immediately notify such county board of elections or such superintendent of elections or such municipal clerk, as the case may be, who shall, if practicable, cause such counter to be adjusted at zero (000) by any person or persons employed or appointed pursuant to R.S.19:48-6. If it shall be impracticable for such person or persons to arrive in time to so adjust such counter before the time set for opening the polls, the district election officers shall immediately make a written statement of the designating letter and number of such counter, together with the number registered thereon, and shall sign and post same upon the wall of the polling room, where it shall remain throughout election day, and in filling out the statement of canvass, they shall subtract such number from the number registered thereon at the close of the polls.

Each district election officer shall carefully examine the provisional ballot bag to ascertain that it is properly sealed with a numbered security

seal and whether it has been subjected to tampering. If the elections officer discovers evidence of tampering, the county board of elections, the superintendent of elections, or the municipal clerk, as the case may be, shall be so notified immediately.

C.19:53C-1 Preparation of provisional ballots.

7. a. (1) The county clerk or the municipal clerk, in the case of a municipal election, shall arrange for the preparation of a provisional ballot packet for each election district. It shall include the appropriate number of provisional ballots, the appropriate number of envelopes with an affirmation statement and one provisional ballot inventory form affixed to the provisional ballot bag. The clerk shall arrange for the preparation of and placement in each provisional ballot bag of a provisional ballot packet and an envelope containing a numbered seal. The envelope shall contain, on its face, the instructions for the use of the seal, the number and the election district location of the provisional ballot bag, and the identification numbers of the seal placed in the envelope. Each provisional ballot bag shall be sealed with a numbered security seal before being forwarded to the appropriate election district.

(2) Each provisional ballot bag and the inventory of the contents of each such bag shall be delivered to the designated polling place no later than the opening of the polls on the day of an election.

b. The county clerk or the municipal clerk, in the case of a municipal election, shall arrange for the preparation of the envelope and affirmation statement that is to accompany each provisional ballot. The envelope shall be of sufficient size to accommodate the provisional ballot, and the affirmation statement shall be affixed thereto in a manner that enables it to be detached once completed and verified by the county commissioner of registration. The statement shall require the voter to provide the voter's name, and to indicate whether the voter is registered to vote in a county but has moved within that county since registering to vote; or is registered to vote in the election district in which that polling place is located but the voter's registration information is missing or otherwise deficient. The statement shall further require the voter to provide the voter's most recent prior voter registration address and address on the day of the election and date of birth. The statement shall include the statement: "I swear or affirm, that the foregoing statements made by me are true and correct and that I understand that any fraudulent voting may subject me to a fine of up to $1,000, imprisonment up to five years or both, pursuant to R.S.19:34-11." It shall be followed immediately by spaces for the voter's signature and printed name, and in the case of a name change, the voter's printed old and new name and a signature for each name, the date the statement was

completed, political party affiliation, if used in a primary election, and the name of the person providing assistance to the voter, if applicable. Each statement shall also note the number of the election district, or ward, and name of the municipality at which the statement will be used.

c. For the primary for the general election, the provisional ballots shall be printed in ink on paper of a color that matches the color of the voting authority, which shall indicate the party primary of the voter. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in P.L.1999, c.232 (C.19:53C-1 et al.). Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the primary election.

The clerk of the county or municipality shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots for each political party and a corresponding number of envelopes with affirmation statements. Additional provisional ballots and envelopes shall be available for delivery to that election district on the day of the election, if necessary.

d. For the general election the provisional ballots shall be printed in ink. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in this act. Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the general election.

The clerk of the county or municipality shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots and a corresponding number of envelopes with affirmation statements. Additional provisional ballots and envelopes shall be available for delivery to that election district on the day of the election, if necessary.

e. For a school election the provisional ballots shall be printed in ink. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in this act. Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the school election.

The clerk of the county shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots and a corresponding number of envelopes with affirmation statements. Additional provisional ballots and envelopes shall be available for delivery to that election district on the day of the election, if necessary.

C.19:53C-2 Procedures, use of provisional ballots.

8. a. The district board shall not permit other provisional ballots to be used at an election except those provisional ballots provided for by P.L.1999, c.232 (C.19:53C-1 et al.). It shall confine the distribution and use of the provisional ballots to the polling place and election district in the manner herein directed, and shall not distribute provisional ballots outside the polling place or election district.

b. The board shall not store provisional ballots or envelopes with affirmation statements in a polling booth or in any other area designated for voters to mark the provisional ballot and complete the affirmation statement.

c. The board shall cause each booth or voting area in a polling place to be kept provided with sufficient pens or lead pencils to enable the voters to mark their provisional ballots and complete the affirmation statement.

d. The county board of elections shall arrange for the preparation of complete written instructions regarding the procedures for the use of the provisional ballot bags for each district board member. The board members shall be orally instructed on the procedures for the use of provisional ballots and affirmation statements at the training classes held for the board members.

C.19:53C-3 Procedure as to voters changing residence within the county.

9. Whenever a voter enters a polling place to vote on the day of an election and the circumstance of that voter matches the circumstance of a voter described in subsection b. of R.S.19:31-11, the district board shall query the voter and follow the appropriate procedure herein described.

a. If, at any time, the voter has moved from one residence to another in the same election district, the board shall permit the voter to vote at that polling place in the same manner as other voters at the polling place upon written affirmation by the voter to the district board.

b. If the voter has moved within a municipality but currently resides in an election district different from that listed for the voter by the commissioner of registration, the district board shall direct the voter to the appropriate election district and polling place for the voter and inform that person that: (1) the person must go to that polling place to vote; and (2) the person will be permitted to vote thereat by provisional ballot after completing an affirmation statement.

c. If the voter has moved within the county but currently resides in a municipality different from that listed for the voter by the commissioner of

registration, the district board shall determine the appropriate election district and polling place for the voter and inform that person that: (1) the person must go to that polling place to vote; and (2) the person will be permitted to vote thereat by provisional ballot after completing an affirmation statement.

d. If, on or before the 29th day prior to the day of the election, the voter has moved into the county from another county or state and has not registered to vote in that county, the board shall inform the voter that he is not eligible to vote in that county at that election.

e. If, after the 29th day prior to the day of an election, the voter has moved into the county from another county in this State, the board shall inform the voter that: (1) the voter is not eligible to vote in the county where he resides currently at that election; and (2) the voter may be eligible to vote in the election district where the voter resided prior to moving to the voter's current residence.

f. If the voter's registration information has been marked by the county commissioner of registration to indicate a problem therewith, or if the voter's sample ballot has been returned as undeliverable to the county or municipal clerk, as the case may be, but the voter states that the voter has not moved prior to the day of an election, but instead continues to reside at the same address the voter resided at when voting previously, the voter shall be permitted to vote in such election district in the same manner as other voters at the polling place upon written affirmation to the district board of that election district.

g. If the voter's registration information is missing, the voter shall be permitted to vote by provisional ballot after completing the affirmation statement attached to the envelope provided with the provisional ballot.

C.19:53C-4 Designated area for marking provisional ballot, affirmation statement.

10. The district board shall designate an area within the polling place, which may be a voting booth, for the voter to mark the provisional ballot and affirmation statement. No provisional ballot and envelope with an affirmation statement shall be handed to a voter until the area designated for voters to mark the provisional ballot and affirmation statement is ready. If a voting booth is not used, the voter shall be provided with a security screen at the same time that the provisional ballot and envelope with affirmation statement is provided.

A district board member shall instruct the voter how to complete the affirmation statement and place the voted provisional ballot into the envelope.

If for any reason provisional ballots and envelopes with affirmation statements are not ready or available for distribution at any polling place, the

district board member in charge shall notify the appropriate authority that additional ballots and affirmation statements are required.

C.19:53C-5 Voters given provisional ballot, retire into designated voting area.

11. Every voter to whom a provisional ballot and envelope with an affirmation statement is given shall retire into the designated voting area. Not more than one voter shall be permitted to enter or be in the same booth or voting area at one time, unless the voter is entitled to assistance, as provided for by law.

Any person or voter who violates the provisions of this section is guilty of a crime of the fourth degree.

C.19:53C-6 Completion of affirmation statement.

12. Prior to voting the provisional ballot or immediately thereafter, the voter shall complete the affirmation statement attached to the provisional ballot envelope. The statement shall conform with the requirements for such a statement contained in paragraph b. of section 7 of P.L.1999, c.232 (C.19:53C-1).

At no time when in possession of the provisional ballot with attached affirmation statement shall the voter detach the statement from the ballot envelope.

C.19:53C-7 Voting with provisional ballot.

13. To vote for a candidate whose name is printed in any column, or to vote in favor of or against any public question printed on the provisional ballot, the voter shall:

a. Mark a cross x, plus + or check ✓ in the square provided for the name of each candidate in any column for whom the voter chooses to vote, or for a public question, make the same marking in the square provided for either the word "Yes" or "No" of each public question, if the ballot requires such designation to be considered valid;

b. Punch out completely the hole adjacent to the name of each candidate in any column for whom the voter chooses to vote, or for a public question, punch out completely the hole adjacent to either the word "Yes" or "No" of each public question, if the ballot requires such an action to be considered valid;

c. Complete the connecting line adjacent to the name of each candidate in any column for whom the voter chooses to vote, or for a public question, complete the connecting line adjacent to either the word "Yes" or "No" of each public question, if the ballot requires such designation to be considered valid; or

d. Fill in the designated space adjacent to the name of the candidate for whom the voter chooses to vote, or for a public question, fill in the

designated space adjacent to either the word "Yes" or "No" of each public question, if the ballot requires such a designation to be considered valid.

C.19:53C-8 Write-in votes on provisional ballot permitted.

14. Nothing in P.L.1999, c.232 (C.19:53C-1 et al.) shall prevent any voter from writing or pasting within the proper title of office in the column designated personal choice, the name or names of any person or persons for whom the voter desires to vote whose name or names are not printed upon the provisional ballot for the same office. The writing shall be in ink or lead pencil, as may be required.

C.19:53C-9 Spoiled provisional ballot, affirmation statement; procedure.

15. If any voter to whom a provisional ballot and envelope with an affirmation statement has been handed spoils or renders any of the same unfit for use, the voter shall return the ballot and the envelope with affirmation statement to a district board member. The voter shall be furnished with another provisional ballot and envelope with affirmation statement. No more than two provisional ballots and envelopes with affirmation statements shall be furnished to a voter, except at the discretion of the board members.

The district board shall preserve each spoiled provisional ballot and envelope with an affirmation statement and shall write "SPOILED" across the envelope and initial the same. Immediately thereafter, the "SPOILED" envelope shall be sealed and placed in the provisional ballot bag.

C.19:53C-10 Voted provisional ballot placed in envelope.

16. a. After voting the provisional ballot and completing the affirmation statement, and before leaving the polling booth or the designated voting area, as the case may be, the voter shall place the voted provisional ballot in the envelope. The voter shall seal the envelope and shall retain custody of the envelope until a member of the board is ready to accept the envelope.

b. The voter shall hand the sealed envelope to the member of the district board. The member shall keep the sealed envelope in full view of the voter, the other district board members and all other persons present until it is placed in the provisional ballot bag. The voter may also take hold of the envelope, with that member of the board, until the envelope is placed in the provisional ballot bag. The security of the provisional ballot bag and its contents while any election occurs shall be the responsibility of the members of the district board.

C.19:53C-11 Inventory of provisional ballots.

17. Immediately following the closing of the polls on the day of an election, the members of the district board shall inventory the provisional ballots. All invalid provisional ballots placed in envelopes and marked

"SPOILED" shall be counted and the number of those envelopes shall be recorded on the provisional ballot inventory form provided with the provisional ballot bag. All provisional ballots that have been voted, not used or found to be missing shall next be recorded on the provisional ballot inventory form. Upon the completion of the inventory of all provisional ballots, and if the members of the district board agree on that inventory, the provisional ballot inventory form shall be signed by those members. Any member not in agreement shall give the reason therefor on the form and so certify with the member's signature. All envelopes marked "SPOILED", and all voted and not voted provisional ballots, shall be placed in the provisional ballot bag and sealed with the numbered seal taken from the envelope provided with that bag.

C.19:53C-12 Transportation of provisional ballot bag.

18. Immediately following the sealing of the provisional ballot bag at a polling place on the day of any election, a member of the district board shall transport the ballot bag and all other election materials to a location designated by the commissioner of registration.

C.19:53C-13 Opening of provisional ballot bag.

19. When the office of the commissioner of registration receives a provisional ballot bag that has been found to be in good order, the commissioner thereof shall first break the seal and open the bag. In any county where the superintendent of elections is the commissioner of registration, the county board of elections may sort the provisional ballots if so agreed to in advance by both the superintendent and the board. Envelopes marked "SPOILED" shall be set aside and remain unopened. The name, signature and other information contained on the form as supplied by a voter shall be compared with the name, signature and other information that the commissioner of registration has on file, in electronic or other form, for that voter. No affirmation statement shall be separated from a provisional ballot envelope until all affirmation statements have been reviewed by the commissioner of registration. After a comparison of the voter's address is completed by the commissioner of registration and prior to separating the affirmation statement from the envelope and counting the ballot, the letter "p" shall be placed adjacent to the voter's name on the signature copy register or computer listing, as the case may be, together with the name of the municipality in which the voter voted the provisional ballot. If two provisional ballots from the same voter are received, both such ballots shall not be counted, the affirmation statements shall not be separated from the envelopes, and the ballots shall be put aside for further investigation.

Whenever the address supplied by the voter on the affirmation statement does not match the address for such a person contained in the files of the

commissioner of registration, but it is clear that the circumstance of a voter matches the circumstance of a voter described in subsection b. of R.S.19:31-11, the updated information on the affirmation statement shall be recorded and shall constitute a transfer by the voter to a new address for any subsequent election.

After the examination of the affirmation statement by the commissioner of registration, the county board of elections shall determine if a provisional ballot voter is legally entitled to have voted and if a provisional ballot conforms to the requirements established by law.

The members of the county board shall then proceed to count and canvass the votes cast on each provisional ballot. Immediately after the canvass is complete, the county board of elections shall certify the results of the canvass to the county clerk or municipal clerk or other appropriate officials, as the case may be, showing the results of the canvass by municipality.

The outside front of each envelope that contains a voided provisional ballot shall have the word "VOID" written next to the circled number.

Unless provided otherwise by this section, all provisional ballot materials shall be processed by the county board of elections in accordance with the procedures established for absentee ballots pursuant to section 31 of P.L.1953, c.211 (C.19:57-31).

C.19:53C-14 Canvassing provisional ballots.

20. In canvassing the provisional ballots, the county board shall count the votes as follows:

a. If proper marks are made in the squares provided for the names of any candidates in any column and the total number voted for, for each office, does not exceed the number of candidates to be elected to each office, a vote shall be counted for each candidate so marked.

b. If proper marks are made in the squares provided for any names of any candidates in any column, a vote shall be counted for each candidate so marked; but if the county board canvassing the provisional ballots or the judge of the Superior Court or other judge or officer conducting a recount thereof, shall be satisfied that the placing of the marks to the left or right of the names was intended to identify or distinguish the provisional ballot, then that ballot shall not be counted and shall be declared null and void.

c. If no marks are made in the squares provided for the names of any candidates in any column, but are made to the right of the names, a vote shall not be counted for the candidates so marked, but shall be counted for the other candidates as are properly marked; but if the county board canvassing the provisional ballot or the judge of the Superior Court or other judge or officer conducting a recount thereof shall be satisfied that the placing of the marks to

the right of the names was intended to identify or distinguish the provisional ballot, then that ballot shall be declared null and void.

d. Where the name of any person is written in the column designated personal choice, and the proper mark or designation appears in the space provided for the name, it shall be counted as a vote for that person.

e. In the case of any public question printed on the provisional ballot where a proper mark or designation is made in the space provided for the word "Yes," it shall be counted as a vote in favor of that public question. If a proper mark or designation is made in the space provided for the word "No," it shall be counted as a vote against same. If no mark or designation is made in the space provided for either the word "Yes" or "No," it shall not be counted as a vote either in favor of or against the public question. If a mark or designation is made in each of the spaces provided for both the words "Yes" and "No," it shall not be counted either as a vote in favor of or against the public question nor shall it invalidate the provisional ballot.

f. If a voter marks or designates more names than there are persons to be elected to an office, or writes the name of any person in the column designated personal choice, whose name is printed upon the provisional ballot as a candidate under the same title of office, or the choice of the voter cannot be determined, that provisional ballot shall not be counted for that office, but shall be counted for those other offices as are properly marked.

g. If the mark made for any candidate or public question is substantially a cross x, plus + or check ✓ and is substantially within the square, it shall be counted for the candidate or for or against the public question, as the case may be. No vote shall be counted for any candidate in any column or for or against any public question unless the mark or designation made is substantially a cross x, plus + or check ✓ or other required designation and is substantially within the space.

C.19:53C-15 Counting provisional ballots; standards for validity.

21. In counting the provisional ballots, the board shall deem void all provisional ballots which are wholly blank, or on which more names have been marked or designated for every office than there are persons to be elected to the office, and on which both "Yes" and "No" have been marked or designated upon every public question.

No provisional ballot which shall have, either on its face or back, any mark, sign, erasure, designation or device whatsoever, other than that which is permitted by P.L.1999, c.232 (C.19:53C-1 et al.), by which the provisional ballot shall be distinguished from another provisional ballot shall be declared void unless the county board canvassing those provisional ballots or the judge of the Superior Court or other judge or officer conducting the recount thereof shall be satisfied that the placing of the mark, sign, erasure,

designation or device upon the provisional ballot was not intended to identify or distinguish that ballot.

No provisional ballot shall be declared invalid by reason of the fact that the mark made with ink or the mark made with lead pencil appears other than black.

No provisional ballot cast for any candidate shall be invalid by reason of the fact that the name of that candidate may be misprinted, or the given name or the initials of the candidate may be omitted.

No provisional ballot cast for any candidate shall be invalid by reason of the use of any label permitted by P.L.1999, c.232 (C.19:53C-1 et al.) on which the title of office may be printed or the name of the candidate may be misprinted or part of the given name or surname or the initials of the candidate may be omitted, or because the voter in writing the name of the candidate may misspell the name or omit part of the given name or surname or the initials of the candidate.

No provisional ballot shall be declared "REJECTED" or invalid by reason of having a cross x, plus + or check ✓ appearing in a square provided for a blank space or a space wherein no name is printed.

C.19:53C-16 Invalid provisional ballots.

22. In every case in which a provisional ballot shall be declared invalid, the ballot, which shall be enclosed in a envelope, shall not be canvassed or counted, but shall be marked "REJECTED" on the outside thereof.

Provisional ballots which shall be declared invalid with respect to a part of the candidates to be voted for or public questions to be voted upon shall be canvassed, estimated and numbered with respect to the part which is not invalid and preserved by the county board for a period of not less than six months.

C.19:53C-17 Votes counted, void votes.

23. If, for any reason, a provisional ballot voter votes a ballot other than the ballot for the district in which the voter is qualified to vote, the votes for those offices and questions for which the voter would be otherwise qualified to vote shall be counted. All other votes shall be void.

C.19:53C-18 Decision of county board final.

24. The decision of a majority of the county board on any question concerning a provisional ballot matter shall be deemed the decision of the board and final. If any member of the board dissents from any decision and wishes to make the dissension known to avoid any of the consequences which may result from that decision, the member may record the dissent in the signature copy register, if it is available, or in a note signed and dated. If the dissent is in the form of a note, it shall be appended to or recorded on

the signature copy register afterwards by the superintendent of elections or the commissioner of registration, as shall be appropriate.

C.19:53C-19 Use of tally sheets.

25. a. The clerk of the board shall, upon the tally sheets provided for that purpose, make a list of the names of all persons for whom one or more votes shall have been given, designating the office which that person shall be voted for, and of any public questions voted upon; and as each provisional ballot shall be read, the clerk shall write the figure "1" opposite the name of each person whose name is contained thereon, as designated for any office, or in the proper column designating the vote upon the public question. Provisional ballots may be counted by electronic ballot scanning equipment under the direction of the county board of elections.

b. When all the votes which were cast have been read, examined and numbered, as directed, the board shall tally the votes given for each person for any office to be filled at the election or any public question and note the same upon the tally sheets. The tally sheets shall be signed by all the members of the county board and the results thereof shall be certified.

C.19:53C-20 Votes tallied.

26. Upon the receipt of a certified tally sheet from the county board, the county clerk shall add the votes contained thereon to the total vote for all candidates and in favor of or against all public questions cast at the polling place from which the tally sheet originated. The clerk shall report to the municipal clerks the results of the tally sheets by municipality, ward and election district.

27. R.S.19:7-1 is amended to read as follows:

Appointment of challengers.

19:7-1. a. The chairman of the county committee of any political party that has duly nominated any candidate for public office to be voted for at an election by all the voters within the county or any political division thereof greater than a single municipality, or where the election is within and for a single municipality only, or any subdivision thereof, then the chairman of the municipal committee of the political party making such nomination within and for such single municipality, or subdivision thereof, may appoint two challengers for each election district in the chairman's county or municipality, as the case may be.

b. The chairman of the county committee of each political party may also: (1) appoint two challengers to serve and exercise the powers of challengers, in each election district in the county at any primary election; and (2) appoint additional challengers for any election equal in number to

the number of municipalities in the county and such challengers may exercise their powers, as provided for in R.S.19:7-5, at the polling place of any election district in the county during the time an election occurs therein.

28. R.S.19:7-3 is amended to read as follows:

Filing of appointment, application for challengers.

19:7-3. The appointment of or application for challengers shall be filed with the county board not later than the second Tuesday preceding any election. No person shall be appointed a challenger under this Title who is not a registered voter in the county in which the district is located in which such person is appointed to serve, and no appointed challenger shall serve in any district other than that to which appointed except for challengers appointed by the chairman of a county committee, pursuant to paragraph 2 of subsection b. of R.S.19:7-1.

29. R.S.19:7-4 is amended to read as follows:

Permits issued to challengers, revocation.

19:7-4. The county board shall thereupon issue, under the hands of its members, to the persons named in such appointment papers, or application, permits for them to act as challengers for their respective parties or candidates or for or against a public question at the election district or election districts specified, as the case may be. Such permits shall be filed by the persons named therein with the district board or district boards named therein, as evidence of their authority to be present in the polling place, and they may be issued and revoked and others issued in their stead at any time up to and including the day of election. When a permit shall be revoked, the permit in the place thereof shall be issued upon the nomination of the same person or officer upon whose nomination the original permit was issued.

A challenger appointed pursuant to paragraph 2 of subsection b. of R.S.19:7-1 shall be issued a county-wide permit that is to be presented to any district board within the county as evidence of the challenger's authority to be present at the polling place during an election. Upon leaving the polling place, such a challenger must reclaim the permit from the district board to gain entry to any other polling place in the county during the election.

30. Section 1 of P.L.1960, c.82 (C.19:7-6.1) is amended to read as follows:

C.19:7-6.1 Limitation on number of challengers present in polling place.

1. Unless express permission be given by the district board, not more than one challenger appointed for a party, candidate, or on a public question, shall be

present at any one time in any polling place while serving and exercising the powers of a challenger and during the hours when the polls are open for voting. If the district board shall in any case give permission for more than one challenger so appointed to be present at any one time in any polling place, it shall on the same grounds and on request permit a like number to be present on behalf of any opposing party, or on behalf of any other candidate for the same office, or on the other side of any public question.

The provisions of this section shall not apply to any challengers appointed by the chairman of a county committee, pursuant to paragraph 2 of subsection b. of R.S.19:7-1, except that no more than one such challenger shall be present at any time in a polling place while serving and exercising his or her power as a challenger during the hours when the polling place is open for voting.

31. R.S.19:31-16 is amended to read as follows:

Data on eligible voters' deaths filed by health officer.

19:31-16. a. The health officer or other officer in charge of records of death in each municipality shall file with the commissioner of registration for the county in which the municipality is located once each month, during the first five days thereof, the age, date of death, and the names and addresses of all persons 18 years of age or older who have died within such municipality during the previous month. Within 30 days after the receipt of such list the commissioner shall make and complete such investigation as is necessary to establish to his satisfaction that such deceased person is registered as a voter in the county. If such fact is so established, the commissioner shall cause the registration and record of voting forms of the deceased registrant to be transferred to the death file as soon as possible. If the deceased person was not so registered in the county, but the person maintained a residence in another county of this State, the officer in charge of records of death in the municipality in which the decedent died shall forward a copy of the notice of death to the officer in charge of records of death in the municipality in which the decedent resided. That officer having received the notice shall notify the commissioner of the county in which that municipality is located of the death of the person. Any commissioner who receives such notification shall undertake the procedures prescribed herein with respect to the registration in that county of the decedent.

b. The State registrar of vital statistics shall file with the commissioner of registration of each county no later than May 1 of each year an alphabetized list of the name, address, and date of birth, if available, of each resident of the county 18 years of age or older who died during the previous year. Within 30 days after the receipt of the list the commissioner shall undertake

and complete such investigation as is necessary to establish that each person on the list is not registered as a voter in the county. The commissioner shall cause the registration and record of voting forms of any deceased registrant found on the list to be transferred to the death file as soon as possible.

C.19:31-16.1 Failure to furnish information on deaths, third degree crime.

32. a. Any State, county or municipal officer in charge of the records of death for the State, or a county or municipality thereof, who knowingly and willfully neglects, fails or refuses to prepare for or to file with the commissioner of registration of each county information regarding any resident of the county 18 years of age or older who died during the previous year, pursuant to R.S.19:31-16 as amended, or who died during the 40-year period prior to the enactment of P.L.1999, c.232, or who knowingly and willfully prepares or files such information about any resident of the county 18 years of age or older who died that is false, erroneous or incomplete, is guilty of a crime of the third degree.

b. Any election official who knowingly and willfully neglects, fails or refuses to accept any information from a State, county or municipal officer in charge of the records of death for the State, or a county or municipality thereof, regarding any resident of the county 18 years of age or older who died during the previous year, as provided for by R.S.19:31-16 as amended, or who died during the 40-year period prior to the enactment of P.L.1999, c.232, or who knowingly and willfully neglects, fails, or refuses to conduct the investigation and transfer of the registration and records of any deceased registrant to the death file pursuant to R.S.19:31-16 as amended, is guilty of a crime of the third degree.

As used in this subsection, "election official" shall include, but not be limited to, any superintendent or deputy superintendent of elections, commissioner of registration, or member or employee of a county board of elections.

C.19:31-16.2 Provision of list of eligible voters' deaths to chairman of county committee.

33. a. Notwithstanding any law, rule or regulation to the contrary, the State registrar of vital statistics shall provide to the chairman of the county committee of a political party, or the designee thereof, upon the request of the chairman or the chairman's designee, a copy of the alphabetized list of the name, address and date of birth, if available, of each resident of the county 18 years of age or older who died during the previous year, as provided for by R.S.19:31-16 as amended, and a copy of the alphabetized list of the name, address, and date of birth, if available, of each resident of the county 18 years of age or older who died during the 40-year period prior to the enactment of P.L.1999, c.232, as provided for by that act.

b. The chairman of the county committee of a political party shall have the authority to inquire whether the commissioner of registration of the

county in which the chairman resides is conducting or has conducted the investigations and transfers of the registration and records of deceased registrants, in compliance with R.S.19:31-16 as amended. In the event that the chairman finds the commissioner of registration is not complying, in the chairman's opinion, with R.S.19:31-16 as amended, the chairman shall report this finding to the Attorney General for further investigation or action, if deemed necessary.

34. Within nine months following the enactment of P.L.1999, c.232, the State registrar of vital statistics shall file with the commissioner of registration of each county for the purpose of R.S.19:31-16 as amended an alphabetized list of the name and address of each resident of the county 18 years of age or older who died during the previous 40 years.

35. This act shall take effect immediately.

Approved October 7, 1999.

CHAPTER 233

AN ACT concerning the sale of handguns, supplementing chapter 58 of Title 2C of the New Jersey Statutes, amending N.J.S.2C:39-1, N.J.S.2C:39-3, N.J.S.2C:39-9, N.J.S.2C:39-10 and N.J.S.2C:58-2, and making an appropriation.

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

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

Definitions.

2C:39-1. Definitions. The following definitions apply to this chapter and to chapter 58:

a. "Antique firearm" means any rifle or shotgun and "antique cannon" means a destructive device defined in paragraph (3) of subsection c. of this section, if the rifle, shotgun or destructive device, as the case may be, is incapable of being fired or discharged, or which does not fire fixed ammunition, regardless of date of manufacture, or was manufactured before 1898 for which cartridge ammunition is not commercially available, and is possessed as a curiosity or ornament or for its historical significance or value.

b. "Deface" means to remove, deface, cover, alter or destroy the name of the maker, model designation, manufacturer's serial number or any other distinguishing identification mark or number on any firearm.

c. "Destructive device" means any device, instrument or object designed to explode or produce uncontrolled combustion, including (1) any explosive or incendiary bomb, mine or grenade; (2) any rocket having a propellant charge of more than four ounces or any missile having an explosive or incendiary charge of more than one-quarter of an ounce; (3) any weapon capable of firing a projectile of a caliber greater than 60 caliber, except a shotgun or shotgun ammunition generally recognized as suitable for sporting purposes; (4) any Molotov cocktail or other device consisting of a breakable container containing flammable liquid and having a wick or similar device capable of being ignited. The term does not include any device manufactured for the purpose of illumination, distress signaling, line-throwing, safety or similar purposes.

d. "Dispose of" means to give, give away, lease, loan, keep for sale, offer, offer for sale, sell, transfer, or otherwise transfer possession.

e. "Explosive" means any chemical compound or mixture that is commonly used or is possessed for the purpose of producing an explosion and which contains any oxidizing and combustible materials or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects. The term shall not include small arms ammunition, or explosives in the form prescribed by the official United States Pharmacopoeia.

f. "Firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. It shall also include, without limitation, any firearm which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

g. "Firearm silencer" means any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearm

to be silent, or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearm.

h. "Gravity knife" means any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force.

i. "Machine gun" means any firearm, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir, belt or other means of storing and carrying ammunition which can be loaded into the firearm, mechanism or instrument and fired therefrom.

j. "Manufacturer" means any person who receives or obtains raw materials or parts and processes them into firearms or finished parts of firearms, except a person who exclusively processes grips, stocks and other nonmetal parts of firearms. The term does not include a person who repairs existing firearms or receives new and used raw materials or parts solely for the repair of existing firearms.

k. "Handgun" means any pistol, revolver or other firearm originally designed or manufactured to be fired by the use of a single hand.

l. "Retail dealer" means any person including a gunsmith, except a manufacturer or a wholesale dealer, who sells, transfers or assigns for a fee or profit any firearm or parts of firearms or ammunition which he has purchased or obtained with the intention, or for the purpose, of reselling or reassigning to persons who are reasonably understood to be the ultimate consumers, and includes any person who is engaged in the business of repairing firearms or who sells any firearm to satisfy a debt secured by the pledge of a firearm.

m. "Rifle" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed metallic cartridge to fire a single projectile through a rifled bore for each single pull of the trigger.

n. "Shotgun" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shots or a single projectile for each pull of the trigger, or any firearm designed to be fired from the shoulder which does not fire fixed ammunition.

o. "Sawed-off shotgun" means any shotgun having a barrel or barrels of less than 18 inches in length measured from the breech to the muzzle, or a rifle having a barrel or barrels of less than 16 inches in length measured from the breech to the muzzle, or any firearm made from a rifle or a shotgun, whether by alteration, or otherwise, if such firearm as modified has an overall length of less than 26 inches.

p. "Switchblade knife" means any knife or similar device which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.

q. "Superintendent" means the Superintendent of the State Police.

r. "Weapon" means anything readily capable of lethal use or of inflicting serious bodily injury. The term includes, but is not limited to, all (1) firearms, even though not loaded or lacking a clip or other component to render them immediately operable; (2) components which can be readily assembled into a weapon; (3) gravity knives, switchblade knives, daggers, dirks, stilettos, or other dangerous knives, billies, blackjacks, bludgeons, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings or razor blades imbedded in wood; and (4) stun guns; and any weapon or other device which projects, releases, or emits tear gas or any other substance intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air.

s. "Wholesale dealer" means any person, except a manufacturer, who sells, transfers, or assigns firearms, or parts of firearms, to persons who are reasonably understood not to be the ultimate consumers, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms, in furtherance of such purpose, except that it shall not include those persons dealing exclusively in grips, stocks and other nonmetal parts of firearms.

t. "Stun gun" means any weapon or other device which emits an electrical charge or current intended to temporarily or permanently disable a person.

u. "Ballistic knife" means any weapon or other device capable of lethal use and which can propel a knife blade.

v. "Imitation firearm" means an object or device reasonably capable of being mistaken for a firearm.

w. "Assault firearm" means:

(1) The following firearms:

Algimec AGM1 type

Any shotgun with a revolving cylinder such as the "Street Sweeper" or "Striker 12"

Armalite AR-180 type

Australian Automatic Arms SAR

Avtomat Kalashnikov type semi-automatic firearms

Beretta AR-70 and BM59 semi-automatic firearms

Bushmaster Assault Rifle

Calico M-900 Assault carbine and M-900

CETME G3

Chartered Industries of Singapore SR-88 type

Colt AR-15 and CAR-15 series

Daewoo K-1, K-2, Max 1 and Max 2, AR 100 types

Demro TAC-1 carbine type

Encom MP-9 and MP-45 carbine types
FAMAS MAS223 types
FN-FAL, FN-LAR, or FN-FNC type semi-automatic firearms
Franchi SPAS 12 and LAW 12 shotguns
G3SA type
Galil type Heckler and Koch HK91, HK93, HK94, MP5, PSG-1
Intratec TEC 9 and 22 semi-automatic firearms
M1 carbine type
M14S type
MAC 10, MAC 11, MAC 11-9mm carbine type firearms
PJK M-68 carbine type
Plainfield Machine Company Carbine
Ruger K-Mini-14/5F and Mini-14/5RF
SIG AMT, SIG 550SP, SIG 551SP, SIG PE-57 types
SKS with detachable magazine type
Spectre Auto carbine type
Springfield Armory BM59 and SAR-48 type
Sterling MK-6, MK-7 and SAR types
Steyr A.U.G. semi-automatic firearms
USAS 12 semi-automatic type shotgun
Uzi type semi-automatic firearms
Valmet M62, M71S, M76, or M78 type semi-automatic firearms
Weaver Arm Nighthawk.

(2) Any firearm manufactured under any designation which is substantially identical to any of the firearms listed above.

(3) A semi-automatic shotgun with either a magazine capacity exceeding six rounds, a pistol grip, or a folding stock.

(4) A semi-automatic rifle with a fixed magazine capacity exceeding 15 rounds.

(5) A part or combination of parts designed or intended to convert a firearm into an assault firearm, or any combination of parts from which an assault firearm may be readily assembled if those parts are in the possession or under the control of the same person.

x. "Semi-automatic" means a firearm which fires a single projectile for each single pull of the trigger and is self-reloading or automatically chambers a round, cartridge, or bullet.

y. "Large capacity ammunition magazine" means a box, drum, tube or other container which is capable of holding more than 15 rounds of ammunition to be fed continuously and directly therefrom into a semi-automatic firearm.

z. "Pistol grip" means a well-defined handle, similar to that found on a handgun, that protrudes conspicuously beneath the action of the weapon, and which permits the shotgun to be held and fired with one hand.

aa. "Antique handgun" means a handgun manufactured before 1898, or a replica thereof, which is recognized as being historical in nature or of historical significance and either (1) utilizes a match, friction, flint, or percussion ignition, or which utilizes a pin-fire cartridge in which the pin is part of the cartridge or (2) does not fire fixed ammunition or for which cartridge ammunition is not commercially available.

bb. "Trigger lock" means a commercially available device approved by the Superintendent of State Police which is operated with a key or combination lock that prevents a firearm from being discharged while the device is attached to the firearm. It may include, but need not be limited to, devices that obstruct the barrel or cylinder of the firearm, as well as devices that immobilize the trigger.

2. N.J.S.2C:39-3 is amended to read as follows:

Prohibited weapons and devices.

2C:39-3. Prohibited Weapons and Devices.

a. Destructive devices. Any person who knowingly has in his possession any destructive device is guilty of a crime of the third degree.

b. Sawed-off shotguns. Any person who knowingly has in his possession any sawed-off shotgun is guilty of a crime of the third degree.

c. Silencers. Any person who knowingly has in his possession any firearm silencer is guilty of a crime of the fourth degree.

d. Defaced firearms. Any person who knowingly has in his possession any firearm which has been defaced, except an antique firearm or an antique handgun, is guilty of a crime of the fourth degree.

e. Certain weapons. Any person who knowingly has in his possession any gravity knife, switchblade knife, dagger, dirk, stiletto, billy, blackjack, metal knuckle, sandclub, slingshot, cestus or similar leather band studded with metal filings or razor blades imbedded in wood, ballistic knife, without any explainable lawful purpose, is guilty of a crime of the fourth degree.

f. Dum-dum or body armor penetrating bullets. (1) Any person, other than a law enforcement officer or persons engaged in activities pursuant to subsection f. of N.J.S.2C:39-6, who knowingly has in his possession any hollow nose or dum-dum bullet, or (2) any person, other than a collector of firearms or ammunition as curios or relics as defined in Title 18, United States Code, section 921 (a) (13) and has in his possession a valid Collector of Curios and Relics License issued by the Bureau of Alcohol, Tobacco and Firearms, who knowingly has in his possession any body armor breaching

or penetrating ammunition, which means: (a) ammunition primarily designed for use in a handgun, and (b) which is comprised of a bullet whose core or jacket, if the jacket is thicker than.025 of an inch, is made of tungsten carbide, or hard bronze, or other material which is harder than a rating of 72 or greater on the Rockwell B. Hardness Scale, and (c) is therefore capable of breaching or penetrating body armor, is guilty of a crime of the fourth degree. For purposes of this section, a collector may possess not more than three examples of each distinctive variation of the ammunition described above. A distinctive variation includes a different head stamp, composition, design, or color.

g. Exceptions. (1) Nothing in subsection a., b., c., d., e., f., j. or k. of this section shall apply to any member of the Armed Forces of the United States or the National Guard, or except as otherwise provided, to any law enforcement officer while actually on duty or traveling to or from an authorized place of duty, provided that his possession of the prohibited weapon or device has been duly authorized under the applicable laws, regulations or military or law enforcement orders. Nothing in subsection h. of this section shall apply to any law enforcement officer who is exempted from the provisions of that subsection by the Attorney General. Nothing in this section shall apply to the possession of any weapon or device by a law enforcement officer who has confiscated, seized or otherwise taken possession of said weapon or device as evidence of the commission of a crime or because he believed it to be possessed illegally by the person from whom it was taken, provided that said law enforcement officer promptly notifies his superiors of his possession of such prohibited weapon or device.

(2) Nothing in subsection f. (1) shall be construed to prevent a person from keeping such ammunition at his dwelling, premises or other land owned or possessed by him, or from carrying such ammunition from the place of purchase to said dwelling or land, nor shall subsection f. (1) be construed to prevent any licensed retail or wholesale firearms dealer from possessing such ammunition at its licensed premises, provided that the seller of any such ammunition shall maintain a record of the name, age and place of residence of any purchaser who is not a licensed dealer, together with the date of sale and quantity of ammunition sold.

(3) Nothing in paragraph (2) of subsection f. or in subsection j. shall be construed to prevent any licensed retail or wholesale firearms dealer from possessing that ammunition or large capacity ammunition magazine at its licensed premises for sale or disposition to another licensed dealer, the Armed Forces of the United States or the National Guard, or to a law enforcement agency, provided that the seller maintains a record of any sale or disposition to a law enforcement agency. The record shall include the name of the purchasing agency, together with written authorization of the

chief of police or highest ranking official of the agency, the name and rank of the purchasing law enforcement officer, if applicable, and the date, time and amount of ammunition sold or otherwise disposed. A copy of this record shall be forwarded by the seller to the Superintendent of the Division of State Police within 48 hours of the sale or disposition.

(4) Nothing in subsection a. of this section shall be construed to apply to antique cannons as exempted in subsection d. of N.J.S.2C:39-6.

h. Stun guns. Any person who knowingly has in his possession any stun gun is guilty of a crime of the fourth degree.

i. Nothing in subsection e. of this section shall be construed to prevent any guard in the employ of a private security company, who is licensed to carry a firearm, from the possession of a nightstick when in the actual performance of his official duties, provided that he has satisfactorily completed a training course approved by the Police Training Commission in the use of a nightstick.

j. Any person who knowingly has in his possession a large capacity ammunition magazine is guilty of a crime of the fourth degree unless the person has registered an assault firearm pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) and the magazine is maintained and used in connection with participation in competitive shooting matches sanctioned by the Director of Civilian Marksmanship of the United States Department of the Army.

k. Handcuffs. Any person who knowingly has in his possession handcuffs as defined in P.L.1991, c.437 (C.2C:39-9.2), under circumstances not manifestly appropriate for such lawful uses as handcuffs may have, is guilty of a disorderly persons offense. A law enforcement officer shall confiscate handcuffs possessed in violation of the law.

3. N.J.S.2C:39-9 is amended to read as follows:

Manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances.

2C:39-9. Manufacture, Transport, Disposition and Defacement of Weapons and Dangerous Instruments and Appliances. a. Machine guns. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any machine gun without being registered or licensed to do so as provided in chapter 58 is guilty of a crime of the third degree.

b. Sawed-off shotguns. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any sawed-off shotgun is guilty of a crime of the third degree.

c. Firearm silencers. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any firearm silencer is guilty of a crime of the fourth degree.

d. Weapons. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any weapon, including gravity knives, switchblade knives, ballistic knives, daggers, dirks, stilettos, billies, blackjacks, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings, or in the case of firearms if he is not licensed or registered to do so as provided in chapter 58, is guilty of a crime of the fourth degree. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any weapon or other device which projects, releases or emits tear gas or other substances intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air, which is intended to be used for any purpose other than for authorized military or law enforcement purposes by duly authorized military or law enforcement personnel or the device is for the purpose of personal self-defense, is pocket-sized and contains not more than three-quarters of an ounce of chemical substance not ordinarily capable of lethal use or of inflicting serious bodily injury, or other than to be used by any person permitted to possess such weapon or device under the provisions of subsection d. of N.J.S.2C:39-5, which is intended for use by financial and other business institutions as part of an integrated security system, placed at fixed locations, for the protection of money and property, by the duly authorized personnel of those institutions, is guilty of a crime of the fourth degree.

e. Defaced firearms. Any person who defaces any firearm is guilty of a crime of the third degree. Any person who knowingly buys, receives, disposes of or conceals a defaced firearm, except an antique firearm or an antique handgun, is guilty of a crime of the fourth degree.

f. (1) Any person who manufactures, causes to be manufactured, transports, ships, sells, or disposes of any bullet, which is primarily designed for use in a handgun, and which is comprised of a bullet whose core or jacket, if the jacket is thicker than.025 of an inch, is made of tungsten carbide, or hard bronze, or other material which is harder than a rating of 72 or greater on the Rockwell B. Hardness Scale, and is therefore capable of breaching or penetrating body armor and which is intended to be used for any purpose other than for authorized military or law enforcement purposes by duly authorized military or law enforcement personnel, is guilty of a crime of the fourth degree.

(2) Nothing in this subsection shall be construed to prevent a licensed collector of ammunition as defined in paragraph (2) of subsection f. of N.J.S.2C:39-3 from transporting the bullets defined in paragraph (1) of this subsection from (a) any licensed retail or wholesale firearms dealer's place of business to the collector's dwelling, premises, or other land owned or possessed by him, or (b) to or from the collector's dwelling, premises or

other land owned or possessed by him to any gun show for the purposes of display, sale, trade, or transfer between collectors, or (c) to or from the collector's dwelling, premises or other land owned or possessed by him to any rifle or pistol club organized in accordance with the rules prescribed by the National Board for the Promotion of Rifle Practice; provided that the club has filed a copy of its charter with the superintendent of the State Police and annually submits a list of its members to the superintendent, and provided further that the ammunition being transported shall be carried not loaded in any firearm and contained in a closed and fastened case, gun box, or locked in the trunk of the automobile in which it is being transported, and the course of travel shall include only such deviations as are reasonably necessary under the circumstances.

g. Assault firearms. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of an assault firearm without being registered or licensed to do so pursuant to N.J.S.2C:58-1 et seq. is guilty of a crime of the third degree.

h. Large capacity ammunition magazines. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of a large capacity ammunition magazine which is intended to be used for any purpose other than for authorized military or law enforcement purposes by duly authorized military or law enforcement personnel is guilty of a crime of the fourth degree.

4. N.J.S.2C:39-10 is amended to read as follows:

Violation of the regulatory provisions relating to firearms; false representation in applications.

2C:39-10. Violation of the Regulatory Provisions Relating to Firearms; False Representation in Applications.

a. (1) Except as otherwise provided in paragraph (2) of this subsection, any person who knowingly violates the regulatory provisions relating to manufacturing or wholesaling of firearms (section 2C:58-1), retailing of firearms (section 2C:58-2), permits to purchase certain firearms (section 2C:58-3), permits to carry certain firearms (section 2C:58-4), licenses to procure machine guns or assault firearms (section 2C:58-5), or incendiary or tracer ammunition (section 2C:58-10), except acts which are punishable under section 2C:39-5 or section 2C:39-9, is guilty of a crime of the fourth degree.

(2) A licensed dealer who knowingly violates the provisions of subparagraph (d) of paragraph (5) of subsection a. of N.J.S.2C:58-2 is a disorderly person.

b. Any person who knowingly violates the regulatory provisions relating to notifying the authorities of possessing certain items of explosives (section 2C:58-7), or of certain wounds (section 2C:58-8) is a disorderly person.

c. Any person who gives or causes to be given any false information, or signs a fictitious name or address, in applying for a firearms purchaser identification card, a permit to purchase a handgun, a permit to carry a handgun, a permit to possess a machine gun, a permit to possess an assault firearm, or in completing the certificate or any other instrument required by law in purchasing or otherwise acquiring delivery of any rifle, shotgun, handgun, machine gun, or assault firearm or any other firearm, is guilty of a crime of the third degree.

d. Any person who gives or causes to be given any false information in registering an assault firearm pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) or in certifying that an assault firearm was rendered inoperable pursuant to section 12 of P.L.1990, c.32 (C.2C:58-13) commits a crime of the fourth degree.

e. Any person who knowingly sells, gives, transfers, assigns or otherwise disposes of a firearm to a person who is under the age of 18 years, except as permitted in section 14 of P.L.1979, c.179 (C.2C:58-6.1), is guilty of a crime of the third degree. Notwithstanding any other provision of law to the contrary, the sentence imposed for a conviction under this subsection shall include a mandatory minimum three-year term of imprisonment, during which the defendant shall be ineligible for parole.

5. N.J.S.2C:58-2 is amended to read as follows:

Retailing of firearms; licensing of dealers and their employees

2C:58-2 a. Licensing of retail dealers and their employees. No retail dealer of firearms nor any employee of a retail dealer shall sell or expose for sale, or possess with the intent of selling, any firearm unless licensed to do so as hereinafter provided. The superintendent shall prescribe standards and qualifications for retail dealers of firearms and their employees for the protection of the public safety, health and welfare.

Applications shall be made in the form prescribed by the superintendent, accompanied by a fee of $50.00 payable to the superintendent, and shall be made to a judge of the Superior Court in the county where the applicant maintains his place of business. The judge shall grant a license to an applicant if he finds that the applicant meets the standards and qualifications established by the superintendent and that the applicant can be permitted to engage in business as a retail dealer of firearms or employee thereof without any danger to the public safety, health and welfare. Each license shall be valid for a period of three years from the date of issuance, and shall authorize the holder to sell firearms at retail in a specified municipality.

In addition, every retail dealer shall pay a fee of $5.00 for each employee actively engaged in the sale or purchase of firearms. The superintendent

shall issue a license for each employee for whom said fee has been paid, which license shall be valid for so long as the employee remains in the employ of said retail dealer.

No license shall be granted to any retail dealer under the age of 21 years or to any employee of a retail dealer under the age of 18 or to any person who could not qualify to obtain a permit to purchase a handgun or a firearms purchaser identification card, or to any corporation, partnership or other business organization in which the actual or equitable controlling interest is held or possessed by such an ineligible person.

All licenses shall be granted subject to the following conditions, for breach of any of which the license shall be subject to revocation on the application of any law enforcement officer and after notice and hearing by the issuing court:

(1) The business shall be carried on only in the building or buildings designated in the license, provided that repairs may be made by the dealer or his employees outside of such premises.

(2) The license or a copy certified by the issuing authority shall be displayed at all times in a conspicuous place on the business premises where it can be easily read.

(3) No firearm or imitation thereof shall be placed in any window or in any other part of the premises where it can be readily seen from the outside.

(4) No rifle or shotgun, except antique rifles or shotguns, shall be delivered to any person unless such person possesses and exhibits a valid firearms purchaser identification card and furnishes the seller, on the form prescribed by the superintendent, a certification signed by him setting forth his name, permanent address, firearms purchaser identification card number and such other information as the superintendent may by rule or regulation require. The certification shall be retained by the dealer and shall be made available for inspection by any law enforcement officer at any reasonable time.

(5) No handgun shall be delivered to any person unless:

(a) Such person possesses and exhibits a valid permit to purchase a firearm and at least seven days have elapsed since the date of application for the permit;

(b) The person is personally known to the seller or presents evidence of his identity;

(c) The handgun is unloaded and securely wrapped; and

(d) The handgun is accompanied by a trigger lock or a locked case, gun box, container or other secure facility; provided, however, this provision shall not apply to antique handguns. The exemption afforded under this subparagraph for antique handguns shall be narrowly construed, limited solely to the requirements set forth herein and shall not be deemed to afford or authorize

any other exemption from the regulatory provisions governing firearms set forth in chapter 39 and chapter 58 of Title 2C of the New Jersey Statutes.

(6) The dealer shall keep a true record of every handgun sold, given or otherwise delivered or disposed of, in accordance with the provisions of subsections b. through e. of this section and the record shall note that a trigger lock, locked case, gun box, container or other secure facility was delivered along with the handgun.

b. Records. Every person engaged in the retail business of selling, leasing or otherwise transferring a handgun, as a retail dealer or otherwise, shall keep a register in which shall be entered the time of the sale, lease or other transfer, the date thereof, the name, age, date of birth, complexion, occupation, residence and a physical description including distinguishing physical characteristics, if any, of the purchaser, lessee or transferee, the name and permanent home address of the person making the sale, lease or transfer, the place of the transaction, and the make, model, manufacturer's number, caliber and other marks of identification on such handgun and such other information as the superintendent shall deem necessary for the proper enforcement of this chapter. The register shall be retained by the dealer and shall be made available at all reasonable hours for inspection by any law enforcement officer.

c. Forms of register. The superintendent shall prepare the form of the register as described in subsection b. of this section and furnish the same in triplicate to each person licensed to be engaged in the business of selling, leasing or otherwise transferring firearms.

d. Signatures in register. The purchaser, lessee or transferee of any handgun shall sign, and the dealer shall require him to sign his name to the register, in triplicate, and the person making the sale, lease or transfer shall affix his name, in triplicate, as a witness to the signature. The signatures shall constitute a representation of the accuracy of the information contained in the register.

e. Copies of register entries; delivery to chief of police or county clerk. Within five days of the date of the sale, assignment or transfer, the dealer shall deliver or mail by certified mail, return receipt requested, legible copies of the register forms to the office of the chief of police of the municipality in which the purchaser resides, or to the office of the captain of the precinct of the municipality in which the purchaser resides, and to the superintendent. If hand delivered a receipt shall be given to the dealer therefor.

Where a sale, assignment or transfer is made to a purchaser who resides in a municipality having no chief of police, the dealer shall, within five days of the transaction, mail a duplicate copy of the register sheet to the clerk of the county within which the purchaser resides.

C.2C:58-2.1 Guidelines for delivery of handguns.

6. The Superintendent of State Police, in consultation with the Attorney General, shall promulgate guidelines to effectuate the purposes of P.L.1999, c.233.

7. There is appropriated to the Department of Law and Public Safety from the General Fund $90,000 to allocate proportionately to the offices of the county prosecutor of each county to be used exclusively for the purposes of providing trigger locks free of charge to firearm owners other than retail licensed firearm dealers.

8. This act shall take effect on the first day of the third month following enactment.

Approved October 12, 1999.

CHAPTER 234

AN ACT prohibiting the recording of certain information on checks under certain conditions and amending P.L.1991, c.281.

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

1. Section 1 of P.L.1991, c.281 (C.56:11-20) is amended to read as follows:

C.56:11-20 Definitions.

1. As used in this act:

"Charge card" means a credit card on an account for which no periodic rate is used to compute a finance charge.

"Check" means a demand draft drawn on or payable through an office of a depository institution located in the United States that has imprinted on it the account holder's name and the depository institution's name, location and routing number.

"Consumer" means a natural person.

"Consumer transaction" means the sale of goods, services or anything of value to a consumer, primarily for personal, family or household purposes.

"Credit card" means any card, plate, coupon book, or other single credit device that may be used from time to time to obtain credit.

"Depository institution" means a state or federally chartered bank, savings bank, savings and loan association or credit union.

2. Section 2 of P.L.1991, c.281 (C.56:11-21) is amended to read as follows:

C.56:11-21 Acceptance of checks for consumer transactions; cashing checks.

2. a. No person who receives a check in payment of an obligation resulting from a consumer transaction or who cashes a check for a consumer and which as a condition of such acceptance or the cashing of a check requires that the check drawer provide a credit card or charge card, shall record on the check or elsewhere, the card account number. Nothing in this section shall be construed to prohibit any person, as a condition for the acceptance of a check in payment for a consumer transaction or the cashing of a check for a consumer from doing either or both of the following:

(1) Requesting a consumer to display a credit card or charge card as a means of identification, or as an indication of credit worthiness or financial responsibility;

(2) Recording on the check the type of credit card or charge card so displayed and the credit card or charge card expiration date.

b. Nothing in this section shall:

(1) Require any person to accept a check in payment for a consumer transaction or to cash a check for a consumer regardless of whether a credit card or charge card is displayed; or

(2) Prohibit a person from recording a credit card number and expiration date on a check as the condition for cashing or accepting that check where that person has agreed with the card issuer to cash or accept checks from the issuer's cardholders and where the issuer guarantees those cardholders' checks.

3. This act shall take effect immediately.

Approved October 13, 1999.

CHAPTER 235

AN ACT concerning molds and supplementing P.L.1983, c.217 (C.56:4A-1 et seq.)

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

C.56:4A-6 Molder's lien on dies, molds, forms or patterns.

1. A molder shall have a lien, dependent on possession, on all dies, molds, forms or patterns in the molder's hands belonging to a customer or owner, if the owner is different from the customer, for the balance due the molder from the customer for any manufacturing, engineering or fabrication

work, and in the value of all material related to the work. The molder may retain possession of the die, mold, form or pattern, without process of law, until the balance due the molder is paid.

C.56:4A-7 Molder's option to sell due to unpaid balance.

2. If a balance due the molder remains unpaid 60 days after payment is due, the molder may sell the die, mold, form or pattern, subject to any existing perfected security interest, at a public auction in the county where the die, mold, form or pattern is being held.

C.56:4A-8 Notification to customer by molder before sale.

3. a. Before a molder may sell the die, mold, form or pattern, the molder shall notify the customer and, if the owner is different from the customer, the owner by certified mail, return receipt requested. The notice shall include the following information:

(1) the molder's intention to sell the die, mold, form or pattern 30 days after the notice was mailed;

(2) a description of the die, mold, form or pattern to be sold;

(3) the time and place of the sale; and

(4) an itemized statement for the amount due.

b. If the die, mold, form or pattern is sold for an amount which is greater than the amount of the lien plus all reasonable expenses of the sale, any excess amount shall be paid to any prior lienholder known to the molder at the time of the sale and any remainder to the customer, or if the owner is different from the customer, to the owner. If there is no prior lienholder and the customer or, if the owner is different from the customer, the owner has not responded to the notices required to be sent pursuant to this act, any excess shall be paid to the State Treasurer for deposit in the General Fund.

c. A lien under this act shall not take priority over an existing perfected security interest.

d. A customer or, if the owner is different from the customer, the owner shall seek repossession of a mold, die, form or pattern subject to a lien under this act only by posting a bond in the amount of the charges outstanding.

C.56:4A-9 Sale prohibited if violation of federal patent, copyright law.

4. The sale of a die, mold, form or pattern shall not be made under this act if it is in violation of any right of a customer or owner, if the owner is different from the customer under federal patent or copyright law.

5. This act shall take effect on the first business day following the 90th day after enactment.

Approved October 13, 1999.

CHAPTER 236

AN ACT concerning certain domestic violence orders and amending P.L.1991, c.261.

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

C.2C:25-27 Conditions of sentencing of defendant found guilty of domestic violence.

1. Section 11 of P.L.1991, c.261 (C.2C:25-27) is amended to read as follows:

11. When a defendant is found guilty of a crime or offense involving domestic violence and a condition of sentence restricts the defendant's ability to have contact with the victim, that condition shall be recorded in an order of the court and a written copy of that order shall be provided to the victim by the clerk of the court or other person designated by the court. In addition to restricting a defendant's ability to have contact with the victim, the court may require the defendant to receive professional counseling from either a private source or a source appointed by the court, and if the court so orders, the court shall require the defendant to provide documentation of attendance at the professional counseling. In any case where the court order contains a requirement that the defendant receive professional counseling, no application by the defendant to dissolve the restraining order shall be granted unless, in addition to any other provisions required by law or conditions ordered by the court, the defendant has completed all required attendance at such counseling.

2. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to read as follows:

C.2C:25-29 Hearing procedure; relief.

13. a. A hearing shall be held in the Family Part of the Chancery Division of the Superior Court within 10 days of the filing of a complaint pursuant to section 12 of P.L.1991, c.261 (C.2C:25-28) in the county where the ex parte restraints were ordered, unless good cause is shown for the hearing to be held elsewhere. A copy of the complaint shall be served on the defendant in conformity with the Rules of Court. If a criminal complaint arising out of the same incident which is the subject matter of a complaint brought under P.L.1981, c.426 (C.2C:25-1 et seq.) or P.L.1991, c.261 (C.2C:25-17 et seq.) has been filed, testimony given by the plaintiff or defendant in the domestic violence matter shall not be used in the simultaneous or subsequent criminal proceeding against the defendant, other than domestic violence contempt matters and where it would otherwise be

admissible hearsay under the rules of evidence that govern where a party is unavailable. At the hearing the standard for proving the allegations in the complaint shall be by a preponderance of the evidence. The court shall consider but not be limited to the following factors:

(1) The previous history of domestic violence between the plaintiff and defendant, including threats, harassment and physical abuse;

(2) The existence of immediate danger to person or property;

(3) The financial circumstances of the plaintiff and defendant;

(4) The best interests of the victim and any child;

(5) In determining custody and parenting time the protection of the victim's safety; and

(6) The existence of a verifiable order of protection from another jurisdiction.

An order issued under this act shall only restrain or provide damages payable from a person against whom a complaint has been filed under this act and only after a finding or an admission is made that an act of domestic violence was committed by that person. The issue of whether or not a violation of this act occurred, including an act of contempt under this act, shall not be subject to mediation or negotiation in any form. In addition, where a temporary or final order has been issued pursuant to this act, no party shall be ordered to participate in mediation on the issue of custody or parenting time.

b. In proceedings in which complaints for restraining orders have been filed, the court shall grant any relief necessary to prevent further abuse. At the hearing the judge of the Family Part of the Chancery Division of the Superior Court may issue an order granting any or all of the following relief:

(1) An order restraining the defendant from subjecting the victim to domestic violence, as defined in this act.

(2) An order granting exclusive possession to the plaintiff of the residence or household regardless of whether the residence or household is jointly or solely owned by the parties or jointly or solely leased by the parties. This order shall not in any manner affect title or interest to any real property held by either party or both jointly. If it is not possible for the victim to remain in the residence, the court may order the defendant to pay the victim's rent at a residence other than the one previously shared by the parties if the defendant is found to have a duty to support the victim and the victim requires alternative housing.

(3) An order providing for parenting time. The order shall protect the safety and well-being of the plaintiff and minor children and shall specify the place and frequency of the parenting time. Parenting time arrangements shall not compromise any other remedy provided by the court by requiring or encouraging contact between the plaintiff and defendant. Orders for parenting time may

include a designation of a place of parenting time away from the plaintiff, the participation of a third party, or supervised parenting time.

(a) The court shall consider a request by a custodial parent who has been subjected to domestic violence by a person with parenting time rights to a child in the parent's custody for an investigation or evaluation by the appropriate agency to assess the risk of harm to the child prior to the entry of a parenting time order. Any denial of such a request must be on the record and shall only be made if the judge finds the request to be arbitrary or capricious.

(b) The court shall consider suspension of the parenting time order and hold an emergency hearing upon an application made by the plaintiff certifying under oath that the defendant's access to the child pursuant to the parenting time order has threatened the safety and well-being of the child.

(4) An order requiring the defendant to pay to the victim monetary compensation for losses suffered as a direct result of the act of domestic violence. The order may require the defendant to pay the victim directly, to reimburse the Violent Crimes Compensation Board for any and all compensation paid by the Violent Crimes Compensation Board directly to or on behalf of the victim, and may require that the defendant reimburse any parties that may have compensated the victim, as the court may determine. Compensatory losses shall include, but not be limited to, loss of earnings or other support, including child or spousal support, out-of-pocket losses for injuries sustained, cost of repair or replacement of real or personal property damaged or destroyed or taken by the defendant, cost of counseling for the victim, moving or other travel expenses, reasonable attorney's fees, court costs, and compensation for pain and suffering. Where appropriate, punitive damages may be awarded in addition to compensatory damages.

(5) An order requiring the defendant to receive professional domestic violence counseling from either a private source or a source appointed by the court and, in that event, requiring the defendant to provide the court at specified intervals with documentation of attendance at the professional counseling. The court may order the defendant to pay for the professional counseling. No application by the defendant to dissolve a final order which contains a requirement for attendance at professional counseling pursuant to this paragraph shall be granted by the court unless, in addition to any other provisions required by law or conditions ordered by the court, the defendant has completed all required attendance at such counseling.

(6) An order restraining the defendant from entering the residence, property, school, or place of employment of the victim or of other family or household members of the victim and requiring the defendant to stay away from any specified place that is named in the order and is frequented regularly by the victim or other family or household members.

(7) An order restraining the defendant from making contact with the plaintiff or others, including an order forbidding the defendant from personally or through an agent initiating any communication likely to cause annoyance or alarm including, but not limited to, personal, written, or telephone contact with the victim or other family members, or their employers, employees, or fellow workers, or others with whom communication would be likely to cause annoyance or alarm to the victim.

(8) An order requiring that the defendant make or continue to make rent or mortgage payments on the residence occupied by the victim if the defendant is found to have a duty to support the victim or other dependent household members; provided that this issue has not been resolved or is not being litigated between the parties in another action.

(9) An order granting either party temporary possession of specified personal property, such as an automobile, checkbook, documentation of health insurance, an identification document, a key, and other personal effects.

(10) An order awarding emergency monetary relief, including emergency support for minor children, to the victim and other dependents, if any. An ongoing obligation of support shall be determined at a later date pursuant to applicable law.

(11) An order awarding temporary custody of a minor child. The court shall presume that the best interests of the child are served by an award of custody to the non-abusive parent.

(12) An order requiring that a law enforcement officer accompany either party to the residence or any shared business premises to supervise the removal of personal belongings in order to ensure the personal safety of the plaintiff when a restraining order has been issued. This order shall be restricted in duration.

(13) (Deleted by amendment, P.L.1995, c.242.)

(14) An order granting any other appropriate relief for the plaintiff and dependent children, provided that the plaintiff consents to such relief, including relief requested by the plaintiff at the final hearing, whether or not the plaintiff requested such relief at the time of the granting of the initial emergency order.

(15) An order that requires that the defendant report to the intake unit of the Family Part of the Chancery Division of the Superior Court for monitoring of any other provision of the order.

(16) An order prohibiting the defendant from possessing any firearm or other weapon enumerated in subsection r. of N.J.S.2C:39-1 and ordering the search for and seizure of any such weapon at any location where the judge has reasonable cause to believe the weapon is located. The judge shall state with specificity the reasons for and scope of the search and seizure authorized by the order.

(17) An order prohibiting the defendant from stalking or following, or threatening to harm, to stalk or to follow, the complainant or any other person named in the order in a manner that, taken in the context of past actions of the defendant, would put the complainant in reasonable fear that the defendant would cause the death or injury of the complainant or any other person. Behavior prohibited under this act includes, but is not limited to, behavior prohibited under the provisions of P.L.1992, c.209 (C.2C:12-10).

(18) An order requiring the defendant to undergo a psychiatric evaluation.

c. Notice of orders issued pursuant to this section shall be sent by the clerk of the Family Part of the Chancery Division of the Superior Court or other person designated by the court to the appropriate chiefs of police, members of the State Police and any other appropriate law enforcement agency.

d. Upon good cause shown, any final order may be dissolved or modified upon application to the Family Part of the Chancery Division of the Superior Court, but only if the judge who dissolves or modifies the order is the same judge who entered the order, or has available a complete record of the hearing or hearings on which the order was based.

3. This act shall take effect immediately.

Approved October 13, 1999.

CHAPTER 237

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, 1999 and regulating the disbursement thereof," approved June 30, 1998 (P.L.1998, c.45).

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

1. The Legislature finds and declares that New Jersey's rich history has always included the story of the lives of important and significant women such as: Clara Barton, the founder of the Red Cross; Maria De Castro Blake, a nationally recognized leader for Puerto Rican education; Millicent Fenwick, a successful journalist, editor and well-respected member of the State General Assembly, who became known as "the conscience of Congress" during her career in the United States House of Representatives because of her integrity, ardent belief in public service and commitment to

civil rights issues; Jarena Lee, the first woman preacher in the African Methodist Episcopal Church; Anne Morrow Lindbergh, writer, poet and wife of Charles Lindbergh; Alice Stokes Paul, an architect of major political gains for women in the 20th century, including the inclusion of the equal rights provisions in the United Nations Charter, adopted June 15, 1945; Florence Spearing Randolph, a minister in the African Methodist Episcopal Zion Church and noted suffrage leader; Elizabeth Cady Stanton, a life-long leader in women's rights issues, who, along with Lucretia Mott of Philadelphia, convened the first women's rights convention in Seneca Falls, New York in 1848, now known as the "Seneca Falls Convention" ; and Annis Boudinot Stockton who was related to two signers of the Declaration of Independence but was significant in her own right as an important resident of Princeton, prolific poet, and friend and correspondent of George Washington.

The Legislature further finds and declares that it is important to study and identify all the significant women and the sites in New Jersey associated with significant women within a broad cultural context and to tell the collective story of the many other women who contributed to the agricultural, industrial, political, labor and domestic history of the State and the nation. The Legislature further finds and declares that such a study will contribute to an increased historical understanding of the political, social, economic, and cultural ideas that shaped the history of New Jersey, the United States and the world, and it will provide a rich body of content specific background for teachers developing curriculum to meet New Jersey Core Curriculum Content Standards for Social Studies.

The Legislature therefore determines that the study and identification of women's significance in New Jersey's history, and the documentation of their lives and significant historic sites associated with those lives, is vital for the understanding and preservation of the State's cultural heritage; and it is altogether fitting and proper for the State, through the New Jersey State Historic Preservation Office in the Division of Parks and Forestry within the Department of Environmental Protection, to engage in the study, identification and documentation of historic sites in New Jersey that are significant because of their association with women who have been important in history, and to gather such information for inclusion in a tourism guide entitled the "New Jersey Women's Heritage Trail" as the New Jersey State Historic Preservation Office deems appropriate.

2. In addition to the amounts appropriated under P.L.1998, c.45, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES
42 DEPARTMENT OF ENVIRONMENTAL PROTECTION
40 Community Development and Environmental Management
42 Natural Resource Management

12-4875 Parks Management $70,000
Special Purpose:
Women's Places in New Jersey
Heritage Project ..... ($70,000)

3. Monies appropriated pursuant to section 2 of this act shall be used by the New Jersey State Historic Preservation Office in the Division of Parks and Forestry in the Department of Environmental Protection, in collaboration with the Alice Paul Centennial Foundation, for a project to identify and document historic sites in New Jersey that are significant because of their association with significant women and the contribution women have made to the development of the State and the nation. Within one year after the effective date of this act, the office shall develop a historic context study that will identify themes specific to New Jersey's cultural heritage and the significant achievements and contributions of women that are part of that heritage, and shall provide the Legislature with a progress report on the project. No later than February 1, 2000, the office shall provide the Legislature with a list of the historic sites identified and selected as significant to the themes identified by the study and the project's timetable and recommendations for future development and the establishment of the "New Jersey Women's Heritage Trail," including, but not limited to, the plan for developing educational materials, the publication of those materials and their dissemination, a traveling exhibit and the development and publication of a heritage tourism guide entitled the "New Jersey Women's Heritage Trail." The tourism guide shall be designed to enable members of the public to locate and visit the sites, houses, and other buildings related to the New Jersey Women's Heritage Trail. The office shall provide the State Library and every county, county college, community college, and high school library in the State with a copy of the educational materials and the tourism guide. The office, in conjunction with the New Jersey Commerce and Economic Growth Commission, established pursuant to P.L.1998, c.44 (C.52:27C-61 et seq.), shall promote the New Jersey Women's Heritage Trail as a major tourist attraction in New Jersey and shall encourage tourists to visit the sites, houses, and other buildings related to the New Jersey Women's Heritage Trail.

4. This act shall take effect immediately.

Approved October 14, 1999.

CHAPTER 238

AN ACT concerning public works contractors and supplementing P.L.1963, c.150 (C.34:11-56.25 et seq).

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

C.34:11-56.48 Short title.

1. This act shall be known and may be cited as "The Public Works Contractor Registration Act."

C.34:11-56.49 Findings, declarations relative to public works contractors.

2. The Legislature finds and declares that:

a. There is growing concern over the increasing number of construction industry workers on public works projects laboring under conditions which violate State labor laws and regulations concerning wages, unemployment and temporary disability insurance, workers' compensation insurance, and the payment of payroll taxes;

b. Contractors and subcontractors receiving the benefit of public tax dollars for their work should not be allowed to exploit their workers by denying them benefits and pay mandated by law;

c. It is therefore necessary and proper for the Legislature to establish a registration system for contractors and subcontractors engaged in public works projects in order to better enforce existing labor laws and regulations in the public works industry.

C.34:11-56.50 Definitions relative to public works contractors.

3. As used in this act:

"Commissioner" means the Commissioner of Labor or his duly authorized representatives.

"Contractor" means a person, partnership, association, joint stock company, trust, corporation, or other legal business entity or successor thereof who enters into a contract which is subject to the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.) for the construction, reconstruction, demolition, alteration, repair or maintenance of a public building regularly open to and used by the general public or a public institution, and includes any subcontractor or lower tier subcontractor of a contractor as defined herein, except that, for the purposes of this act, no pumping station, treatment plant or other facility associated with utility and environmental construction, reconstruction, demolition, alteration, repair or maintenance shall be regarded as a public building regularly open to and used by the general public or a public institution.

"Department" means the Department of Labor.

"Worker" includes laborer, mechanic, skilled or semi-skilled laborer and apprentices or helpers employed by any contractor or subcontractor and engaged in the performance of services directly upon a public work, regardless of whether their work becomes a component part thereof, but does not include material suppliers or their employees who do not perform services at the job site.

C.34:11-56.51 Registration required for contractors.

4. No contractor shall bid on or engage in any contract for public work as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26) unless the contractor is registered pursuant to this act.

C.34:11-56.52 Contractor to register in writing; form; requisites.

5. a. A contractor shall register in writing with the department on a form provided by the commissioner. The form shall require the following information:

(1) The name, principal business address and telephone number of the contractor;

(2) Whether the contractor is a corporation, partnership, sole proprietorship, or other form of business entity;

(3) If the contractor's principal business address is not within the State, the name and address of the contractor's custodian of records and agent for service of process in this State;

(4) The name and address of each person with a financial interest in the contractor and the percentage interest, except that if the contractor is a publicly-traded corporation, the contractor shall supply the names and addresses of the corporation's officers;

(5) The contractor's tax identification number and unemployment insurance registration number; and

(6) Any other relevant and appropriate information as determined by the commissioner.

b. At the time of registration, and subsequently upon request, the contractor shall submit to the commissioner documentation demonstrating that the contractor has worker's compensation insurance coverage for all workers as required by law.

C.34:11-56.53 Registration fees.

6. a. The contractor shall pay an initial annual registration fee of $300 to the commissioner. The registration fee for the second annual registration shall be $300. Upon successful completion of two consecutive years of registration, a contractor may elect to register for a two-year period and pay a registration fee of $500.

b. A contractor who is performing public work on the effective date of this act shall submit the registration application form and fee to the commissioner within 30 days of the effective date of this act.

c. Registration fees collected pursuant to this act shall be applied toward the enforcement and administration costs of the Division of Workplace Standards, Office of Wage and Hour Compliance, Public Contracts section and Registration section within the department.

C.34:11-56.54 Issuance of certificate of registration.

7. Upon receipt of the fee, form and documentation required by section 5 of this act, the commissioner shall issue a certificate of registration to the contractor. A registration certificate shall be valid for one calendar year from the date of registration. Registrations shall be renewed not less than 30 days before the expiration date of the immediately preceding registration.

C.34:11-56.55 Registration required to submit bid.

8. Contractors not performing public work on the effective date of this act shall file a registration form and submit a fee to the department before submitting a bid for a public work contract. A contractor shall not be precluded from bidding for a public work contract or performing public work if the contractor has submitted a registration application to the department, and includes a copy of the application with the bid. The department shall review the application and make a determination regarding registration within 30 days of receipt of the application.

C.34:11-56.56 Violation; disorderly persons offense; other penalties; surety bonds.

9. a. A contractor who: (1) willfully hinders or delays the commissioner in the performance of his duties in the enforcement of this act; (2) fails to make, keep, and preserve any records as required under the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.); (3) falsifies any such record, or refuses to make any such record accessible to the commissioner upon demand; (4) refuses to furnish a sworn statement of such records or any other information required for the enforcement of this act to the commissioner upon demand; (5) pays or agrees to pay wages at a rate less than the rate prescribed by the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.); or (6) otherwise violates any provision of this act, shall be guilty of a disorderly persons offense.

b. As an alternative to or in addition to sanctions provided by the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), the commissioner may, after providing the contractor with notice of any alleged violation of this act, and with an opportunity to request a hearing before the commissioner or his designee:

(1) Revoke or suspend the registration of a contractor for a period of not more than five years; or

(2) Require a contractor, as a condition of initial or continued registration, to provide a surety bond payable to the State. The surety bond shall be for the benefit of workers damaged by any failure of a contractor to pay wages or benefits pursuant to or otherwise comply with the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.) or this act. The surety bond shall be in the amount and form that the commissioner deems necessary for the protection of the contractor's workers, but shall not exceed $10,000 per worker. The surety bond shall be issued by a surety that meets the requirements of N.J.S.2A:44-143.

C.34:11-56.57 Regulations.

10. The commissioner may adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this act.

11. This act shall take effect on the 180th day after the date of enactment, but the Commissioner of Labor shall take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved October 14, 1999.

CHAPTER 239

AN ACT concerning financial assistance to certain businesses and supplementing P.L.1966, c.293 (C.52:27D-1 et seq.).

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

C.52:27D-443 Short title.

1. This act shall be known and may be cited as the "New Jersey Women's Micro-Business Assistance Act."

C.52:27D-444 Findings, declarations relative to financial assistance to certain women's businesses.

2. The Legislature finds and declares that:

a. Micro-business loans are usually granted to those business entrepreneurs with prior business experience who operate firms with a small number of employees and are granted mostly to expand an existing business;

b. Experience in numerous other states and in certain urban areas in New Jersey has shown that "micro lending," or carefully underwriting small loans to individual entrepreneurs with well-developed, realistic business plans, has been successful in helping individuals, without regard to geographical location, to start micro-businesses;

c. Nonprofit community-based development corporations have the experience of providing the training and technical assistance that is necessary for prospective entrepreneurs to establish a viable business;

d. While the New Jersey Economic Development Authority currently manages several programs to promote the development of micro and small businesses in the State, there is a need to establish a separate micro-business credit program to provide the help needed to assist unemployed women and underemployed women in all areas of the State to enter or reenter the marketplace; and

e. It is appropriate to establish a pilot program to accomplish these goals in the Department of Community Affairs which has experience in evaluating and monitoring community development corporations and which already manages a number of programs through its Division on Women to assist women to improve their lives.

C.52:27D-445 Definitions relative to financial assistance to certain women's businesses.

3. As used in this act:

"Act" means the "New Jersey Women's Micro-Business Assistance Act."

"Certified nonprofit community development corporation" or "certified corporation" means a nonprofit community development corporation, established pursuant to Title 15 of the Revised Statutes, Title 15A of the New Jersey Statutes, or other law of this State, and certified by the department pursuant to section 6 of this act to receive funds for the purpose of issuing loans to qualified women-owned business;

"Commissioner" means the Commissioner of Community Affairs.

"Department" means the Department of Community Affairs;

"Development loan" means money loaned to a certified corporation by the department for the purpose of making micro-credit loans to qualified recipients;

"Micro-credit loan" or "loan" means a loan made or guaranteed to a qualified woman-owned home-based business under the terms and conditions set forth by a certified nonprofit community development corporation established pursuant to Title 15 of the Revised Statutes, Title 15A of the New Jersey Statutes, or other law of this State to provide training, technical assistance, and access to capital for the startup of qualified woman-owned businesses, including businesses conducted from a residence;

"Program" or "pilot program" means the New Jersey Women's Micro-Business Pilot Program established pursuant to section 4 of this act; and

"Qualified recipient" means one or more women who intend to establish a business enterprise which is to be independently owned and operated solely by the woman or women, as appropriate, having a level of prior business experience and gross annual personal income determined to be appropriate by the commissioner, provided that the commissioner shall make, to the greatest extent feasible, every effort to include women having little or no prior business experience and having a gross annual personal income less than 125% of the official poverty line, as determined by the Director of the federal Office of Management and Budget. A qualified recipient may conduct a business enterprise on a part-time basis, from a residence, or both.

C.52:27D-446 "New Jersey Women's Micro-Business Pilot Program."

4. a. There is created, in the department, a "New Jersey Women's Micro-Business Pilot Program." The program shall be established by the department in consultation with the New Jersey Economic Development Authority. The program shall consist of loans, loan guarantees, or both, and training and technical assistance to be provided to qualified recipients from certified corporations for the purposes of the program.

b. To implement the program, the department shall provide development loans to certified corporations from such moneys that the department determines are necessary to effectively implement the program, in response to the demand for the program, and as may be available from the repayment to the department by certified corporations of development loans, from other assistance programs administered by the department or by other State agencies or authorities, or from such other moneys as may be made available for the program pursuant to this act.

c. The commissioner shall designate areas for the location of three certified corporations as part of the pilot program. In selecting the areas for the certified corporations, the commissioner shall strive to allocate the areas in an equitable manner to achieve representation from the northern, central and southern regions of the State. In selecting the areas in each region for the location of the certified corporations, the department shall consider the following factors: comparative unemployment or underemployment; an economic environment conducive to the establishment of businesses built around qualified businesses; the need for assistance in creating qualified businesses where such activity will protect or enhance a small business economy; and the level of anticipated financial and other participation of county economic development agencies, municipal economic development

agencies or business organizations, and county or municipal educational and nonprofit organizations.

d. The department shall, to the greatest extent feasible, coordinate its efforts to implement the program with other State or federal agencies or authorities including, but not limited to, the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises established pursuant to P.L.1985, c.386 (C.34:1B-47 et seq.), the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), and the Department of Human Services and shall enter into agreements to leverage the moneys in the program with moneys that may be available from other sources of financing including, but not limited to, the Fund for Community and Economic Development and the Statewide Loan Pool for Business.

e. The department shall, to the greatest extent feasible, advertise the program to community development organizations in the northern, central and southern regions of the State. In order to advertise and promote the program, the department is authorized to organize or participate in the organization of a nonprofit corporation which is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code. Such nonprofit corporation must directly further the statutory mission of the department and the intent of this act. Expenses incurred by such nonprofit corporations shall be payable from funds raised by the nonprofit corporation, and no liability or obligation, in tort or contract, shall be incurred by the department for the operation of the nonprofit corporation. The nonprofit corporation shall obtain private counsel and shall not be represented by the department or indemnified by the department.

C.52:27D-447 Use of program moneys.

5. a. The department shall use the moneys in the program as established pursuant to section 4 of this act to make development loans to certified corporations.

b. In determining the criteria for making development loans available to certified corporations, the department shall, in addition to applying customary underwriting criteria, also consider:

(1) the plan and scope of business training and technical assistance to be provided to qualified recipients;

(2) the plan and scope of other services to be provided to qualified recipients;

(3) geographic representation among the regions chosen, pursuant to section 4 of this act;

(4) the ability of the certified corporation, with its plan, to monitor and provide financial oversight of recipients of loans, to administer a revolving

loan fund, and to investigate and qualify financing proposals and to service credit accounts;

(5) the sources and the sufficiency of operating funds, other than those provided herein, for the certified corporations; and

(6) the intent of the certified corporation, as set forth in its plan and written indications of local institutional support, to provide services to qualified recipients in the region within which it is located.

c. Development loan funds may be used by a certified corporation to:

(1) satisfy matching requirements for other State, federal, or private funding only if funding is intended and used for the purpose of providing or enhancing the certified corporation's ability to provide and administer loans, technical assistance, or business training to qualified recipients; and

(2) establish a revolving loan fund from which the certified corporation may issue loans to qualified recipients.

d. Development loan funds shall not be:

(1) loaned for relending or investment in stocks, bonds, or other securities or for property not intended for use in production by the recipient of the loan; or

(2) used to refinance a nonperforming loan held by a financial institution or to pay the operating costs of a certified corporation; however, interest income earned from the proceeds of a development loan may be used to pay operating expenses.

e. Certified corporations are required to contribute cash from other sources to leverage and secure loans from the program. Contributions provided by the certified corporation must be in a ratio of at least $1 from other sources for each $3 in loans from the program and at least $1 from other sources for each $4 for training, technical assistance and administrative expenses. These contributions may come from a public or private source other than the program and may be in the form of loans or grants.

f. Development loans to a certified corporation shall be made pursuant to a loan agreement and may be amortization or term loans, bear interest at less than the market rate, be renewable, and contain other terms and conditions considered appropriate by the department that are consistent with the purposes of this act and with rules and regulations promulgated by the department to implement this act.

g. (1) Unless subject to federal law, rule or regulation, each certified corporation that receives a development loan under this act shall undergo an audit, at its own expense, at least once every two years. The department shall designate an auditor to conduct the audit who shall submit a copy of the audit to the department.

(2) If an audit is performed under a requirement of federal law, rule or regulation, the department shall waive the audit required in this subsection

with respect to all issues addressed by the federal audit report. However, the department may require an audit of matters that are not, in the department's judgment, addressed by the federal report including, but not limited to, verification of compliance with requirements specific to the program, such as job-generation standards and reporting.

C.52:27D-448 Certification of nonprofit community development corporation.

6. The department may certify a nonprofit community development corporation when it determines that the corporation:

a. has developed a viable plan for providing training, access to financing, and technical assistance for qualified recipients;

b. has demonstrated an ability to successfully provide training and technical assistance to qualified recipients;

c. has broad-based community support within a region and has demonstrated support from other regional entities to provide assistance with service delivery and financial aspects; and

d. has an adequate source of operating capital.

C.52:27D-449 Additional powers of department.

7. a. The department shall have, in addition to the powers enumerated in section 9 of P.L.1966, c.293 (C.52:27D-9), the power to enter into written agreements, including, but not limited to, limited partnership agreements with one or more professional investors or small business investment corporations, or inter-agency agreements with one or more State agencies or authorities, including but not limited to, the New Jersey Economic Development Authority and the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises, for the purposes of establishing a pool of additional moneys which is to be used exclusively for funding certified corporations for the sole purpose of providing loans to qualified recipients and for the purposes of providing training and technical assistance to qualified recipients to effectuate the purposes of the program.

b. The department may also accept grants, donations, and other private and public funds, including payments of interest on development loans made by the department and use such moneys received under this subsection for the purposes of the program.

C.52:27D-450 Preparation of reports on program.

8. The department shall, in conjunction with certified corporations and the New Jersey Economic Development Authority, prepare a report within two years following the effective date of this act, and not later than September 15 of each third year thereafter. The report shall include, but not be limited to: a description of the demand for the program from qualified recipients; the number of qualified recipients the program has assisted; the efforts made by the department and the certified corporations to promote the program; the

efforts of the certified corporations to establish a pool of funds from private and public sources; the total amount of loans issued by the certified corporations; and an assessment of the effectiveness of the program in meeting the goals of this act. The department shall submit its reports to the Governor and the Legislature, along with any recommendations for legislation regarding the advisability and feasibility of expanding the program Statewide, as appropriate, and to improve the effectiveness of the program.

C.52:27D-451 Rules, regulations.

9. The department shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as may be necessary to effectuate the purposes of this act including, but not limited to: the criteria and procedures concerning certification of certified corporations; the criteria and procedures for selecting from competing applications and for awarding development loans to certified corporations; the criteria and procedures to be followed by certified corporations in administering revolving loan funds supported by the program; the criteria for determining the terms and conditions of development loans and micro-credit loans and loan repayments; the criteria for determining nonperformance and declaring default in the administration of development loans and micro-credit loans; and the criteria and procedures to be followed by certified corporations in providing training and technical assistance to qualified recipients.

10. This act shall take effect immediately.

Approved October 14, 1999.

CHAPTER 240

AN ACT concerning housing authority executive directors and amending P.L.1992, c.79.

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

1. Section 18 of P.L.1992, c.79 (C.40A:12A-18) is amended to read as follows:

C.40A:12A-18 Executive director of housing authority.

18. a. A housing authority shall appoint and may enter into a contract to employ an executive director as the authority may determine necessary for

its efficient operations. The contract shall set forth the executive director's duties, compensation, and term of office, subject to the limitations set forth in subsection b. of this section, as well as reasons for which the executive director may be removed for cause. An executive director shall be subject to an annual performance evaluation and shall comply with the provisions of section 46 or 47 of P.L.1992, c.79 (C.40A:12A-46 or 47), as appropriate. A housing authority may terminate an executive director for cause; however the contract shall provide an executive director with not less than 120 days' notice. A copy of the adopted contract shall be submitted to the Department of Community Affairs and filed with the clerk of the municipality or the county for which the authority has been created.

b. (1) The executive director of a housing authority shall have attained a degree from an accredited four-year college or university in a public administration, social science, or other appropriate program, and shall have at least five years' experience in public administration, public finance, realty, or similar professional employment. A master's degree in an appropriate program may substitute for two years of that experience. An executive director holding that position prior to or on January 18, 1992 and possessing the required work experience and holding certification as a Public Housing Manager (PHM) from the National Association of Housing and Redevelopment Officials, or equivalent certification from a nationally recognized professional association in the housing and redevelopment field, shall not be required to meet the educational requirement, except as otherwise provided in section 45 of P.L.1992, c.79 (C.40A:12A-45) and shall be deemed qualified for continued employment as executive director of the authority in which he holds that post and eligible for equivalent employment in any other local public housing authority in this State. An individual who meets the qualifications set forth in this paragraph may be awarded a contract which shall not exceed one year, except that any person serving as an executive director at the time this bill is adopted into law shall be eligible to be awarded a contract not exceeding five years.

(2) An individual who, in addition to having met the qualifications set forth in paragraph (1) of this subsection, has served for five years as an executive director of a housing authority, may be awarded a contract which shall not exceed five years.

c. An executive director who has not entered into a contract of employment shall serve at the pleasure of the members of the authority, and may be relieved of the duties of executive director only after not less than 120 days' notice. The authority may provide that the executive director shall be the appointing authority for all or any portion of the employees of the authority. The executive director shall assign and supervise employees in the performance of their duties. A housing authority may elect to adopt or

not to adopt the provisions of Title 11A of the New Jersey Statutes regardless of whether the establishing county or municipality has or has not adopted those provisions.

2. This act shall take effect immediately.

Approved October 14, 1999.

CHAPTER 241

AN ACT concerning the licensing of rooming and boarding homes and amending P.L.1993, c.290 and P.L.1979, c.496.

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

1. Section 2 of P.L.1993, c.290 (C.40:52-10) is amended to read as follows:

C.40:52-10 Licensing of rooming, boarding houses.

2. The governing body of a municipality may, by ordinance, elect to license rooming and boarding houses located in the municipality in accordance with the provisions of this act. The governing body of a municipality that elects to license rooming and boarding houses may adopt, by ordinance, such regulations as it deems appropriate and necessary to enforce the provisions of P.L.1993, c.290; except those regulations shall not be inconsistent with the rules and regulations promulgated by the commissioner pursuant to P.L.1979, c.496 (C.55:13B-1 et seq.) to which rooming and boarding houses shall remain subject. If the governing body elects to license such facilities, the governing body shall so notify the Commissioner of Community Affairs or his designee. An owner or operator of a rooming or boarding house licensed by a municipality pursuant to this act shall not be required to pay an annual licensing fee for that rooming or boarding house to the Department of Community Affairs pursuant to the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et seq.).

2. Section 7 of P.L.1979, c.496 (C.55:13B-7) is amended to read as follows:

C.55:13B-7 Rooming, boarding house licensure.

7. a. (1) No person shall own or operate a rooming or boarding house, hold out a building as available for rooming or boarding house occupancy,

or apply for any necessary construction or planning approvals related to the establishment of a rooming or boarding house without a valid license to own or operate such a facility, issued by the commissioner and, if appropriate, by a municipality which has elected to issue such licenses pursuant to P.L.1993, c.290 (C.40:52-9 et seq.).

(2) No person shall own or operate a rooming or boarding house that offers or advertises or holds itself out as offering personal care services to residents with special needs, including, but not limited to, persons with Alzheimer's disease and related disorders or other forms of dementia, hold out a building as available for rooming or boarding house occupancy for such residents, or apply for any necessary construction or planning approvals related to the establishment of a rooming or boarding house for such residents without a valid license to own or operate such a facility, issued by the commissioner.

(3) Any person found to be in violation of this subsection shall be liable for a civil penalty of not more than $5,000.00 for each building so owned or operated, which penalty shall be payable to the appropriate licensing entity.

b. The commissioner shall establish separate categories of licensure for owning and for operating a rooming or boarding house, provided, however, that an owner who himself operates such a facility need not also possess an operator's license.

If an owner seeking to be licensed is other than an individual, the application shall state the name of an individual who is a member, officer or stockholder in the corporation or association seeking to be licensed, and the same shall be designated the primary owner of the rooming or boarding house.

Each application for licensure shall contain such information as the commissioner may prescribe and, unless the person is licensed by a municipality to own or operate a rooming and boarding house pursuant to P.L.1993, c.290 (C.40:52-9 et seq.), shall be accompanied by a fee established by the commissioner which shall not be less than $150.00 nor more than $300.00. If, upon receipt of the fee and a review of the application, the commissioner determines that the applicant will operate, or provide for the operation of, a rooming or boarding house in accordance with the provisions of this act, he shall issue a license to him.

Each license shall be valid for one year from the date of issuance, but may be renewed upon application by the owner or operator and upon payment of the same fee required for initial licensure.

c. Only one license shall be required to own a rooming or boarding house, but an endorsement thereto shall be required for each separate building owned and operated, or intended to be operated, as a rooming or boarding house. Each application for licensure or renewal shall indicate every such building for which an endorsement is required. If, during the term of a

license, an additional endorsement is required, or an existing one is no longer required, an amended application for licensure shall be submitted.

d. A person making application for, or who has been issued, a license to own or operate a rooming or boarding house who conceals the fact that the person has been denied a license to own or operate a residential facility, or that the person's license to own or operate a residential facility has been revoked by a department or agency of state government in this or any other state is liable for a civil penalty of not more than $5,000.00, and any license to own or operate a rooming or boarding house which has been issued to that person shall be immediately revoked.

3. Section 9 of P.L.1979, c.496 (C.55:13B-9) is amended to read as follows:

C.55:13B-9 Inspection, review of records.

9. The commissioner shall ensure that each rooming or boarding house whose owner possesses a valid license is inspected and its records reviewed at least once each year for the purpose of determining whether the owner or operator is complying with standards promulgated pursuant to the provisions of this act. If the commissioner determines, as a result of any such inspection and review of records, that an owner or operator is in violation of such standards, he shall serve the owner or operator of the facility with a written notice thereof, which shall fix a date by which the owner or operator shall enter into compliance. The commissioner shall not be required to perform annual inspections of facilities licensed and inspected by a municipality pursuant to P.L.1993, c.290 (C.40:52-9 et seq.), but shall have the authority to oversee and ensure the enforcement of the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et seq.), and the rules and regulations adopted pursuant thereto in those facilities.

4. This act shall take effect immediately.

Approved October 15, 1999.

CHAPTER 242

AN ACT allowing certain senior citizen insureds to designate third parties to receive certain notices.

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

C.17:29C-1.1 Definitions relative to senior citizen insureds.

1. For purposes of this act:

"Commissioner" means the Commissioner of Banking and Insurance.

"Insurer" means:

a. Any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society or other person engaged in the business of insurance pursuant to Subtitle 3 of Title 17 of the Revised Statutes or Subtitle 3 of Title 17B of the New Jersey Statutes;

b. Any medical service corporation operating pursuant to P.L.1940, c.74 (C.17:48A-1 et seq.);

c. Any hospital service corporation operating pursuant to P.L.1938, c.366 (C.17:48-1 et seq.);

d. Any health service corporation operating pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.);

e. Any health maintenance organization established pursuant to the provisions of P.L.1973, c.337 (C.26:2J-1 et seq.);

f. Any insurance plan operating pursuant to P.L.1970, c.215 (C.17:29D-1); and

g. The New Jersey Insurance Underwriting Association operating pursuant to P.L.1968, c.129 (C.17:37A-1 et seq.).

"Policy of personal lines insurance" means any policy or contract of insurance issued or issued for delivery in this State for personal, family or household purposes, as determined by the commissioner, by an insurer on a risk located or resident in this State for which the premiums are paid directly to the insurer by the senior citizen insured.

"Senior citizen insured" means any named insured pursuant to a policy of personal lines insurance who is an individual and is at least 62 years of age.

C.17:29C-1.2 Senior citizen insured to designate third party to receive copies of certain notices.

2. Every insurer shall permit its senior citizen insureds to designate a third party to whom the insurer shall transmit a copy of notices of cancellation, nonrenewal and conditional renewal. The senior citizen insured shall notify the insurer that a third party has been so designated. Such notification shall be delivered to the insurer by certified mail, return receipt requested, and shall be effective not later than ten business days from the date of receipt by the insurer. The notification shall contain, in writing, an acceptance by the third party designee to receive copies of notices of cancellation, nonrenewal and conditional renewal from the insurer. Should the third party designee desire to terminate the status as a third party designee, the designee shall provide written notice to both the insurer and the senior citizen insured. Should the senior citizen insured desire to terminate the third party designation, the insured shall provide written notice

to the insurer. The transmission to the third party designee of a copy of any notice of cancellation, nonrenewal or conditional renewal shall be in addition to the original document transmitted to the senior citizen insured and when a third party is so designated all such notices and copies shall be mailed in an envelope clearly marked on its face with the following: "IMPORTANT INSURANCE POLICY INFORMATION: OPEN IMMEDIATELY." The copy of the notice of cancellation, nonrenewal or conditional renewal transmitted to the third party shall be governed by the same law and policy provisions which govern the notice being transmitted to the senior citizen insured. Designation as a third party shall not constitute acceptance of any liability on the part of the third party for services provided to the senior citizen insured, nor on the part of the insurer. The insurer shall notify its senior citizen insureds annually in writing, except in cases in which the age of the senior citizen insured is unknown to the insurer, of the availability of the third party designee notice procedures and provide information on how the insured can commence this procedure, except that notice need not be provided once a senior citizen insured has made a designation. An insurer may provide this required annual notice to its senior citizen insureds in any manner that it determines.

3. This act shall take effect on the 120th day following enactment.

Approved October 15, 1999.

CHAPTER 243

AN ACT concerning certain private facilities under contract with the Department of Corrections and supplementing chapter 4 of Title 30 of the Revised Statutes.

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

C.30:4-91.9 Definitions relative to certain private corrections facilities.

1. As used in this act:

"Eligible inmate" means an inmate who (1) was not convicted of a sexual offense as defined in this section or an arson offense, (2) does not demonstrate an undue risk to public safety and (3) has less than one year remaining to be served before the inmate's parole eligibility date, provided, however, that an eligible inmate may include an inmate who is otherwise eligible but who has more than one year but less than 18 months remaining to be served before the inmate's parole eligibility date and is determined by

the Commissioner of Corrections or a designee to be appropriate to be authorized for confinement in a private facility; and further provided, however, that an eligible inmate may include an inmate who is otherwise eligible but who has more than one year but less than two years remaining to be served before the inmate's parole eligibility date and is determined by the Commissioner of Corrections or a designee to be appropriate to be authorized for confinement in a private facility for participation in a substance abuse treatment program.

"Private facility" means a residential center, operated by a private nonprofit entity, contracted by the Department of Corrections to provide for the care, custody, subsistence, treatment, education, training or welfare of inmates sentenced to the custody of the Commissioner of Corrections.

"Sexual offense" means a violation of 2C:14-2, 2C:14-3 or 2C:24-4, or of any other substantially equivalent provision contained in Title 2A of the New Jersey Statutes now repealed, conspiracy to commit any of these offenses or an attempt to commit any of these offenses.

C.30:4-91.10 Confinement of eligible inmates in private facilities.

2. On and after the effective date of P.L.1999, c.243 (C.30:4-91.9 et seq.), the Commissioner of Corrections may authorize the confinement of eligible inmates in private facilities.

C.30:4-91.11 Preparation, transmittal of information regarding background of inmate.

3. Whenever an eligible inmate is authorized for confinement in a private facility, the Commissioner of Corrections or a designee shall prepare a summary of all relevant information relating to that inmate's criminal history and background. The summary, along with a picture of the inmate, shall be transmitted by the operator of the private facility to the chief law enforcement officer of the municipality wherein the private facility is located within five working days of the inmate's transfer to that facility.

If the private facility is within 2,500 feet of the border of an adjacent municipality, the inmate summary and picture also shall be transmitted by the operator of the private facility to the chief law enforcement officer of that adjacent municipality within five working days of the inmate's transfer to the facility.

C.30:4-91.12 Establishment of community relations advisory board.

4. a. Every contract between the Department of Corrections and the operator of a private facility shall provide for the establishment of a community relations advisory board in the municipality wherein the private facility is located. The board may include the following members: (1) the chief law enforcement officer of the municipality or a designee; (2) a member of the governing body of the municipality or a designee; (3) a representative of the operator of the private facility; (4) a representative of

the Department of Corrections; and (5) public members, appointed by the governing body, to represent the community.

If the private facility is within 2,500 feet of the border of an adjacent municipality, the board also may include the chief law enforcement officer of that adjacent municipality or a designee; a representative of the governing body of that adjacent municipality or a designee; and public members, appointed by the governing body of the adjacent municipality, to represent the community. In those cases where the board consists of representatives from more than one municipality, the number of public member appointees from each of the participating municipalities shall be the same.

If an operator operates more than one private facility in a municipality, that operator may establish one community relations advisory board for all of that operator's private facilities within that municipality.

b. The board shall monitor the operation of the private facility and shall provide the residents of the municipality with a forum for resolving community concerns relating to the facility's operation.

C.30:4-91.13 Escape of inmate from private facility, notices required.

5. The operator of a private facility shall, upon discovering that an inmate has escaped, notify:

a. the chief law enforcement officer of the municipality in which the facility is located or a designee;

b. the Commissioner of Corrections or a designee; and

c. if the private facility is within 2,500 feet of an adjacent municipality, the chief law enforcement officer of that adjacent municipality or a designee.

The notice required under this section shall be given within one hour of the discovery of the escape and shall include a current summary of all relevant information relating to the escapee's criminal history and background.

C.30:4-91.14 Rules, regulations.

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

7. This act shall take effect immediately except that with regard to an existing contract between a private facility and the Department of Corrections, section 4 shall take effect on the effective date of the renewal of the contract or on July 1, 1999, whichever occurs first.

Approved October 15, 1999.

CHAPTER 244

AN ACT requiring Legislative Counsel to advise the prime sponsor or prime sponsors of a legislative bill, joint resolution or concurrent resolution of legal defects therein in certain instances and amending P.L.1979, c.8.

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

1. Section 8 of P.L.1979, c.8 (C.52:11-61) is amended to read as follows:

C.52:11-61 Duties of Legislative Counsel.

8. It shall be the duty of the Legislative Counsel:

a. To provide general standards for the office to draft, aid in drafting and redrafting bills, resolutions and amendments thereof, and reviewing the same when drafted elsewhere, proposed for introduction in the Legislature and other legislative documents for and upon the request of any legislative commission or of any member, committee or joint committee of the Legislature;

b. To provide general standards for the office to examine and edit legislative bills, proposed for introduction or introduced from time to time in the Senate and General Assembly so as to assure, whenever possible, their compliance with the form and general classification of the Revised Statutes, when so requested or directed by the Legislature or any committee thereof;

c. To furnish assistance and information to the Legislature or any member or committee thereof or to the departments, officers, institutions and agencies of the State and to the public in legal matters concerning the statutes, when so requested;

d. To receive drafts of legislative bills with suggestions and recommendations from the New Jersey Law Revision Commission for the improvement and modification of the general and permanent statute law of the State, and to examine and edit those bills in the same manner as it would other bills under this section;

e. To furnish to the presiding officer of each House of the Legislature or to the committees, joint committees and members of the Legislature, legal assistance, information and advice when and in relation to such matters as the commission shall from time to time determine, relating to

(1) The subject matter and legal effect of the statutes and of proposals made for statutory enactment, and

(2) Questions of parliamentary law and legislative procedure;

f. Upon the written request of either or both Houses of the Legislature, the presiding officer of either House, the majority or minority leader of

either House, a legislative committee or commission, to furnish formal written opinions on legal matters;

g. On behalf of the commission to assign appropriate compilation numbers to newly-enacted laws, edit an annual cumulative table of contents to the laws, and initiate administrative corrections in the text of the laws as authorized and directed by R.S.1:3-1 and R.S.1:3-2;

h. To provide the prime sponsor or prime sponsors, as the case may be, of a legislative bill, joint resolution or concurrent resolution, or amendment thereto, as well as the prime sponsor or prime sponsors, as the case may be, of an identical legislative bill, joint resolution or concurrent resolution, or amendment thereto, at the same time as provided to the requester of a written opinion under this section, with advice of any legal defects, constitutional, procedural or otherwise, of which the Legislative Counsel is aware, notwithstanding the provisions of section 17 of this act (C.52:11-70); and

i. To perform such other duties and responsibilities as shall be directed by the commission or provided by law or House rule.

2. This act shall take effect immediately.

Approved October 15, 1999.

CHAPTER 245

AN ACT establishing the Neighborhood-Based Child Care Incentive Demonstration Program.

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

1. The Legislature finds and declares that: the increase in numbers of working parents in New Jersey has led to a serious shortage of child care resources, especially for infants and toddlers of low and middle income, working families; in light of the implementation of welfare reform the need to expand the availability of safe, affordable child care is critical; and the State must promote regulatory flexibility without jeopardizing the quality and safety of child care as it provides incentives to encourage the establishment of innovative community partnerships and the use of volunteer networks in the delivery of neighborhood-based child care services, and to expand the family day care model.

2. The Commissioner of Human Services shall establish a three-year Neighborhood-Based Child Care Incentive Demonstration Program in the Division of Family Development in the Department of Human Services.

The program shall be designed to utilize to the greatest extent possible: neighborhood resources such as religious organizations and schools; volunteer networks of college students, retired teachers, nurses and other persons qualified to participate in the child care program; active, involved parents of children needing child care services; community leaders; and local businesses interested in establishing collaborative partnerships in developing the child care centers.

3. a. The Director of the Division of Family Development shall adopt regulations for creating the child care centers for the three-year demonstration program in five counties dispersed throughout the State. At least two of the child care centers established under the program shall be located in municipalities targeted by the Governor's Urban Coordinating Council for urban revitalization.

b. The director shall review child care center proposals submitted by nonprofit community agencies, licensed nonprofit child care centers, religious organizations and licensed for profit child care centers interested in participating in the program as sponsors, and award grants from the Neighborhood-Based Child Care Incentive Demonstration Fund established pursuant to this act within one year of the adoption of the regulations for creating the three-year demonstration program to those proposals which best meet the purposes of the Neighborhood-Based Child Care Incentive Demonstration Program.

c. Priority consideration for the awarding of grants shall be given to those proposals which: use a partnership approach; demonstrate an ability to continue once the demonstration program has ended; leverage in-kind donations, such as physical space and equipment, for the child care centers; leverage monetary contributions; agree to accept private pay as well as children eligible for subsidy as determined by the division and use a large network of volunteers that have social, educational or professional qualifications that will further the goal of expanding quality child care services.

d. Any staff member, including full-time, part-time and voluntary staff, whether compensated or not, directly involved in the delivery of child care services at a center participating in the demonstration program shall undergo a background check in a manner determined to be appropriate by the director to ensure the highest quality and safety of child care.

4. a. The Director of the Division of Family Development, in consultation with child care advocacy groups, shall actively inform parents, community and religious groups, retired teachers, college students, businesses and business organizations, and other volunteer networks about the demonstration program.

b. The director shall approve a training program submitted by grantee for volunteers who will provide services under the Neighborhood-Based Child Care Incentive Demonstration Program or refer the volunteers to existing training programs.

c. Volunteers trained pursuant to subsection b. of this section are intended to supplement full-time and part-time staff employed by existing child care centers or by centers established pursuant to this act.

5. a. There is established a nonlapsing, revolving Neighborhood- Based Child Care Incentive Demonstration Fund. The fund shall be administered by the Director of the Division of Family Development, and shall be credited with moneys received pursuant to subsection b. of this section and section 6 of this act.

The State Treasurer shall be the custodian of the fund and all disbursements from the fund shall be made by the treasurer upon vouchers signed by the director. The moneys in the fund shall be invested and reinvested by the Director of the Division of Investment in the Department of the Treasury as are other trust funds in the custody of the State Treasurer in the manner provided by law. Interest received on the moneys in the fund shall be credited to the fund.

b. For the purpose of providing the moneys necessary to establish and meet the purposes of the fund, of the funds appropriated from the federal Temporary Assistance to Needy Families Block Grant there are allocated such amounts as the director determines are necessary to effectively implement the program.

6. The director shall apply for and accept any other grant of money from the federal government, private foundations or other sources, which may be available for the Neighborhood-Based Child Care Incentive Demonstration Program and for volunteer training. Such moneys shall be leveraged with the moneys provided pursuant to subsection b. of section 5 of this act.

7. The Commissioner of Human Services shall give priority consideration for the awarding of moneys for Mini Child Care Center Project Grants to centers established by the Neighborhood-Based Child Care Incentive Demonstration Program which use a volunteer network in addition to the

required professional child care personnel as determined by the director to be necessary in the delivery of child care services and demonstrate a need for training of volunteer child care staff.

8. No later than six months before the expiration of this act, the director shall report to the Legislature and the Governor on the effectiveness of the program and present recommendations regarding the advisability and feasibility of expanding the program Statewide, as appropriate. Specific recommendations pertaining to expanding financing opportunities for the programs shall be provided in the report.

9. In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the director shall adopt rules and regulations as the director deems appropriate to promote the quality and safety of child care and the success of the demonstration program and as necessary to effectuate the purposes of this act.

10. This act shall take effect immediately and expire on the first day of the 37th month after enactment.

Approved October 15, 1999.

CHAPTER 246

AN ACT providing an exemption for certain aircraft repairs under the sales and use tax, amending P.L.1980, c.98.

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

1. Section 1 of P.L.1980, c.98 (C.54:32B-8.35) is amended to read as follows:

C.54:32B-8.35 Exemption for receipts from aircraft sales, repairs.

1. Receipts from:

a. sales of aircraft and repairs thereto including machinery or equipment to be installed on such aircraft and replacement parts therefor when utilized by an air carrier as defined by the Civil Aeronautics Board or the Code of Federal Regulations having its principal place of operations within the State and engaging in interstate, foreign, or intrastate air commerce; and

b. repairs on aircraft having a maximum certificated takeoff weight, as contained in the certificate type issued by the Federal Aviation Administration, of 6,000 pounds or more, including machinery or equipment to be installed on such aircraft and replacement parts therefor;
are exempt from the tax imposed under the Sales and Use Tax Act.

2. This act shall take effect on the first day of the third month following enactment.

Approved October 15, 1999.

CHAPTER 247

AN ACT concerning certain public employee annuity programs, amending various parts of the statutory law and supplementing Title 40A of the New Jersey Statutes.

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

1. N.J.S.18A:66-127 is amended to read as follows:

Employees of board of education, agreement to reduce salary for purchase of annuity.

18A:66-127. Any board of education may enter into an agreement with any of its employees whereby the employee agrees to take a reduction in salary with respect to amounts earned after the effective date of such agreement in return for the board's agreement to use a corresponding amount to purchase for the employee an annuity, as defined by N.J.S.17B:17-5, from any company authorized to sell such annuities under the provisions of Title 17B of the New Jersey Statutes, or to invest in a custodial account for the employee through a broker-dealer or agent registered pursuant to the provisions of sections 9 and 10 of the "Uniform Securities Law (1967)," P.L.1967, c.93 (C.49:3-56 and C.49:3-57).

Any such annuity shall be purchased by means of an individual or group annuity contract which may provide for continuance of purchase payments during total disability, and under which the rights of such employee to such contract shall be nonforfeitable. Any such custodial account shall be established in accordance with and maintained to meet the requirements of section 403(b)(7) of the Federal Internal Revenue Code of 1954 as amended. Every such agreement shall specify the amount of such reduction, the effective date thereof, and shall be legally binding and irrevocable with

respect to the amounts earned while the agreement is in effect. The total amount of the reductions in an employee's salary pursuant hereto, for any calendar year, shall not, when added to the contributions made in such year on behalf of such employee in accordance with section 7 of P.L.1963, c.123 (C.52:18A-113), exceed the limitations set forth in P.L.93-406 (Employment Retirement Income Security Act of 1974) and section 415(c) of the Internal Revenue Code of 1954 as amended for such year. Any such agreement may be terminated upon notice in writing by either party.

Amounts payable pursuant to this section by a board of education on behalf of an employee for a pay period shall be transmitted and credited not later than the fifth business day after the date on which the employee is paid for that pay period.

2. Section 24 of P.L.1969, c.242 (C.18A:66-190) is amended to read as follows:

C.18A:66-190 Authority to enter into agreements for annuity purchases; method of payment; limitations.

24. The Board of Trustees of the University of Medicine and Dentistry of New Jersey, the Board of Governors of Rutgers, The State University, the Board of Trustees of the New Jersey Institute of Technology and the boards of trustees of State and county colleges, are hereby authorized to enter into agreement with each employee participating in the alternate benefit program whereby the employee agrees to take a reduction in salary with respect to amounts earned after the effective date of such agreement in return for the agreement of the respective institution to use a corresponding amount to purchase an annuity for such employee so as to obtain the benefits afforded under section 403(b) of the federal Internal Revenue Code, as amended. Any such agreement shall specify the amount of such reduction, the effective date thereof, and shall be legally binding and irrevocable with respect to amounts earned while the agreement is in effect; provided, however, that such agreement may be terminated after it has been in effect for a period of not less than one year upon notice in writing by either party, and provided further that not more than one such agreement shall be entered into during any taxable year of the employee. For the purposes of this section, any annuity or other contract which meets the requirements of section 403(b) of the federal Internal Revenue Code, as amended, may be utilized. The amount of the reduction in salary under any agreement entered into between the institutions and any employee pursuant to this section shall not exceed the limitations set forth in P.L.93-406 (Employment Retirement Income Security Act of 1974) and Section 415(c) of the Internal Revenue Code of 1954 as amended for such year.

Amounts payable pursuant to this section by an institution on behalf of an employee for a pay period shall be transmitted and credited not later than the fifth business day after the date on which the employee is paid for that pay period.

3. Section 4 of P.L.1965, c.90 (C.52:18A-113.1) is amended to read as follows:

C.52:18A-113.1 Purchase of annuity for employee by employer.

4. Any employee who is a member of a State administered retirement system may enter into an agreement with his employer whereby the employee agrees to a reduction in salary in return for his employer's agreement to use the amount of such reduction in salary to purchase on behalf of such employee from the Supplemental Annuity Collective Trust of New Jersey an annuity, provided that any such annuity qualifies under section 403(b) of the Internal Revenue Code of 1954, as amended. The amount of the reduction in salary under any agreement entered into between an employee and his employer pursuant to this section shall not exceed 10% of the employee's salary prior to such reduction. Any such agreement shall remain in effect for at least one year. If an agreement is entered into between an employee and his employer pursuant to this section, the employer shall pay the premiums for the annuity purchased directly to the Supplemental Annuity Collective Trust in accordance with rules and regulations promulgated by the council.

Amounts payable pursuant to this section by an employer on behalf of an employee for a pay period shall be transmitted and credited not later than the fifth business day after the date on which the employee is paid for that pay period.

4. Section 1 of P.L.1995, c.92 (C.52:18A-113.2) is amended to read as follows:

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.s.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.

d. Amounts payable pursuant to this section by an employer on behalf of an employee for a payroll period shall be transmitted and credited not later than the fifth business day after the date on which the employee is paid for that pay period.

C.40A:9-17.2 Transmittal, crediting of funds to purchase annuity for employees.

5. Amounts payable by a unit of local government which has entered into an agreement with any of its employees under which the employee agrees to take a reduction in salary in return for the public entity's agreement to use a corresponding amount to purchase for the employee an annuity meeting the requirements of section 403(b) of the federal Internal Revenue Code for a pay period shall be transmitted and credited not later than the fifth business day after the date on which the employee is paid for that pay period.

6. This act shall take effect on the 30th day after enactment.

Approved October 15, 1999.

CHAPTER 248

AN ACT clarifying the imposition of the sales and use tax upon prepaid telephone calling arrangements, 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. s.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, including the conversion of natural gas into another intermediate or end product, other than electricity or thermal energy, 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 including energy.

(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 distribution, 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 and prepaid telephone calling arrangements. Use also includes the exercise of any right or power over utility service.

(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;

(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; and

(G) A person who sells, stores, delivers or transports energy to users or customers in this State whether by mains, lines or pipes located within this State or by any other means of delivery.

(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 theater, 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 possession 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 distributed within the State or 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; (4) (Deleted by amendment, P.L.1995, c.184); (5) energy sold, exchanged or delivered in this State for use in this State; (6) utility service sold, exchanged or delivered in this State for use in this State; and (7) direct mail advertising processing services in connection with advertising or promotional material distributed in this State.

(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;

(5) charges subject to the local calling rate paid by inserting coins into a coin operated telecommunications device available to the public; and

(6) purchases of telecommunications using a prepaid telephone arrangement.

(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.

(ff) "Natural gas" means any gaseous fuel distributed through a pipeline system.

(gg) "Energy" means natural gas or electricity.

(hh) "Utility service" means the transportation or transmission of natural gas or electricity by means of mains, wires, lines or pipes, to users or customers.

(ii) "Self-generation unit" means a facility located on the user's property, or on property purchased or leased from the user by the person owning the self-generation unit and such property is contiguous to the user's property, which generates electricity to be used only by that user on the user's property and is not transported to the user over wires that cross a property line or public thoroughfare unless the property line or public thoroughfare merely bifurcates the user's or self-generation unit owner's otherwise contiguous property.

(jj) "Co-generation facility" means a facility the primary purpose of which is the sequential production of electricity and steam or other forms of

useful energy which are used for industrial or commercial heating or cooling purposes and which is designated by the Federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub.L.95-617.

(kk) "Non-utility" means a company engaged in the sale, exchange or transfer of natural gas that was not subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to December 31, 1997.

(ll) "Pre-paid telephone calling arrangement" means the right to exclusively purchase telecommunications services, that must be paid for in advance, that enables the origination of calls using an access number or authorization code, whether manually or electronically dialed; provided, that the remaining amount of units of service that have been pre-paid shall be known by the service provider on a continuous basis.

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) Direct-mail advertising processing services, except for direct-mail advertising processing services in connection with distribution of advertising or promotional material to out-of-State recipients.

(6) (Deleted by amendment, P.L.1995, c.184).

(7) Utility service provided to persons in this State, any right or power over which is exercised in this State.

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 theaters, 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.

(g) The receipts from every sale, except for resale, of prepaid telephone calling arrangements and the recharge of prepaid telephone calling arrangements. If the sale or recharge of a prepaid telephone calling arrangement does not take place at the vendor's place of business, the sale or recharge shall be conclusively determined to take place at the customer's shipping address, or if there is no item shipped, at the customer's billing address or the location associated with the customer's mobile telephone number.

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. 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, including energy, provided however, that electricity consumed by the generating facility that produced it shall not be subject to tax, (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, (E) (Deleted by amendment, P.L.1995, c.184), (F) of utility service provided to persons in this State for use in this State, provided however, that utility service used by the facility that provides the service shall not be subject to tax, (G) of direct-mail advertising processing services described in paragraph (5) of subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-3) and (H) of prepaid telephone calling arrangements and the recharge of prepaid telephone calling arrangements. 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, provided however, that there shall be no exclusion for the cost of the utility service. 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. For purposes of clause (F) of this section, the tax shall be at the applicable rate on the charge made by the utility service provider. For purposes of clause (G) of this section, the tax shall be at the applicable rate on that proportion of the amount of all processing costs charged by a direct-mail advertising processing service provider that is attributable to the advertising or promotional material distributed in this State. For the purposes of clause (H) of this section, the tax shall be at the applicable rate on the consideration given or contracted to be given for the prepaid telephone calling arrangement or the recharge of the prepaid telephone calling arrangement.

4. This act shall take effect on the first day of the third month following enactment.

Approved October 15, 1999.

CHAPTER 249

AN ACT increasing the exemption under the sales and use tax for sales from coin-operated vending machines, amending P.L.1980, c.105.

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

1. Section 21 of P.L.1980, c.105 (C.54:32B-8.9) is amended to read as follows:

C.54:32B-8.9 Exemption for certain sales from coin-operated vending machines.

21. Receipts from sales of tangible personal property sold through coin-operated vending machines at $0.25 or less, provided the retailer is primarily engaged in making such sales and maintains records satisfactory to the director are exempt from the tax imposed under the "Sales and Use Tax Act".

2. This act shall take effect immediately.

Approved October 15, 1999.

CHAPTER 250

AN ACT concerning licensed lenders and amending P.L.1996, c.157 and P.L.1960, c.40.

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

1. Section 2 of P.L.1996, c.157 (C.17:11C-2) is amended to read as follows:

C.17:11C-2 Definitions regarding licensed lenders.

2. As used in this act:

"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.

"Borrower" means any person applying for a loan from a lender licensed under this act, whether or not the loan is granted, and any person who has actually obtained such a loan.

"Closed-end loan" with respect to a secondary mortgage loan means a mortgage loan pursuant to which the licensee advances a specified amount of money and the borrower agrees to repay the principal and interest in substantially equal installments over a stated period of time, except that: (1) the amount of the final installment payment may be substantially greater than the previous installments if the term of the loan is at least 36 months, or under 36 months if the remaining term of the first mortgage loan is under

36 months; or (2) the amount of the installment payments may vary as a result of the change in the interest rate as permitted by this act. "Closed-end loan" with respect to a consumer loan means a loan which meets the requirements of section 35 of P.L.1996, c.157 (C.17:11C-35) and pursuant to which the licensee advances a specified amount of money and the borrower agrees to repay the principal and interest in substantially equal installments over a stated period of time.

"Consumer loan business" means the business of making loans of money, credit, goods or things in action in the amount or value of $15,000 or less and charging, contracting for, or receiving a greater rate of interest, discount or consideration therefor than the lender would be permitted by law to charge if he were not a licensee hereunder, except as authorized by this act and without first obtaining a license from the commissioner. Any person directly or indirectly engaging in the business of soliciting or taking applications for such loans of $15,000 or less, or in the business of negotiating or arranging or aiding the borrower or lender in procuring or making such loans of $15,000 or less, or in the business of buying, discounting or indorsing notes, or of furnishing, or procuring guarantee or security for compensation in amounts of $15,000 or less, shall be deemed to be engaging in the consumer loan business.

"Commissioner" means the Commissioner of Banking and Insurance.

"Consumer lender" means a person licensed, or a person who should be licensed, under this act to engage in the consumer loan business.

"Consumer loan" means a loan of $15,000 or less made by a consumer lender pursuant to the terms of this act, and not a first mortgage loan or a secondary mortgage loan.

"Controlling interest" means ownership, control or interest of 25% or more of the licensee or applicant.

"Correspondent mortgage banker" means a mortgage banker who: (1) in the regular course of business, does not hold mortgage loans in its portfolio, or service mortgage loans, for more than 90 days; and (2) has shown to the department's satisfaction an ability to fund loans through warehouse agreements, table funding agreements or otherwise.

"Department" means the Department of Banking and Insurance.

"Depository institution" means a state or federally chartered bank, savings bank, savings and loan association, building and loan association or credit union, irrespective of whether the entity accepts deposits.

"First mortgage loan" means any loan secured by a first mortgage on real property on a one to six family dwelling, a portion of which may be used for nonresidential purposes.

"Licensee" means a person who is licensed under this act, or who should be so licensed.

"Mortgage banker" means any person, not exempt under section 4 of this act and licensed pursuant to the provisions of this act, and any person who should be licensed pursuant to the provisions of this act, who for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly originates, acquires or negotiates first mortgage loans in the primary market.

"Mortgage broker" means any person, not exempt under section 4 of this act and licensed pursuant to the provisions of this act, and any person who should be licensed pursuant to the provisions of this act, who for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly negotiates, places or sells for others, or offers to negotiate, place or sell for others, first mortgage loans in the primary market.

"Open-end loan" means a secondary mortgage loan made by a secondary lender or a consumer loan made by a consumer lender pursuant to a written agreement with the borrower whereby:

(1) The lender may permit the borrower to obtain advances of money from the secondary lender from time to time or the secondary lender may advance money on behalf of the borrower from time to time as directed by the borrower;

(2) 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;

(3) Interest is computed on the unpaid principal balance or balances of the account from time to time; and

(4) 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.

"Person" means an individual, association, joint venture, partnership, limited partnership association, limited liability company, corporation, trust, or any other group of individuals however organized.

"Primary market" means the market wherein first mortgage loans are originated between a lender and a borrower, whether or not through a mortgage broker or other conduit, and shall not include the sale or acquisition of a mortgage loan after a mortgage loan is closed.

"Sales finance company" shall have the meaning ascribed to that term in section 1 of P.L.1960, c.40 (C.17:16C-1).

"Secondary lender" means a person licensed, or a person who should be licensed, under this act to engage in the secondary mortgage loan business.

"Secondary mortgage loan" means a loan made to an individual, association, joint venture, partnership, limited partnership association, limited liability company, trust, or any other group of individuals, however organized, except a corporation, which is secured in whole or in part by a lien upon any

interest in real property, including but not limited to shares of stock in a cooperative corporation, created by a security agreement, including a mortgage, indenture, or any other similar instrument or document, which real property is subject to one or more prior mortgage liens and on which there is erected a structure containing one, two, three, four, five or six dwelling units, a portion of which structure may be used for nonresidential purposes, except that the following loans shall not be subject to the provisions of this act: (1) a loan which is to be repaid in 90 days or less; (2) a loan which is taken as security for a home repair contract executed in accordance with the provisions of the "Home Repair Financing Act," P.L.1960, c.41 (C.17:16C-62 et seq.); or (3) a loan which is the result of the private sale of a dwelling, if title to the dwelling is in the name of the seller and the seller has resided in that dwelling for at least one year, if the buyer is purchasing that dwelling for his own residence and, if the buyer, as part of the purchase price, executes a secondary mortgage in favor of the seller.

"Secondary mortgage loan business" means advertising, causing to be advertised, soliciting, negotiating, offering to make or making a secondary mortgage loan in this State, whether directly or by any person acting for his benefit.

"Solicitor" means any person not licensed as a mortgage banker, correspondent mortgage banker or mortgage broker who is employed as a solicitor by one, and not more than one, licensee, who is subject to the direct supervision and control of that licensee, and who solicits, provides or accepts first mortgage loan applications, or assists borrowers in completing first mortgage loan applications, and whose compensation is in any way based on the dollar amount or volume of first mortgage loan applications, first mortgage loan closings or other first mortgage loan activity.

2. Section 21 of P.L.1996, c.157 (C.17:11C-21) is amended to read as follows:

C.17:11C-21 Purchase of insurance by borrowers.

21. a. A borrower shall not be required to purchase credit life or accident and health insurance or credit involuntary unemployment insurance in connection with a first mortgage loan, a secondary mortgage loan or a consumer loan. If 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 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 premium may be charged monthly in the case of an open-end loan or open-end consumer loan. 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 licensee shall show the amount of the charge for the insurance and cause to be delivered to the borrower or borrowers a copy of the policy, certificate or other evidence of that insurance when the loan is made. Nothing in this act shall prohibit 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 that insurance.

d. A licensee may require a borrower to demonstrate that the property securing a first mortgage loan or secondary mortgage loan is insured against damage or loss due to fire and other perils, including those of extended coverage, for a term not to exceed the term of the loan and in an amount not to exceed the amount of the loan, together with the amount needed to satisfy all prior liens on that property.

The licensee shall provide the borrower with the following written statement, to be printed in at least 10-point bold type:

NOTICE TO THE BORROWER

YOU MAY BE REQUIRED TO PURCHASE PROPERTY INSURANCE AS A CONDITION OF RECEIVING THE LOAN.

IF PROPERTY INSURANCE IS REQUIRED, YOU MAY SECURE INSURANCE FROM A COMPANY OR AGENT OF YOUR OWN CHOOSING.

e. Incident to a consumer loan, a licensee may make available, insurance covering direct or indirect damage or loss, by fire or other perils, including those of extended coverage, to the personal property of the borrower all or part of which is security for the loan. The insurance shall be for an amount and term not to exceed the total amount of payments and term of the loan.

The licensee shall provide the borrower with the following written statement, to be printed in at least 10-point bold type:

NOTICE TO THE BORROWER

YOU ARE NOT REQUIRED TO PURCHASE PERSONAL PROPERTY INSURANCE AS A CONDITION OF RECEIVING THE CONSUMER LOAN. IF YOU DESIRE PERSONAL PROP-

ERTY INSURANCE YOU MAY SECURE INSURANCE FROM A COMPANY OR AGENT OF YOUR OWN CHOOSING.

3. Section 23 of P.L.1996, c.157 (C.17:11C-23) is amended to read as follows:

C.17:11C-23 Fees allowed to be charged by mortgage bankers.

23. a. Notwithstanding the provisions of any other law, a person licensed as a mortgage banker or correspondent mortgage banker, incidental to the origination, processing and closing of a mortgage loan transaction, shall have the right to charge only the following fees: (1) credit report fee; (2) appraisal fee; (3) application fee; (4) commitment fee; (5) warehouse fee; (6) fees necessary to reimburse the mortgage banker for charges imposed by third parties; and (7) discount points.

b. Notwithstanding the provisions of any other law, a person licensed as a mortgage broker, incidental to the brokering of a first mortgage loan transaction, shall have the right to charge only the following fees: (1) application fee; and (2) discount points.

c. No person licensed as a mortgage banker, correspondent mortgage banker or mortgage broker may charge any fee either not expressly authorized by this section or authorized by the commissioner by regulation.

4. Section 28 of P.L.1996, c.157 (C.17:11C-28) is amended to read as follows:

C.17:11C-28 Secondary lenders, charges, fees allowed.

28. a. A secondary lender shall not contract for, charge, receive or collect directly or indirectly, any of the following in connection with a secondary mortgage loan: a broker's or finder's fee; commission; expense; fine; penalty; premium; or any other thing of value other than the charges authorized by this act; except the expenses incurred on actual sale of the real property in foreclosure proceedings or upon the entry of judgment, which are otherwise authorized by law; provided, however, that:

(1) A secondary lender may charge and receive no more than three discount points computed as a percentage of the principal amount of the loan and may add such discount points to the principal balance of the loan, which discount points shall be fully earned when the loan is made. The annual percentage rate charged to the borrower, including the discount points, if any, shall be subject to N.J.S.2C:21-19. As used in this paragraph, "discount point" means one percent of the principal amount of the loan, and "principal amount of the loan" means the total amount of credit extended, including all loan closing fees, expenses or costs that are financed, but excluding the discount points; and

(2) A secondary lender may require a borrower to pay a reasonable legal fee at the time of the execution of the secondary mortgage loan, provided that any legal fee shall represent a charge actually incurred in connection with the secondary mortgage loan and shall not be paid to any person other than an attorney authorized to practice law in this State; provided further that the legal fee shall be evidenced by a statement issued to the licensee from the attorney.

b. Secondary lenders shall have authority to collect fees for title examination, abstract of title, survey, title insurance, credit reports, appraisals, and recording fees when those fees are actually paid by the licensee to a third party for those services or purposes and to include those fees in the amount of the loan principal.

c. Secondary lenders shall also have the authority to charge and collect a returned check fee in an amount not to exceed $20 which the secondary lender 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. Licensees shall also have the authority to charge and collect a late charge in any amount as may be provided in the note or loan agreement, but no late charge shall exceed 5% of the amount of payment in default. Not more than one late charge shall be assessed on any one payment in arrears.

d. A secondary lender shall not make any other charge or accept an advance deposit prior to the time a secondary mortgage loan is closed, except that a secondary lender may charge:

(1) an application fee at closing; and

(2) on an open-end loan, an annual fee of $50 or 1% of the line of credit, whichever is less.

e. A promissory note of loan agreement may provide for the payment of attorney fees in the event it becomes necessary to refer the promissory note or loan agreement to an attorney for collection; provided, however, that any such provision shall be void and unenforceable unless:

(1) The promissory note or loan agreement is referred to an attorney authorized to practice law in this State;

(2) The attorney to whom the promissory note or loan agreement is referred is not a partner, officer, director or employee, whether salaried or commissioned, of the secondary lender; and

(3) Suit is actually filed by the attorney to whom the promissory note or loan agreement is referred and subsequently decided in favor of the secondary lender, in which event the attorney fees shall not exceed 15% of the first $500, 10% of the next $500 and 5% of any excess amount due and owing under the promissory note or loan agreement and, provided further that at least 15 days prior to the commencement of the suit, the secondary lender or his attorney shall send to the borrower, by certified or registered

mail, return receipt requested, at the borrower's last known address, a statement of the secondary lender's intention to sue, which statement shall also specify the amount of principal, interest and any other charge due and owing to the secondary lender.

5. Section 7 of P.L.1960, c.40 (C.17:16C-7) is amended to read as follows:

C.17:16C-7 Application fee, license fee for sales finance companies.

7. Every application for a new license shall be accompanied by an application fee of not more than $500, as established by the commissioner by regulation. Every sales finance company shall pay to the commissioner at the time of making the application and biennially thereafter upon renewal a license fee for its principal place of business and for each additional place of business conducted in this State. The commissioner shall charge for a license such fee as he shall prescribe by rule or regulation. The license fee, as prescribed by the commissioner by regulation, shall be based on the number of the following activities in which the person is licensed to act: as a mortgage banker, correspondent mortgage banker or mortgage broker, as a secondary mortgage lender, as a consumer lender, or as a sales finance company. The fee shall be set according to the following schedule:

a. If the person is licensed to engage in one activity, the fee shall not be more than $3,000;

b. If the person is licensed to engage in two activities, the fee shall not be more than $4,000;

c. If the person is licensed to engage in three activities, the fee shall not be more than $5,000; and

d. If the person is licensed to engage in all four activities, the fee shall not be more than $6,000.

The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the fee for the biennial licensing period.

For the purpose of coordination with licensing under the "New Jersey Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et al.), each sales finance company license issued pursuant to the "Retail Installment Sales Act of 1960," P.L.1960, c.40 (C.17:16C-1 et seq.), shall expire at the end of the biennial period. The first biennial period shall begin on July 1, 1997, and shall end on June 30, 1999.

6. This act shall take effect on the 30th day after enactment.

Approved October 15, 1999.

CHAPTER 251

AN ACT concerning certain police, fire and emergency services, supplementing Title 40A of the New Jersey Statutes and amending R.S.34:15-43.

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

C.40A:14-199 Immunities, benefits of search, rescue teams.

1. Whenever a law enforcement officer, firefighter, emergency medical technician or paramedic employed by a municipality, county, fire district or the State participates in a State, county, municipal or regional search and rescue task force or team, and that law enforcement officer, firefighter, emergency medical technician or paramedic suffers injury or death as a result of his participation in such search and rescue task force or team, he or his designee or legal representative shall be entitled to the salary, pension rights, worker's compensation, or other benefits as would have accrued if the injury or death had occurred in the performance of duties in the territorial jurisdiction in which he is employed.

As used in this section, "participate" and "participation" shall include taking part in meetings, training sessions, emergency drills, emergency responses and such other similar activities of a search and rescue task force or team whether as an employment duty of the territorial jurisdiction of employment or as a volunteer, and shall include travel to and from such activities.

In addition, such officer, firefighter, emergency medical technician or paramedic shall have the same powers, authority and immunities as law enforcement officers, firefighters, emergency medical technicians and paramedics, as the case may be, in the municipality in which the assistance is being rendered.

2. R.S.34:15-43 is amended to read as follows:

Compensation for injury in line of duty.

34:15-43. Every officer, appointed or elected, and every employee of the State, county, municipality or any board or commission, or any other governing body, including boards of education, and governing bodies of service districts, individuals who are under the general supervision of the Palisades Interstate Park Commission and who work in that part of the Palisades Interstate Park which is located in this State, and also each and every member of a volunteer fire company doing public fire duty and also each and every active volunteer, first aid or rescue squad worker, including each and every authorized worker who is not a member of the volunteer fire company within which the first aid or rescue squad may have been created,

doing public first aid or rescue duty under the control or supervision of any commission, council, or any other governing body of any municipality, any board of fire commissioners of such municipality or of any fire district within the State, or of the board of managers of any State institution, every county fire marshal and assistant county fire marshal, every special, reserve or auxiliary policeman doing volunteer public police duty under the control or supervision of any commission, council or any other governing body of any municipality, every emergency management volunteer doing emergency management service for the State and any person doing volunteer work for the Division of Parks and Forestry, the Division of Fish, Game and Wildlife, or the New Jersey Natural Lands Trust, as authorized by the Commissioner of Environmental Protection, or for the New Jersey Historic Trust, who may be injured in line of duty shall be compensated under and by virtue of the provisions of this article and article 2 of this chapter (R.S.34:15-7 et seq.). No former employee who has been retired on pension by reason of injury or disability shall be entitled under this section to compensation for such injury or disability; provided, however, that such employee, despite retirement, shall, nevertheless, be entitled to the medical, surgical and other treatment and hospital services as set forth in R.S.34:15-15.

Benefits available under this section to emergency management volunteers and volunteers participating in activities of the Division of Parks and Forestry, the Division of Fish, Game and Wildlife, the New Jersey Natural Lands Trust or the New Jersey Historic Trust, shall not be paid to any claimant who has another single source of injury or death benefits that provides the claimant with an amount of compensation that exceeds the compensation available to the claimant under R.S.34:15-1 et seq.

As used in this section, the terms "doing public fire duty" and "who may be injured in line of duty," as applied to members of volunteer fire companies, county fire marshals or assistant county fire marshals, and the term "doing public first aid or rescue duty," as applied to active volunteer first aid or rescue squad workers, shall be deemed to include participation in any authorized construction, installation, alteration, maintenance or repair work upon the premises, apparatus or other equipment owned or used by the fire company or the first aid or rescue squad, participation in any State, county, municipal or regional search and rescue task force or team, participation in any authorized public drill, showing, exhibition, fund raising activity or parade, and to include also the rendering of assistance in case of fire and, when authorized, in connection with other events affecting the public health or safety, in any political subdivision or territory of another state of the United States or on property ceded to the federal government while such assistance is being rendered and while going to and returning from the place in which it is rendered.

Also, as used in this section, "doing public police duty" and "who may be injured in line of duty" as applied to special, reserve or auxiliary policemen, shall be deemed to include participation in any authorized public drill, showing, exhibition or parade, and to include also the rendering of assistance in connection with other events affecting the public health or safety in the municipality, and also, when authorized, in connection with any such events in any political subdivision or territory of this or any other state of the United States or on property ceded to the federal government while such assistance is being rendered and while going to and returning from the place in which it is rendered.

As used in this section, the terms "doing emergency management service" and "who may be injured in the line of duty" as applied to emergency management volunteers mean participation in any activities authorized pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.), including participation in any State, county, municipal or regional search and rescue task force or team, except that the terms shall not include activities engaged in by a member of an emergency management agency of the United States Government or of another state, whether pursuant to a mutual aid compact or otherwise.

Every member of a volunteer fire company shall be deemed to be doing public fire duty under the control or supervision of any such commission, council, governing body, board of fire commissioners or fire district or board of managers of any State institution within the meaning of this section, if such control or supervision is provided for by statute or by rule or regulation of the board of managers or the superintendent of such State institution, or if the fire company of which he is a member receives contributions from, or a substantial part of its expenses or equipment are paid for by, the municipality, or board of fire commissioners of the fire district or if such fire company has been or hereafter shall be designated by ordinance as the fire department of the municipality.

Every active volunteer, first aid or rescue squad worker, including every authorized worker who is not a member of the volunteer fire company within which the first aid or rescue squad may have been created, shall be deemed to be doing public first aid or rescue duty under the control or supervision of any such commission, council, governing body, board of fire commissioners or fire district within the meaning of this section if such control or supervision is provided for by statute, or if the first aid or rescue squad of which he is a member or authorized worker receives or is eligible to receive contributions from, or a substantial part of its expenses or equipment are paid for by, the municipality, or board of fire commissioners of the fire district, or if such first aid or rescue squad has been or hereafter shall be designated by ordinance as the first aid or rescue squad of the municipality.

As used in this section and in R.S.34:15-74, the term "authorized worker" shall mean and include, in addition to an active volunteer fireman and an active volunteer first aid or rescue squad worker, any person performing any public fire duty or public first aid or rescue squad duty, as the same are defined in this section, at the request of the chief or acting chief of a fire company or the president or person in charge of a first aid or rescue squad for the time being.

Nothing herein contained shall be construed as affecting or changing in any way the provisions of any statute providing for sick, disability, vacation or other leave for public employees or any provision of any retirement or pension fund provided by law.

3. This act shall take effect immediately.

Approved October 15, 1999.

CHAPTER 252

AN ACT concerning the organization and operation of banks, savings banks and savings and loan associations and amending P.L.1948, c.67 and P.L.1963, c.233.

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

1. Section 1 of P.L.1948, c.67 (C.17:9A-1) is amended to read as follows:

C.17:9A-1 Definitions.

1. As used in this act, and except as otherwise expressly provided in this act:

(1) "Bank" shall include the following:

(a) Every corporation heretofore organized pursuant to the act entitled "An act concerning banks and banking (Revision of 1899)," approved March 24, 1899;

(b) Every corporation heretofore organized pursuant to the act entitled "An act concerning trust companies (Revision of 1899)," approved March 24, 1899;

(c) Every corporation heretofore organized pursuant to chapter 4 of Title 17 of the Revised Statutes;

(d) Every corporation, other than a savings bank, heretofore authorized by any general or special law of this State to transact business as a bank or as a trust company, or as both;

(e) Every corporation hereafter organized pursuant to article 2 of this act;

(2) "Banking institution" shall mean a bank, an out-of-State bank having a branch office in this State, an out-of-country bank having a branch office in this State, savings bank, and a national banking association having its principal or a branch office in this State;

(3) "Board of managers" of a savings bank shall include the board of trustees of a savings bank;

(4) "Capital stock" shall include both common stock and preferred stock;

(5) "Certificate of incorporation," unless the context requires otherwise, shall mean:

(a) The certificate of incorporation, together with all amendments thereto, of every bank and savings bank organized pursuant to any general law of this State;

(b) The charter, together with all amendments thereto, of every bank and savings bank organized pursuant to any special law of this State;

(6) "Commissioner" shall mean the Commissioner of Banking and Insurance of New Jersey;

(7) "Department" shall mean the Department of Banking and Insurance of New Jersey;

(8) "Fiduciary" shall include trustee, executor, administrator, receiver, guardian, assignee, and every other person occupying any other lawful office or employment of trust;

(9) "Manager" of a savings bank shall include a trustee of a savings bank;

(10) "Municipality" shall mean a city, town, township, village, and borough of this State;

(11) "Population" shall mean the population as determined by the latest federal census or as determined by the commissioner from other information which he may deem reliable;

(12) "Qualified bank" shall mean:

(a) A bank or an out-of-State bank with a branch office in New Jersey which has heretofore been authorized or which shall hereafter be authorized to exercise any of the powers authorized by section 28 of P.L.1948, c.67 (C.17:9A-28);

(b) A savings bank which has heretofore been authorized or which shall hereafter be authorized to exercise any of the powers authorized by section 28 of P.L.1948, c.67 (C.17:9A-28); and

(c) A national banking association having its principal or a branch office in this State authorized to act as a fiduciary;

(13) "Savings bank" shall include the following:

(a) Every corporation heretofore organized pursuant to the act entitled "An act concerning savings banks," approved April 12, 1876;

(b) Every corporation heretofore organized pursuant to the act entitled "An act concerning savings banks," approved May 2, 1906;

(c) Every corporation heretofore organized pursuant to chapter 6 of Title 17 of the Revised Statutes;

(d) Every corporation, other than a bank, authorized by any general or special law of this State to carry on the business of a savings bank or institution or society for savings;

(e) Every corporation hereafter organized pursuant to article 3 of P.L.1948, c.67 (C.17:9A-7 and 17:9A-8) or P.L.1982, c.9 (C.17:9A-8.1 et seq.);

(14) "Branch office" of a bank or savings bank shall mean an office, unit, station, facility, terminal, space or receptacle at a fixed location other than a principal office and other than a trust office, however designated, at which any business that may be conducted in a principal office of a bank or savings bank may be transacted. "Branch office" includes a full branch office and a minibranch office, but does not include a trust office or a communication terminal facility;

(15) "Full branch office" means a branch office of a bank or savings bank not subject to the limitations or restrictions imposed upon minibranch offices or communication terminal facilities;

(16) "Minibranch office" means a branch office of a bank or savings bank which does not occupy more than 500 square feet of floor space and which does not contain more than four teller stations, manned by employees of the bank or savings bank;

(17) "Communication terminal facility" means a facility of a bank or savings bank which is unmanned and which consists of equipment, structures or systems, by means of which information relating to financial services rendered to the public is transmitted and through which transactions with banks and savings banks are consummated, either instantaneously or otherwise;

(18) "Secondary mortgage loan" means a loan made to an individual, association, joint venture, partnership, limited partnership association, or any other group of individuals however organized, except a corporation, which is secured in whole or in part by a lien upon any interest in real property, including, but not limited to, shares of stock in a cooperative corporation, created by a security agreement, including a mortgage indenture, or any other similar instrument or document, which real property is subject to one or more prior mortgage liens and which is used as a dwelling, including a dual purpose or combination type dwelling which is also used as a business or commercial establishment, and has accommodations for not more than six families, except that a loan which: (a) is to be

repaid in 90 days or less; (b) is taken as security for a home repair contract executed in accordance with the provisions of P.L.1960, c.41 (C.17:16C-62 et seq.); or (c) is the result of the private sale of a dwelling, if title to the dwelling is in the name of the seller and the seller has resided in said dwelling for at least one year, if the buyer is purchasing said dwelling for his own residence and, as part of the purchase price, executes a secondary mortgage in favor of the seller, shall not be included within the definition of "secondary mortgage loan";

(19) With respect to savings banks, "director" and "board of directors" may be used to mean "manager" and "board of managers," respectively;

(20) "Foreign bank" means a company, other than a banking institution, organized under the laws of the United States, another state, or a foreign government, which is authorized by the laws under which it is organized to exercise some or all of the powers specified in paragraph (4) of section 24 of P.L.1948, c.67 (C.17:9A-24), paragraphs (4), (5) and (13) of section 25 of P.L.1948, c.67 (C.17:9A-25), and paragraphs (3) through (9), inclusive, of section 28 of P.L.1948, c.67 (C.17:9A-28);

(21) "Home state" means:

(a) with respect to a national bank, the state in which the main office is located; and

(b) with respect to a state bank, the state by which the bank is chartered;

(22) "Host state" means, with respect to a bank, a state, other than the home state of the bank, in which the bank maintains, or seeks to establish and maintain, a branch office.

For purposes of this subsection and subsection (21), "bank" means a State bank as defined in the Federal Deposit Insurance Act, 12 U.S.C. s.1813(a)(2);

(23) "Out-of-State bank" means a state bank, as defined in the Federal Deposit Insurance Act, 12 U.S.C. s.1813(a)(2), with a home state other than New Jersey;

(24) "Out-of-country bank" means a bank chartered under the laws of a country other than the United States;

(25) "Interstate merger transaction" means:

(1) The merger or consolidation of banks with different home states, and the conversion of branches of any bank involved in the merger or consolidation into branches of the resulting bank; or

(2) The purchase of all or substantially all of the assets, the assumption of all or substantially all of the liabilities, or both, including all or substantially all of the branches, of a bank whose home state is different from the home state of the acquiring bank;

(26) "State" means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American

Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands and the Northern Mariana Islands;

(27) "Resulting bank" means a state or federally chartered bank or state chartered savings bank that has resulted from an interstate merger transaction pursuant to P.L.1948, c.67 (C.17:9A-1 et seq.);

(28) "Trust office" means an office, unit, station, facility, or space at a fixed location, other than a principal office, however designated, at which business that may be conducted at the principal office may be transacted and the primary activities conducted include the transaction of trust business as defined in paragraph (2) of subsection D of section 316 of P.L.1948, c.67 (C.17:9A-316), but at which no deposits may be taken other than assets to be held in trust.

2. Section 19 of P.L.1948, c.67 (C.17:9A-19) is amended to read as follows:

C.17:9A-19 Communication terminal facility; capital requirements.

19. A. Any bank or savings bank may, pursuant to a resolution of its board of directors or board of managers, establish and maintain branch offices, subject to the conditions and limitations of this article.

B. (Deleted by amendment, P.L.1996, c.17.)

(3) (Deleted by amendment.)

C. No bank shall hereafter establish a full branch office unless its capital shall equal or exceed the minimum capital established by the commissioner by regulation.

D. No savings bank shall hereafter establish a full branch office unless its capital shall equal or exceed the minimum capital established by the commissioner by regulation.

E. (Deleted by amendment.)

F. (Deleted by amendment.)

G. (Deleted by amendment.)

H. (Deleted by amendment.)

I. (Deleted by amendment.)

J. (Deleted by amendment.)

K. A bank or savings bank may establish a full branch office, a minibranch office, or communications terminal facility anywhere in this State.

L. Except as otherwise provided by law, no foreign bank shall establish, operate or maintain in this State any full branch office, minibranch office or communication terminal facility.

3. Section 20 of P.L.1948, c.67 (C.17:9A-20) is amended to read as follows:

C.17:9A-20 Application for establishment of full branch office, minibranch office, communication terminal facility.

20. A. (1) Before any full branch office shall be established, the bank or savings bank shall file written application in the department for the commissioner's approval thereof. If, after such investigation or hearings, or both, as the commissioner may determine to be advisable, the commissioner shall find:

(a) That the bank or savings bank has complied with the requirements of section 19 of P.L.1948, c.67 (C.17:9A-19);

(b) That the interests of the public will be served to advantage by the establishment of such full branch office;

(c) That conditions in the locality in which the proposed full branch office is to be established afford reasonable promise of successful operation; and

(d) That the applicant has achieved sufficient compliance, as defined by the commissioner by regulation, with the "Community Reinvestment Act of 1977," 12 U.S.C. s.2901 et seq.;

the commissioner shall, within 90 days after the filing of the application, approve such application.

(2) To determine if an applicant meets the requirements of subparagraph (c) of paragraph (1) of this subsection A., the commissioner shall consider only the costs of purchasing, constructing, leasing or otherwise establishing the proposed office including the costs for staffing, furniture and equipment needed therefor and the effect of these costs on the operations of the applicant as a whole.

(3) The applicant need not demonstrate an ability to operate the proposed office at a profit within a definable period of time based on the generation of new deposits from the market area to be entered except to the extent that losses suffered at the proposed office could affect the safety and soundness of the applicant's overall operations.

B. Before any minibranch office shall be established, the bank or savings bank shall file a written application on forms supplied by the commissioner. A duly adopted resolution of the board of directors or managers authorizing such application shall accompany the application. Notice of such application shall be published in accordance with procedural rules and regulations of the department. Within 20 days after said notice is published, any person or banking institution having objections to the application shall submit detailed written factual and legal grounds for the objection to the commissioner. There shall be no hearing required to be held by the commissioner in connection with such application. The commissioner, after considering the application and written objections and

such investigation as the commissioner deems advisable, shall approve the application, if the commissioner shall find

(1) That the convenience and needs of the public will be served to advantage by the establishment of such minibranch office; and

(2) That the costs of establishing such minibranch office, including (a) construction and alteration costs; (b) the cost of real property to be acquired in connection therewith or rental to be paid for space to be occupied by such office; (c) the cost of purchasing or renting and installing the equipment to be used in the operation of such office; and (d) the cost of manning such office, shall not in the aggregate exceed such sum as the commissioner shall deem reasonable, taking into consideration the capital and surplus of the bank, or the surplus of the savings bank.

C. (Deleted by amendment, P.L.1999, c.252.)

D. (Deleted by amendment, P.L.1999, c.252.)

E. A bank or savings bank shall provide insurance protection under its bonding program for transactions involving a communication terminal facility.

F. (Deleted by amendment, P.L.1996, c.17.)

G. The commissioner shall have the power to make, amend and repeal rules and regulations concerning the establishment, maintenance and operation of full branch offices, minibranch offices and communication terminal facilities not inconsistent with the provisions of this act. The regulations so made shall also be directed toward the creation, operation and maintenance of a substantial competitive parity between banking institutions and other financial institutions in all matters relating to the establishment, operation, and maintenance of branch offices and communication terminal facilities.

4. Section 103 of P.L.1948, c.67 (C.17:9A-103) is amended to read as follows:

C.17:9A-103 Directors; stock ownership, oath.

103. A. Each director shall own in good faith and hold in the director's own name unpledged shares of the capital stock of the bank, or of a company as such term is defined in section 2 of the federal "Bank Holding Company Act of 1956," 12 U.S.C. s.1841 owning more than 80% of the capital stock of such bank, which shares shall comply with at least one of the following conditions:

(1) the aggregate par value of the shares is at least $500, or

(2) the shares have an aggregate book value of at least $500, or

(3) the shares have an aggregate fair market value of at least $500 as determined by the Commissioner of Banking and Insurance.

B. Each director shall, following his election or appointment and before assumption of any duties as a director, take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of the bank, and that he will not knowingly violate, or knowingly permit to be violated, any provision of this act, and that he owns in good faith and holds in his own name, capital stock as required by this section. Such oath, subscribed by the director and certified by the officer before whom it is taken, shall be transmitted to the commissioner and filed in the department.

5. Section 110 of P.L.1948, c.67 (C.17:9A-110) is amended to read as follows:

C.17:9A-110 Directors; other committees.

110. Directors; other committees. The bylaws of a bank may provide for other committees of the board of directors in addition to the committees elsewhere in this act authorized. Not less than a majority of the members of any such other committee shall be directors. Any or all of the remaining members of any such other committee may be directors or may be officers of the bank who are not directors. Each committee shall have the authority to take any action on behalf of the board that may be delegated to the committee in the bylaws or by resolution of the board. The minutes of each committee authorized to take action on behalf of the board of directors pursuant to this section shall be presented to the board at its next meeting following the meeting of the committee, or at a meeting following the fifth business day after the committee meeting at which such action was taken.

6. Section 111 of P.L.1948, c.67 (C.17:9A-111) is amended to read as follows:

C.17:9A-111 Officers; election; appointment; limitation.

111. Officers; election; appointment; limitation.

A. At the first meeting of the board of directors following each annual meeting of the stockholders of a bank, the directors shall elect a chairman of the board of directors, if the office of chairman of the board of directors has been created pursuant to section 107 of P.L.1948, c.67 (C.17:9A-107), and a president, from their own number. They shall also elect at such meeting either a cashier or a secretary and a treasurer, none of whom need be a director. Other officers, including one or more vice-presidents, who need not be directors, may from time to time be elected or appointed by the board of directors, or by the president if the authority to appoint officers other than president or chairman has been delegated to the president by the bylaws or by resolution of the board of directors.

B. Any person who holds more than one office in a bank shall not sign in more than one official capacity any writing requiring the signatures of more than one officer of the bank.

7. Section 191 of P.L.1948, c.67 (C.17:9A-191) is amended to read as follows:

C.17:9A-191 Officers; tenure.

191. The board of managers may elect from its own number or otherwise, such officers as it may from time to time see fit or may delegate the authority to appoint officers other than the president or chairman to the president by resolution of the board of managers or by the bylaws. The tenure of officers shall be fixed in the bylaws or by resolution of the board of managers.

8. Section 65 of P.L.1963, c.233 (C.17:12B-65) is amended to read as follows:

C.17:12B-65 Officers.

65. The officers of every State association shall be a president, one or more vice presidents, a secretary and a treasurer and may include a chairman of the board if the bylaws so provide, together with such other officers as provided by the bylaws or as determined by the board to be necessary for the conduct of the State association's business. All officers shall be savings members or savings depositors, as the case may be, of the State association. They shall be elected by the board or may be appointed by the president if the authority to appoint officers other than the president or chairman of the board has been delegated to the president by the bylaws or by resolution of the board, unless the bylaws provide for their election by the members or stockholders of the State association. Each officer shall be elected or appointed for a term of not more than one year, but shall continue in office until the election or appointment and qualification of his successor. Any two offices, except the offices of president and vice president, may be held by one person. No officer shall act as attorney or conveyancer of his State association. A vacancy in any office may be filled by the board for the unexpired term. The board may appoint or employ or authorize any officer to appoint or employ assistant officers or assistants to officers subject to the confirmation of the board or approval of the president; provided, however, that assistants to officers shall not be considered as officers, but as employees.

9. This act shall take effect on the first day of the fourth month after enactment.

Approved October 15, 1999.

CHAPTER 253

AN ACT providing an exemption from the sales and use tax for sales of firearm trigger locks, supplementing P.L.1966, c.30 (C.54:32B-1 et seq.).

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

C.54:32B-8.50 Short title; receipts from sales of firearm trigger locks, tax exempt.

1. a. This act shall be known and may be cited as "The Firearm Accident Prevention Act".

b. Receipts from sales of firearm trigger locks and other devices that enable the firearm to be made inoperable by anyone other than an authorized person are exempt from the tax imposed under the "Sales and Use Tax Act", P.L.1966, c.30 (C.54:32B-1 et seq.).

2. This act shall take effect on the first day of the second month following enactment.

Approved October 15, 1999.

CHAPTER 254

AN ACT providing an exemption from the sales and use tax for sales of firearm vaults, supplementing P.L.1966, c.30 (C.54:32B-1 et seq.).

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

C.54:32B-8.51 Short title; receipts from sales of firearm vaults, tax exempt.

1. a. This act shall be known and may be cited as "The Secure Firearm Storage Act".

b. Receipts from sales of firearm vaults providing secure storage for firearms are exempt from the tax imposed under the "Sales and Use Tax Act", P.L.1966, c.30 (C.54:32B-1 et seq.).

2. This act shall take effect on the first day of the second month following enactment.

Approved October 15, 1999.

CHAPTER 255

AN ACT concerning certain firearms sales, amending N.J.S.2C:39-1 and supplementing chapter 58 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:39-1 is amended to read as follows:

Definitions.

2C:39-1. Definitions. The following definitions apply to this chapter and to chapter 58:

a. "Antique firearm" means any rifle or shotgun and "antique cannon" means a destructive device defined in paragraph (3) of subsection c. of this section, if the rifle, shotgun or destructive device, as the case may be, is incapable of being fired or discharged, or which does not fire fixed ammunition, regardless of date of manufacture, or was manufactured before 1898 for which cartridge ammunition is not commercially available, and is possessed as a curiosity or ornament or for its historical significance or value.

b. "Deface" means to remove, deface, cover, alter or destroy the name of the maker, model designation, manufacturer's serial number or any other distinguishing identification mark or number on any firearm.

c. "Destructive device" means any device, instrument or object designed to explode or produce uncontrolled combustion, including (1) any explosive or incendiary bomb, mine or grenade; (2) any rocket having a propellant charge of more than four ounces or any missile having an explosive or incendiary charge of more than one-quarter of an ounce; (3) any weapon capable of firing a projectile of a caliber greater than 60 caliber, except a shotgun or shotgun ammunition generally recognized as suitable for sporting purposes; (4) any Molotov cocktail or other device consisting of a breakable container containing flammable liquid and having a wick or similar device capable of being ignited. The term does not include any device manufactured for the purpose of illumination, distress signaling, line-throwing, safety or similar purposes.

d. "Dispose of" means to give, give away, lease, loan, keep for sale, offer, offer for sale, sell, transfer, or otherwise transfer possession.

e. "Explosive" means any chemical compound or mixture that is commonly used or is possessed for the purpose of producing an explosion and which contains any oxidizing and combustible materials or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion or by detonation of any part of the compound or mixture may cause

such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects. The term shall not include small arms ammunition, or explosives in the form prescribed by the official United States Pharmacopoeia.

f. "Firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. It shall also include, without limitation, any firearm which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

g. "Firearm silencer" means any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearm to be silent, or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearm.

h. "Gravity knife" means any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force.

i. "Machine gun" means any firearm, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir, belt or other means of storing and carrying ammunition which can be loaded into the firearm, mechanism or instrument and fired therefrom.

j. "Manufacturer" means any person who receives or obtains raw materials or parts and processes them into firearms or finished parts of firearms, except a person who exclusively processes grips, stocks and other nonmetal parts of firearms. The term does not include a person who repairs existing firearms or receives new and used raw materials or parts solely for the repair of existing firearms.

k. "Handgun" means any pistol, revolver or other firearm originally designed or manufactured to be fired by the use of a single hand.

l. "Retail dealer" means any person including a gunsmith, except a manufacturer or a wholesale dealer, who sells, transfers or assigns for a fee or profit any firearm or parts of firearms or ammunition which he has purchased or obtained with the intention, or for the purpose, of reselling or reassigning to persons who are reasonably understood to be the ultimate consumers, and includes any person who is engaged in the business of

repairing firearms or who sells any firearm to satisfy a debt secured by the pledge of a firearm.

m. "Rifle" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed metallic cartridge to fire a single projectile through a rifled bore for each single pull of the trigger.

n. "Shotgun" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shots or a single projectile for each pull of the trigger, or any firearm designed to be fired from the shoulder which does not fire fixed ammunition.

o. "Sawed-off shotgun" means any shotgun having a barrel or barrels of less than 18 inches in length measured from the breech to the muzzle, or a rifle having a barrel or barrels of less than 16 inches in length measured from the breech to the muzzle, or any firearm made from a rifle or a shotgun, whether by alteration, or otherwise, if such firearm as modified has an overall length of less than 26 inches.

p. "Switchblade knife" means any knife or similar device which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.

q. "Superintendent" means the Superintendent of the State Police.

r. "Weapon" means anything readily capable of lethal use or of inflicting serious bodily injury. The term includes, but is not limited to, all (1) firearms, even though not loaded or lacking a clip or other component to render them immediately operable; (2) components which can be readily assembled into a weapon; (3) gravity knives, switchblade knives, daggers, dirks, stilettos, or other dangerous knives, billies, blackjacks, bludgeons, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings or razor blades imbedded in wood; and (4) stun guns; and any weapon or other device which projects, releases, or emits tear gas or any other substance intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air.

s. "Wholesale dealer" means any person, except a manufacturer, who sells, transfers, or assigns firearms, or parts of firearms, to persons who are reasonably understood not to be the ultimate consumers, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms, in furtherance of such purpose, except that it shall not include those persons dealing exclusively in grips, stocks and other nonmetal parts of firearms.

t. "Stun gun" means any weapon or other device which emits an electrical charge or current intended to temporarily or permanently disable a person.

u. "Ballistic knife" means any weapon or other device capable of lethal use and which can propel a knife blade.

v. "Imitation firearm" means an object or device reasonably capable of being mistaken for a firearm.

w. "Assault firearm" means:

(1) The following firearms:

Algimec AGM1 type

Any shotgun with a revolving cylinder such as the "Street Sweeper" or "Striker 12"

Armalite AR-180 type

Australian Automatic Arms SAR

Avtomat Kalashnikov type semi-automatic firearms

Beretta AR-70 and BM59 semi-automatic firearms

Bushmaster Assault Rifle

Calico M-900 Assault carbine and M-900

CETME G3

Chartered Industries of Singapore SR-88 type

Colt AR-15 and CAR-15 series

Daewoo K-1, K-2, Max 1 and Max 2, AR 100 types

Demro TAC-1 carbine type

Encom MP-9 and MP-45 carbine types

FAMAS MAS223 types

FN-FAL, FN-LAR, or FN-FNC type semi-automatic firearms

Franchi SPAS 12 and LAW 12 shotguns

G3SA type

Galil type Heckler and Koch HK91, HK93, HK94, MP5, PSG-1

Intratec TEC 9 and 22 semi-automatic firearms

M1 carbine type

M14S type

MAC 10, MAC 11, MAC 11-9mm carbine type firearms

PJK M-68 carbine type

Plainfield Machine Company Carbine

Ruger K-Mini-14/5F and Mini-14/5RF

SIG AMT, SIG 550SP, SIG 551SP, SIG PE-57 types

SKS with detachable magazine type

Spectre Auto carbine type

Springfield Armory BM59 and SAR-48 type

Sterling MK-6, MK-7 and SAR types

Steyr A.U.G. semi-automatic firearms

USAS 12 semi-automatic type shotgun

Uzi type semi-automatic firearms

Valmet M62, M71S, M76, or M78 type semi-automatic firearms

Weaver Arm Nighthawk.

(2) Any firearm manufactured under any designation which is substantially identical to any of the firearms listed above.

(3) A semi-automatic shotgun with either a magazine capacity exceeding six rounds, a pistol grip, or a folding stock.

(4) A semi-automatic rifle with a fixed magazine capacity exceeding 15 rounds.

(5) A part or combination of parts designed or intended to convert a firearm into an assault firearm, or any combination of parts from which an assault firearm may be readily assembled if those parts are in the possession or under the control of the same person.

x. "Semi-automatic" means a firearm which fires a single projectile for each single pull of the trigger and is self-reloading or automatically chambers a round, cartridge, or bullet.

y. "Large capacity ammunition magazine" means a box, drum, tube or other container which is capable of holding more than 15 rounds of ammunition to be fed continuously and directly therefrom into a semi-automatic firearm.

z. "Pistol grip" means a well-defined handle, similar to that found on a handgun, that protrudes conspicuously beneath the action of the weapon, and which permits the shotgun to be held and fired with one hand.

aa. "Antique handgun" means a handgun manufactured before 1898, or a replica thereof, which is recognized as being historical in nature or of historical significance and either (1) utilizes a match, friction, flint, or percussion ignition, or which utilizes a pin-fire cartridge in which the pin is part of the cartridge or (2) does not fire fixed ammunition or for which cartridge ammunition is not commercially available.

bb. "Trigger lock" means a commercially available device approved by the Superintendent of State Police which is operated with a key or combination lock that prevents a firearm from being discharged while the device is attached to the firearm. It may include, but need not be limited to, devices that obstruct the barrel or cylinder of the firearm, as well as devices that immobilize the trigger.

cc. "Trigger locking device" means a device that, if installed on a firearm and secured by means of a key or mechanically, electronically or electromechanically operated combination lock, prevents the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically or electromechanically operated combination lock.

C.2C:58-17 "KeepSafe" program established.

2. a. There is established a "KeepSafe" program to encourage and stimulate the safe storage of firearms in the State of New Jersey by

providing instant rebates to firearms purchasers who purchase trigger locking devices.

Under the program, a person who purchases a firearm from a retail dealer licensed under the provisions of N.J.S.2C:58-2 shall be eligible for a $5 instant rebate when a compatible trigger locking device is purchased along with that firearm. The licensed retail dealer shall deduct the rebate from the price of the compatible locking device in order to reduce by $5 the cost of the device for the purchaser.

b. The Superintendent of State Police, in conjunction with the Attorney General, shall adopt guidelines 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.

In addition, the superintendent shall prepare and deliver to each licensed retail firearms dealer in the State the forms necessary to record and report participation in the program. The forms, which shall set forth the name, address, telephone number, State tax number and State license number of the retail firearms dealer, the name of the firearms purchaser and his firearms purchaser identification card number or permit to purchase a handgun number, the make and model number of the compatible trigger locking device purchased and the date of the sale, shall be in duplicate. One copy shall be retained by the retail dealer for his records. The other shall be submitted to the Attorney General for reimbursement. The reimbursement copies shall be submitted monthly at a time prescribed by the superintendent. The submitting retail dealer shall be entitled to a reimbursement of $5 for each trigger locking device sold as part of the KeepSafe program. To help defray any administrative costs, each participating retail dealer shall receive, in addition to the reimbursement, $0.50 for each valid reimbursement copy submitted.

The superintendent also shall provide each licensed retail firearms dealer with a sign to be prominently displayed at a conspicuous place on the dealer's business premises where firearms are offered for sale. The sign shall state substantially the following:

"KEEP NEW JERSEY FIREARMS SAFE.
TO ENCOURAGE NEW JERSEY GUN OWNERS TO STORE THEIR FIREARMS SAFELY, THE STATE IS OFFERING A $5 INSTANT REBATE WHEN YOU PURCHASE A COMPATIBLE TRIGGER LOCK ALONG WITH YOUR FIREARM.

REMEMBER--THE USE OF A TRIGGER LOCK IS ONLY ONE ASPECT OF RESPONSIBLE FIREARM

STORAGE. FIREARMS SHOULD BE STORED, UNLOADED AND LOCKED IN A LOCATION THAT IS BOTH SEPARATE FROM THEIR AMMUNITION AND INACCESSIBLE TO CHILDREN.

NEW JERSEY'S FAMILIES AND CHILDREN ARE PRECIOUS--KEEP THEM SAFE!!"

C.2C:58-18 Report on KeepSafe program.

3. On the first day of the thirteenth month following the effective date of this act, the superintendent shall submit a report on the effectiveness of the KeepSafe program to the Governor and Legislature. In addition to those matters the superintendent deems appropriate and necessary, the report shall include the superintendent's assessment of whether the program should be expanded to include sales of trigger locking devices which are not part of firearm purchases.

4. This act shall take effect immediately.

Approved October 15, 1999.

CHAPTER 256

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

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

1. 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 involvement that

might reasonably be expected to impair his objectivity or independence of judgment. No school official shall act in his official capacity in any matter where he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family;

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.

2. This act shall take effect immediately.

Approved October 15, 1999.

CHAPTER 257

AN ACT concerning the retention of records by certain financial institutions.

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

C.17:16W-1 Declaration regarding records retention.

1. The Legislature declares that it is in the public interest to require State chartered financial institutions to retain certain records for specified periods of time. Creating record retention requirements will assist financial institution regulators in their supervisory role and in the examination of financial institutions, help resolve disputes between financial institutions and others, and prevent fraud against financial institutions. This act is intended to promote simplification of financial institution administration by acting as a basis for parity and uniformity with respect to record retention requirements.

C.17:16W-2 Definitions regarding records retention.

2. As used in this act:

"Date of the passbook" means the date of the last entry by the financial institution of a transaction with respect to the passbook account, or if the form of the passbook is such that it does not provide for entry of transactions, the last date for which the financial institution has a record of an account transaction. If there is no record of activity with respect to a passbook account subsequent to the issuance of the passbook, the date of issuance shall be the date of the passbook.

"Financial institution" means a State chartered bank, savings bank or savings and loan association.

"Owner" means the person or persons in whose name the account was opened.

"Passbook" means a document or record issued by a financial institution, which document or record represents an obligation of the financial institution, which obligation either has no fixed maturity or due date or which by its term is subject to automatic renewal or renewals for an indefinite time or indefinite number of times. Neither a periodic account statement nor any obligation for which applicable law provides a time by which the payment is due is a passbook for the purposes of this act.

"Passbook account" means an account which is evidenced by a passbook, certificate of deposit or similar document.

"Statement account" means an account which is not a passbook account and for which a financial institution supplies a periodic statement of the account's activity, balance or both, or supplies any other statement of the account as the owner and financial institution may agree.

C.17:16W-3 Statement accounts, certificates of deposit, passbook accounts; records.

3. A financial institution shall retain records of its accounts as follows:

a. Statement accounts:

(1) Records of transactions in a statement account sufficient to reconstruct the account and to trace checks, drafts and other orders shall be retained for not less than six years.

(2) Account opening records shall be retained for as long as the account is open, plus not less than six years after the closing of the account.

(3) Account closing records shall be retained for not less than six years after the closing of the account.

(4) A record of the last transaction or contact with the owner, pursuant to section 1 of P.L.1989, c.58 (C.46:30B-18), shall be retained for not less than 10 years after the date of the transaction or contact, as applicable.

b. Certificates of deposit which have a specific maturity date and which are not automatically renewed:

(1) Records of the account opening, transactions regarding the account, if any, and the closing of the account shall be retained for not less than six years following the stated maturity date.

(2) A record of the most recent transaction shall be retained for not less than 10 years after the date of the transaction.

c. Passbook accounts:

(1) Records of transactions in a passbook account sufficient to reconstruct the account shall be retained for a period of not less than six years.

(2) Account opening records shall be retained for as long as the account is open, plus not less than six years after the closing of the account.

(3) Account closing records shall be retained for not less than 15 years after the closing of the account.

(4) A record of the last transaction or contact with the owner, pursuant to section 1 of P.L.1989, c.58 (C.46:30B-18), shall be retained for not less than 10 years after the date of the transaction or contact, as applicable.

C.17:16W-4 Passbook payment with no financial institution records.

4. The following rules shall apply if a passbook is presented to a financial institution for payment and the financial institution has no record of the account and there is no record of payment of the account to the State pursuant to any applicable escheat or unclaimed property act:

a. If the presentation of the passbook is made by a successor of the owner more than 15 years after the date of the passbook, there shall be a rebuttable presumption that the account was paid in full to or on behalf of the owner or to a successor of the owner. The passbook itself does not rebut this presumption.

b. If the presentation of the passbook is made by a successor of the owner within 15 years after the date of the passbook, there shall be a rebuttable presumption that the account exists and the financial institution is obligated to the owner's heirs, successors or personal representatives. An affidavit of lost passbook by the owner or successor to the owner made prior to the presentation of the passbook shall rebut the presumption of nonpayment and shall create a presumption that the account was duly paid in full to or on behalf of the owner or to a successor to the owner by the financial institution.

c. If the presentation of the passbook is made by the owner, and the presentation is accompanied by a sworn certificate of the owner that the owner never received payment of the account nor transferred the account, there shall be a rebuttable presumption that the account exists and that the financial institution is holding the account for the benefit of the owner. An affidavit of lost passbook by the owner or successor to the owner made prior to the presentation of the passbook shall rebut the presumption of nonpayment and shall create a presumption that the account was duly paid in full to or on behalf of the owner or to a successor to the owner by the financial institution.

C.17:16W-5 Loan, collateralized loans; records.

5. A financial institution shall retain records relating to the making, collection and administration of loans as follows:

a. For all loans:

(1) Records of bankruptcies of borrowers, judgments against parties obligated on the loan, and charge-off loans or closing of loan files shall be retained for at least 20 years after the closing of the loan.

(2) Litigation files shall be retained for not less than six years following the date of the final disposition of the litigation.

(3) Records of approval of loans or credit shall be retained for not less than six years after the closing of the loan or credit files.

(4) Records of denials of a loan applications shall be retained for not less than 25 months after the date of the denial.

(5) Loan files, including, but not limited to, appraisals, financial statements, information regarding collateral and the perfection of security interests, guarantees, credit information and correspondence with the borrower shall be retained for not less than six years after the closing of the loan file. For lines of credit and open-end loans, records of transactions shall be retained for six years after the date of a transaction.

(6) Loan committee minutes shall be retained for not less than six years after the date of the committee meeting.

(7) Record of compliance with all applicable State and federal regulatory requirements shall be retained for the period specified in the applicable State or federal law or regulation. If no record retention period is specified in the law or regulation, the financial institution shall retain the records necessary to show compliance for not less than six years.

b. Collateralized loans:

(1) Records identifying the collateral perfection of the financial institution's security interest in the collateral and, for tangible personal property, the place and method of possession of the collateral shall be retained for not less than six years after the close of the file.

(2) Records of the disposition of the collateral that is personal property shall be retained for not less than six years after the date of disposition.

(3) For collateral that is real estate, records regarding the title, including searches, title insurance policies and legal opinions as to title shall be retained for at least 20 years after the date of disposition of the property if the property is transferred to a party other than the borrower. If the lien is released or otherwise satisfied and the borrower retains ownership of the property, the title records shall be retained for not less than six years. Records of foreclosure proceedings shall be retained for not less than 20 years after the date of the judgment of foreclosure or if no judgment, from the date of the termination of those proceedings.

(4) Records of escrow analyses and statements and of transactions in escrow accounts shall be retained for not less than six years.

C.17:16W-6 Records of checks, drafts, etc., six year retention.

6. A financial institution shall retain records of checks, drafts, money orders and cashier's checks issued by it for not less than six years after the date of issue. Records of certified checks and electronic transfers and of

other means of transferring funds from the financial institution shall be retained for not less than six years after the date of transfer of the funds.

C.17:16W-7 Other records, records retention.

7. A financial institution shall maintain records relating to safe deposit boxes, which records include access records, access agreements, lease agreements, signature cards, records of payment for the rental or use of the box, power of attorney and records of abandoned property, for a period of not less than six years after the date of termination of the lease or access agreement. Correspondence which is not included as a record shall be retained for not less than three years after the date of the correspondence.

C.17:16W-8 Retention time period.

8. If any records are subject to the provisions of more than one of the time periods for the retention of records specified in sections 3 through 7 of this act, the longest time period for which those records are required to be retained shall be applicable.

C.17:16W-9 Retention period for records not covered by this act.

9. For any records not specifically covered by this act and for which there is no applicable state or federal retention period prescribed, the Commissioner of Banking and Insurance may, by regulation, establish minimum record retention requirements. Any regulations shall be consistent with retention periods for federally chartered banks and savings banks and should reflect the legislative intent of this act to provide parity and uniformity among financial institutions.

C.17:16W-10 Claims where records not required to be retained; statutes of limitations not affected.

10. a. In the event of any claim against a financial institution where the claimant relies in any way on records of the financial institution, which records are not required to be retained by the financial institution by the terms of this act or by other applicable State or federal record retention statutes or regulations and the records have not been retained by the financial institution, the fact that the financial institution does not have the records shall not give rise to any inference or presumption against the financial institution as to the content of the records nor shall the lack of the records shift any burden of proof from the claimant to the financial institution.

b. Nothing in this act shall be deemed to amend or alter any statute of limitations.

C.17:16W-11 Applicability.

11. The provisions of this act shall apply to all financial institutions chartered by this State and to the records of out-of-State banks, savings

banks and savings and loan associations which relate to accounts, loans or other transactions which are made or located in this State. The provisions of this act shall apply to federally chartered banks and savings banks in this State to the extent that they are not inconsistent with applicable federal law.

12. This act shall be effective on the first business day following the date of enactment and shall apply to the records held by financial institutions on the effective date.

Approved October 15, 1999.

CHAPTER 258

AN ACT concerning the approval and filing of maps and amending P.L.1960, c.141.

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

1. Section 3 of P.L.1960, c.141 (C.46:23-9.11) is amended to read as follows:

C.46:23-9.11 Requirements for approval.

3. Requirements for Approval.

All subdivision plats, both major and where required minor, right of way parcel maps of the State, county or municipality, shall be filed in accordance with the provisions of P.L.1960, c.141 (C.46:23-9.9 et seq.). Right of way parcel maps shall meet the requirements of subsections a. through d., subsections f. through i., subsection m. and paragraph 12 of subsection r. of this section. Minor subdivision maps shall meet the requirements of subsections a. through i., and k. through q., and subsection j. except for the outside tract line monuments, and paragraph 13 of subsection r. of this section.

A condominium plan shall be filed in accordance with the requirements of subsections a. through c., subsections f. through i., and subsection m. of this section.

No map requiring approval by law or that is to be approved for filing with a county recording officer, shall be approved by the proper authority unless it shall conform to the following requirements:

a. It shall be clearly and legibly drawn, and where required endorsed and presented either as an original drawing in black ink on translucent tracing cloth, translucent mylars at least 4 mils thick or its equivalent, of good quality, with signatures in ink, or as an equivalent reproduction on

photographic fixed line mylar 4 mils thick with signatures in black ink or its equivalent and shall be accompanied by a cloth print or photographic fixed line mylar 4 mils thick duplicate thereof.

b. It shall be one of six standard sizes namely, 8 1/2" x 13", 30" x 42", 24" x 36", 11" x 17", 18" x 24" or 15" x 21" as measured from cutting edges. If one sheet is not of sufficient size to contain the entire territory, the map may be divided into sections to be shown on separate sheets of equal sizes, with references on each sheet to the adjoining sheets.

c. It shall show the scale, which shall be inches to feet and be large enough to contain legibly written data on the dimensions, bearings and all other details of the boundaries, and it shall also show the graphic scale.

d. It shall show the dimensions, square footage of each lot to the nearest square foot or nearest one hundredth of an acre, bearings and curve data to include the radius, delta angle, length of arc, chord distance and chord bearing sufficient to enable the definite location of all lines and boundaries shown thereon, including public easements and areas dedicated for public use. Non-tangent curves and non-radial lines shall be labeled. Right of way parcel maps shall show bearings, distances and curve data for the right of way or the center line or base line and ties to right of way lines if from a base line.

e. Where lots are shown thereon, those in each block shall be numbered consecutively. In municipalities where tax maps exist, block and lot designations shall conform therewith, if the municipal regulations so require. In counties which have adopted or shall adopt the local or block system of indices pursuant to sections 46:24-1 to 46:24-22 of the Revised Statutes, it shall have delineated and shown thereon the block boundary or boundaries and designations established by the board of commissioners of land records of such counties respecting the territory intended to be shown on such map.

f. The reference meridian used for bearings on the map shall be shown graphically. The coordinate base, either assumed or based on the New Jersey Plane Coordinate System, shall be shown on the plat.

g. All municipal boundary lines crossing or adjacent to the territory intended to be shown shall be shown and designated.

h. All natural and artificial watercourses, streams, shorelines and water boundaries and encroachment lines shall be shown. On right of way parcel maps all easements that affect the right of way shall be shown and dimensioned, including but not limited to slope easements and drainage.

i. All permanent easements shall be shown and dimensioned including but not limited to sight right easements and utility easements.

j. The map shall clearly show all monumentation as required by this act, including monuments found, monuments set, and monuments to be set.

An indication shall be made where monumentation found has been reset. For purposes of this subsection "found corners" shall be considered monuments. A minimum of three corners distributed around the tract shall indicate the coordinate values. The outbound corner markers shall be set pursuant to regulations promulgated by the State Board of Professional Engineers and Land Surveyors.

k. It shall conform to such other technical design controls as may be required by the provisions of local ordinances, including but not limited to minimum street widths, minimum lot areas and minimum yard dimensions and should be shown as a chart on the plat.

l. The name of the subdivision, name of the last property owner or owners, municipality and county shall be shown.

m. The date of the survey shall be shown and the map shall be in accordance with the minimum survey detail requirements as promulgated by the State Board of Professional Engineers and Land Surveyors.

n. There shall be endorsed thereon a certificate of a land surveyor or surveyors, as follows:

(1) I hereby certify that to the best of my knowledge and belief this map and land survey dated ..... meets the minimum survey detail requirements, with outbound corners marked, as promulgated by the State Board of Professional Engineers and Land Surveyors and has been made under my supervision, and complies with the provisions of "the map filing law" and that the outbound corner markers as shown have been found, or set.

(Include the following, if applicable)

I do further certify that the monuments as designated and shown hereon have been set.

.....

Licensed Professional Land Surveyor and No.

(Affix Seal)

(2) If the land surveyor who prepares the map is different than the land surveyor who prepared the outbound survey, the following two certificates shall be added in lieu of the certificate above.

I hereby certify to the best of my knowledge information and belief that this land survey dated ..... has been made under my supervision and meets the minimum survey detail requirements, with outbound corners marked, promulgated by the State Board of Professional Engineers and Land Surveyors and that the outbound corner markers as shown have been found, or set

.....

Licensed Professional Land Surveyor and No.

(Affix seal)

I hereby certify that this map has been made under my supervision and complies with the provisions of the "map filing law."

(Including the following if applicable)

I do further certify that the monuments as designated and shown hereon have been set.

.....

Licensed Professional Land Surveyor and No.

(Affix seal)

(3) If monuments are to be set at a later date, the following requirements and endorsement shall be shown on the map.

The monuments shown on this map shall be set within an appropriate time limit as provided for in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or local ordinance.

I certify that a bond has been given to the municipality, guaranteeing the future setting of the monuments shown on this map and so designated.

.....

Municipal Clerk

(4) If the map is a right of way parcel map the project surveyor need only to certify that the monuments have been set or will be set.

o. There shall be endorsed thereon a certificate of the municipal engineer as follows:

I have carefully examined this map and to the best of my knowledge and belief find it conforms with the provisions of "the map filing law" resolution of approval and the municipal ordinances and requirements applicable thereto.

.....

Municipal Engineer

(Affix Seal)

p. There shall be submitted to the proper authority an affidavit setting forth the names and addresses of all the record title owners of the lands subdivided by said map and the consent in writing of all such owners to the approval of such map shall be required.

q. If the map shows streets, avenues, roads, lanes or alleys, there shall be endorsed thereon a certificate by the municipal clerk that the municipal body has approved such streets, avenues, roads, lanes or alleys, except where such map is prepared and presented for filing by the State of New Jersey or any of its agencies. The map shall show all of the street names as approved by the municipality.

r. Monuments are required on one side of the right of way only and shall be of metal detectable durable material at least 30 inches long. The top and bottom shall be a minimum of 4 inches square; if concrete, however it may be made of other durable metal detectable material specifically

designed to be permanent, as approved by the State Board of Professional Engineers and Land Surveyors. All monuments shall include the identification of the professional land surveyor or firm. They shall be firmly set in the ground so as to be visible at the following control points; provided that in lieu of installation of the monuments, the municipality may accept bond with sufficient surety in form and amount to be determined by the governing body, conditioned upon the proper installation of said monuments upon the completion of the grading of the streets and roads shown on the map.

(1) At each intersection of the outside boundary of the whole tract, with the right-of-way line of any side of an existing street.

(2) At the intersection of the outside boundary of the whole tract with the right-of-way line on one side of a street being established by the map under consideration.

(3) At one corner formed by the intersection of the right-of-way lines of any 2 streets at a T-type intersection.

(4) At any two corners formed by the right-of-way lines of any two streets in an "X" or "Y" type intersection.

(5) If the right-of-way lines of two streets are connected by a curve at an intersection, monuments shall be as stipulated in (3) and (4) of this subsection at one of the following control points:

(a) The point of intersection of the prolongation of said lines.

(b) The point of curvature of the connecting curve or,

(c) The point of tangency of the connecting curve.

(6) At the beginning and ending of all tangents on one side of any street.

(7) At the point of compound curvature or point of reversed curvature where either curve has a radius equal to or greater than 100 feet. Complete curve data as indicated in subsection d. of this section shall be shown on both sides.

(8) At intermediate points in the sidelines of a street between two adjacent street intersections in cases where the street deflects from a straight line or the line of sight between the adjacent intersections is obscured by a summit or other obstructions which are impractical to remove. This requirement may necessitate the setting of additional monuments at points not mentioned above. Bearings and distances between the monuments or coordinate values shall be indicated.

(9) In cases where it is impossible to set a monument at any of the above designated points, a nearby reference monument shall be set and its relation to the designated point shall be clearly designated on the map; or the plate on the reference monument shall be stamped with the word "offset" and its relation to the monument shown on the filed map.

(10) In areas where permanency of monuments may be better insured by off-setting the monuments from the property line, the municipal engineer

may authorize such procedure; provided, that proper instrument sights may be obtained and complete off-set data is recorded on the map.

(11) By the filing of a map in accordance with the provisions of "the map filing law," reasonable survey access to the monuments is granted, which shall not restrict in any way the use of the property by the landowner.

(12) On right of way parcel maps, the monuments shall be set at the points of curvature, points of tangency, points of reverse curvature and points of compound curvature or the control base line or center line, if used, and be intervisible with a second monument.

(13) On minor subdivisions a monument shall be set at each intersection of an outside boundary of the newly created lot(s) with the right of way line of any side of an existing street.

2. This act shall take effect immediately.

Approved October 15, 1999.

CHAPTER 259

AN ACT clarifying the tenant rebate provisions of the NJ SAVER and Homestead Rebate Act, amending P.L.1990, c.61.

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

1. Section 4 of P.L.1990, c.61 (C.54:4-8.60) is amended to read as follows:

C.54:4-8.60 Rebates for residential rental property units, amount; eligibility, conditions.

4. a. A resident of this State who is 65 years of age or older at the close of the tax year, or who is allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, whose homestead is a unit of residential rental property shall be allowed a homestead rebate for the tax year equal to the amount by which the claimant's rent constituting property taxes in that tax year exceeds 5% of the claimant's gross income, up to a maximum rebate of $500 (rounded to the nearest whole dollar), provided that:

(1) in the case of a married couple filing a joint New Jersey gross income tax return or an individual filing a return who determines gross income tax pursuant to subsection a. of N.J.S.54A:2-1, gross income does not exceed $70,000 for that year;

(2) in the case of an unmarried individual who determines gross income tax pursuant to subsection b. of N.J.S.54A:2-1, gross income does not exceed $35,000 for that year;

(3) in the case of a married individual filing a separate New Jersey gross income tax return, if the spouse of the claimant maintains the same homestead as the claimant and also files a separate gross income tax return in this State, the combined gross income of both spouses does not exceed $70,000, but in no event shall the homestead rebate claimed under this subsection exceed one-half of the amount of the homestead rebate allowable had the spouses filed a joint return and homestead rebate application; and

(4) in the case of a married individual filing a separate gross income tax return and maintaining a homestead apart from that individual's spouse, gross income does not exceed $35,000.

b. If more than one resident, other than a husband and wife, qualify for a homestead rebate by reason of their having occupied the same unit of residential rental property as their homestead, it shall be presumed that each claimant shall be allowed a homestead rebate pursuant to this section only in relation to the individual's proportionate share of the total rent constituting property taxes paid by that claimant which homestead rebate shall be in proportion to the percentage that the total rent paid by that claimant bears to the total rent paid by all tenants of the same unit. For the purposes of a homestead rebate claimed by an individual subject to this subsection, the names and social security numbers of each co-tenant shall be reported by the claimant and the total rent paid shall be presumed to be paid in equal parts among all co-tenants.

c. If a claimant for a homestead rebate pursuant to this section has no other homestead in this State other than a unit of residential rental property, and that claimant was not a resident of this State for the full tax year, but paid rent for the full tax year for one or more units of residential rental property in this State, the claimant's total homestead rebate otherwise calculated pursuant to this section shall be prorated in the proportion which the number of days the claimant occupied residential rental property in this State as a homestead during the tax year bears to 365 days.

d. Nothing in this section shall preclude a co-tenant, other than a husband or wife claiming a homestead rebate on the same homestead, from receiving a homestead rebate determined pursuant to subsection e. or f. of this section if another co-tenant claims a rebate pursuant to subsection a. of this section, provided however, that each such claim shall be separately subject to the provisions of subsections b. and c. of this section.

e. (1) Notwithstanding the provisions of subsection a. of this section to the contrary, a homestead rebate shall be allowed for a resident of this State who is 65 years of age or older at the close of the tax year, or who is

allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, whose homestead is a unit of residential rental property which shall not be less than:

(a) the greater of either the amount determined pursuant to subsection f. of this section or $65 for property taxes paid through rent on the homestead for the tax year if the claimant's gross income does not exceed $70,000 for that year; or

(b) the greater of either the amount determined pursuant to subsection f. of this section or $35 for property taxes paid through rent on the homestead for the tax year if the claimant's gross income exceeds $70,000 but does not exceed $100,000 for that year.

(2) If a claimant who is eligible to receive a homestead rebate in an amount set forth in paragraph (1) of this subsection paid rent for less than the full tax year on one or more homesteads in this State maintained as such for less than the full tax year, the homestead rebate amount set forth in paragraph (1) shall be prorated in the proportion which the number of days that the homestead was maintained during the tax year bears to 365 days. A claim for a homestead rebate in an amount set forth in paragraph (1) of this subsection shall be subject to such further proportionate reduction as may be required pursuant to subsections b. and c. of this section. A homestead rebate in an amount set forth in paragraph (1) of this subsection subject to any proportionate reduction shall be rounded to the nearest whole dollar. A claim for a homestead rebate in an amount set forth in paragraph (1) of this subsection based upon a homestead maintained by both spouses shall be determined based upon the combined gross income of both spouses regardless of whether the claimants filed a joint New Jersey gross income tax return or separate New Jersey gross income tax returns for the tax year.

f. (1) A resident of this State whose homestead is a unit of residential rental property, who has gross income for the tax year not in excess of $100,000, shall be allowed a homestead rebate pursuant to this subsection of $30 for property taxes paid through rent during the 1998 tax year, $40 for property taxes paid through rent during the 1999 tax year, $60 for property taxes paid through rent during the 2000 tax year, $80 for property taxes paid through rent during the 2001 tax year, and $100 for property taxes paid through rent during any tax year thereafter, provided however, that the homestead rebate allowed pursuant to this subsection shall be subject to the limitations and reductions as may apply pursuant to the provisions of subsections b. and c. of this section and such proportionate reduction as may relate to the number of days the claimant was a tenant in a unit of residential rental property maintained as a homestead in this State during the tax year.

(2) The gross income limit imposed in paragraph (1) of this subsection for a claim for a homestead rebate made pursuant to this subsection that is

based upon a homestead maintained by both spouses shall be based upon the combined gross income of both spouses if the claimants filed a joint New Jersey gross income tax return for the tax year. If a claim by a married individual for a homestead rebate made pursuant to this subsection is based upon a homestead maintained by both spouses who each file separate New Jersey gross income tax returns for the tax year, no homestead rebate for the tax year shall be paid to either spouse if their combined gross income exceeds the gross income limit imposed in paragraph (1) of this subsection. For such a claim, if the combined gross income of both spouses does not exceed the gross income limit imposed in paragraph (1) of this subsection, then each such spouse making a claim shall be allowed a homestead rebate amount equal to one-half of the homestead rebate amount otherwise allowed pursuant to this subsection.

2. Section 5 of P.L.1990, c.61 (C.54:4-8.61) is amended to read as follows:

C.54:4-8.61 Rebates for property taxes and rent.

5. a. A resident of this State who is 65 years of age or older at the close of the tax year, or who is allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, who is a resident of this State for the full tax year for which a homestead rebate is claimed, whose homestead has been other than a unit of residential rental property for a part of the tax year and has been a unit of residential rental property for the remainder of that year, shall be allowed a homestead rebate for that tax year equal to the amount by which the sum of the actual property taxes paid by the claimant and the rent constituting property taxes paid by the claimant in that tax year exceeds 5% of the claimant's gross income, up to a maximum rebate of $500 (rounded to the nearest whole dollar), provided that:

(1) in the case of a married couple filing a joint New Jersey gross income tax return or an individual filing a return who determines gross income tax pursuant to subsection a. of N.J.S.54A:2-1, gross income does not exceed $70,000 for that year;

(2) in the case of an unmarried individual who determines gross income tax pursuant to subsection b. of N.J.S.54A:2-1, gross income does not exceed $35,000 for that year;

(3) in the case of a married individual filing a separate New Jersey gross income tax return, if the spouse of the claimant maintains the same homestead as the claimant and also files a separate gross income tax return in this State, the combined gross income of both spouses does not exceed $70,000, but in no event shall the homestead rebate claimed under this

subsection exceed one-half of the amount of the homestead rebate allowable had the spouses filed a joint return and rebate application; and

(4) in the case of a married individual filing a separate gross income tax return and maintaining a homestead apart from that individual's spouse, gross income does not exceed $35,000.

b. (1) Notwithstanding the provisions of subsection a. of this section to the contrary, a homestead rebate shall be allowed for a resident of this State who is 65 years of age or older at the close of the tax year, or who is allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, who is a resident of this State for the full tax year for which a homestead rebate is claimed, who has paid property taxes on a homestead other than a unit of residential rental property for a part of the tax year and has paid property taxes through rent on a unit of residential rental property for the remainder of that year, which shall not be less than:

(a) the sum of that portion of $150 which the number of days that the claimant's homestead was other than a unit of residential rental property bears to 365 days and that portion of the amount determined pursuant to paragraph (1) of subsection e. of section 4 of P.L.1990, c.61 (C.54:4-8.60) which the number of days that the claimant's homestead was a unit of residential rental property bears to 365 days, if the claimant's gross income does not exceed $70,000 for that year; or

(b) the sum of that portion of $100 which the number of days that the claimant's homestead was other than a unit of residential rental property bears to 365 days and that portion of the amount determined pursuant to paragraph (1) of subsection e. of section 4 of P.L.1990, c.61 (C.54:4-8.60) which the number of days that the claimant's homestead was a unit of residential rental property bears to 365 days, if the claimant's gross income exceeds $70,000 but does not exceed $100,000 for that year.

(2) A claim for a homestead rebate pursuant to this subsection shall first be subject to such further proportionate reductions to the respective portions of the sums determined pursuant to subparagraph (a) or (b) of paragraph (1) of this subsection as may be required pursuant to subsections c. and d. of section 3 of P.L.1990, c.61 (C.54:4-8.59) and subsections b. and c. of section 4 of P.L.1990, c.61 (C.54:4-8.60). A homestead rebate determined pursuant to this subsection shall be rounded to the nearest whole dollar. A claim for a homestead rebate determined pursuant to this subsection based upon a homestead maintained by both spouses shall be determined based upon the combined gross income of both spouses regardless of whether the claimants filed a joint New Jersey gross income tax return or separate New Jersey gross income tax returns for the tax year.

c. A claim for a homestead rebate for a resident of this State who is not 65 years of age or older at the close of the tax year, and who is not allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, who is a resident of this State for the full tax year for which a homestead rebate is claimed, who has paid property taxes on a homestead other than a unit of residential rental property for a part of the tax year and has paid property taxes through rent on a unit of residential rental property for the remainder of that year shall be determined based upon the sum of:

(1) a homestead rebate determined under subsection g. of section 3 of P.L.1990, c.61 (C.54:4-8.59), as may apply, subject to such proportionate reduction as relates to the number of days that the claimant's homestead was other than a unit of residential rental property bears to 365 days; and

(2) a homestead rebate determined under subsection f. of section 4 of P.L.1990, c.61 (C.54:4-8.60), as may apply, subject to such proportionate reduction as relates to the number of days that the claimant's homestead was a unit of residential rental property bears to 365 days.

3. This act shall take effect immediately.

Approved October 15, 1999.

CHAPTER 260

AN ACT increasing the minimum income necessary to be subject to the gross income tax, amending N.J.S.54A:2-4 and N.J.S.54A:8-3.1.

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

1. N.J.S.54A:2-4 is amended to read as follows:

Minimum taxable income.

54A:2-4. Minimum taxable income. Notwithstanding any other provisions of this act, a taxpayer shall not be subject to tax under this act if:

a. The taxpayer is filing as an unmarried individual, an estate or trust, with a gross income of

(1) $3,000 or less for taxable years beginning before January 1, 1994,

(2) $7,500 or less for taxable years beginning on or after January 1, 1994 but before January 1, 1999, and

(3) $10,000 or less for taxable years beginning on or after January 1, 1999;

b. The taxpayer is determining tax pursuant to subsection a. of N.J.S.54A:2-1, or is a married couple filing a joint return, with a gross income of

(1) $3,000 or less for taxable years beginning before January 1, 1994,

(2) $7,500 or less for taxable years beginning on or after January 1, 1994 but before January 1, 1999,

(3) $10,000 or less for taxable years beginning on or after January 1, 1999 but before January 1, 2000,

(4) $15,000 or less for taxable years beginning on or after January 1, 2000 but before January 1, 2001, and

(5) $20,000 or less for taxable years beginning on or after January 1, 2001; or

c. The taxpayer is a married person filing separately with a gross income of

(1) $1,500 or less for taxable years beginning before January 1, 1994,

(2) $3,750 or less for taxable years beginning on or after January 1, 1994 but before January 1, 1999,

(3) $5,000 or less for taxable years beginning on or after January 1, 1999 but before January 1, 2000,

(4) $7,500 or less for taxable years beginning on or after January 1, 2000 but before January 1, 2001, and

(5) $10,000 or less for taxable years beginning on or after January 1, 2001.

In the case of a nonresident, gross income shall mean gross income which such nonresident would have reported if he had been a resident.

2. N.J.S.54A:8-3.1 is amended to read as follows:

Persons required to file.

54A:8-3.1. Persons required to file. a. On or before the filing date prescribed in section 1 of this chapter (N.J.S.54A:8-1), an income tax return shall be made and filed by or for:

(1) A taxpayer filing as an unmarried individual, an estate or trust, with a gross income

(a) in excess of $3,000 for taxable years beginning before January 1, 1994,

(b) in excess of $7,500 for taxable years beginning on or after January 1, 1994 but before January 1, 1999, and

(c) in excess of $10,000 for taxable years beginning on or after January 1, 1999;

(2) A taxpayer determining tax pursuant to subsection a. of N.J.S.54A:2-1 having gross income, or a married couple filing a joint return having joint gross income

(a) in excess of $3,000 for taxable years beginning before January 1, 1994,

(b) in excess of $7,500 for taxable years beginning on or after January 1, 1994 but before January 1, 1999,

(c) in excess of $10,000 for taxable years beginning on or after January 1, 1999 but before January 1, 2000,

(d) in excess of $15,000 for taxable years beginning on or after January 1, 2000 but before January 1, 2001, and

(e) in excess of $20,000 for taxable years beginning on or after January 1, 2001; or

(3) A taxpayer who is a married person filing separately with gross income of

(a) in excess of $1,500 for taxable years beginning before January 1, 1994,

(b) in excess of $3,750 for taxable years beginning on or after January 1, 1994 but before January 1, 1999,

(c) in excess of $5,000 for taxable years beginning on or after January 1, 1999 but before January 1, 2000,

(d) in excess of $7,500 for taxable years beginning on or after January 1, 2000 but before January 1, 2001, and

(e) in excess of $10,000 for taxable years beginning on or after January 1, 2001.

b. If the income tax liability of husband and wife is determined on a separate return for federal income tax purposes, they shall each also file a separate return for New Jersey income tax purposes and their income tax liabilities under this act shall be separate.

c. If the income tax liabilities of husband and wife, both residents, are determined on a joint return for federal income tax purposes, they shall also file a joint return for New Jersey income tax purposes and their tax liabilities under this act shall be joint and several.

d. If either husband or wife is a resident and the other is a nonresident, they shall file separate tax returns under this act on such single or separate forms as may be required by the director in which event their tax liabilities shall be separate unless both elect to determine their joint taxable income as if both were residents, in which event their liabilities shall be joint and several.

e. The return for any deceased individual shall be made and filed by his fiduciary or other person charged with his property.

f. The return for an individual who is unable to make a return by reason of minority or other disability shall be made and filed by his fiduciary or other person charged with the care of his person or property (other than a receiver in possession of only a part of his property), or by his duly authorized agent.

g. Any tax under this act, and any increase, interest or penalty thereon, shall, from the time it is due and payable, be a personal debt of the person liable to pay the same, to the State of New Jersey.

h. If both husband and wife are nonresidents but only one spouse earns, receives or acquires income from sources within this State, they shall file separate forms as may be required by the director and their tax liabilities shall be separate, unless both elect to determine their joint taxable income in accord with N.J.S.54A:5-7 and their liabilities under this act shall be joint and several.

3. This act shall take effect immediately.

Approved October 18, 1999.

CHAPTER 261

AN ACT concerning the imposition of tolls on certain highways and supplementing P.L.1966, c.301 (C.27:1A-1 et seq.) and P.L.1991, c.251 (C.27:25A-1 et seq.).

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

C.27:1A-5.17 Tolls not imposed on portions of Route 42 under jurisdiction of South Jersey Transportation Authority.

1. Notwithstanding any other provision of law, rule or regulation to the contrary, whenever the department transfers jurisdiction of State Highway Route No. 42, or a portion thereof, to the South Jersey Transportation Authority, the department shall provide that after the transfer of such highway, or portion thereof, the highway shall remain forever free of tolls or other charges. The department shall cause a statement containing the conditions of the transfer, including a prohibition of the imposition of tolls or other charges for use of the highway, to be attached to and recorded with the deed of the land. These restrictions and conditions shall run with the land and shall be binding upon the landowner and every successor in interest thereto.

C.27:25A-7.1 Route 42 to remain toll-free.

2. Notwithstanding any other law, rule or regulation to the contrary, the authority shall not fix, charge or collect tolls or other charges for the use

of State Highway Route No. 42, or any parts or sections thereof, which it may acquire ownership of pursuant to an agreement between the authority and the department.

3. This act shall take effect immediately.

Approved October 18, 1999.

CHAPTER 262

AN ACT concerning flood relief and drought relief, and making various appropriations.

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 "Emergency Disaster Relief Act of 1999."

2. The Legislature finds and declares that tremendous damage was caused in the State of New Jersey by the high winds, waves, storm surge, severe flooding and fires associated with Hurricane Floyd; that up to 13 inches of rain fell in portions of the State, causing rivers and other inland waterways to flood streets, homes and businesses; and that high winds downed many trees and damaged many structures.

The Legislature further finds and declares that the President of the United States declared certain counties in this State, including Bergen, Essex, Mercer, Middlesex, Morris, Passaic, Somerset, and Union, to be federal disaster areas; that the federal disaster declaration allows for federal funding of disaster relief to public entities, businesses and individuals, as well as funding for mitigation against future similar disasters; and that additional aid beyond traditional insurance and assistance from the Federal Emergency Management Agency is necessary due to the magnitude and severity of Hurricane Floyd and its associated flooding.

The Legislature further finds and declares that on August 5, 1999, the Governor declared a drought emergency in the State; that it has been estimated that farmers throughout New Jersey suffered $80 million in agricultural damage or loss as of that date; that many farmers are being pushed to the brink of economic ruin because of the drought; that many fall crops were damaged or lost due to the rain and runoff from Hurricane

Floyd; and that farmers are in need of financial assistance to help preserve the agricultural industry in the Garden State.

The Legislature further finds and declares that those individuals and businesses that have suffered extraordinary hardships and have made every effort to mitigate their exposure to similar disasters are deserving of relief in the form of a grant; and that eligibility for a grant should be based on economic hardship, the extent of the damage or loss, and preventative measures taken in the past to mitigate damages.

The Legislature therefore determines that it is in the public interest to provide additional financial assistance to individuals and businesses recovering from the devastating effects of Hurricane Floyd and to provide financial assistance to farmers who experienced demonstrated agricultural damage or loss due to the 1999 drought.

3. a. There is established in the Office of the Chief Executive the "1999 Hurricane and Flood Relief Dedicated Account." The Governor shall adopt criteria for the administration of the dedicated account and the disbursement of monies therefrom, which criteria shall provide that:

(1) Monies from the dedicated account may be used for any damage or loss which is not met by any other source;

(2) Preference for the disbursement of monies from the dedicated account pursuant to this section shall be given to persons residing and businesses located in the counties declared as federal disaster areas by the President of the United States; and

(3) Financial need, the magnitude of the damage or loss, or any other mitigating circumstances may be considered in the award of any grants or loans issued pursuant to subsection b. of this section.

b. The amount appropriated to the "1999 Hurricane and Flood Relief Dedicated Account" pursuant to subsection a. of section 6 of this act may be used for, but need not be limited to, the following:

(1) grants, zero interest loans, low interest loans or other forms of financial assistance to owners of residential property used as a primary residence and to owners of businesses for damage or loss to real property incurred as a result of Hurricane Floyd and its associated flooding;

(2) grants, zero interest loans, low interest loans or other forms of financial assistance to businesses for damage or loss to personal property and inventory incurred as a result of Hurricane Floyd and its associated flooding;

(3) grants to individuals for the personal contents of primary residences damaged or lost as a result of Hurricane Floyd and its associated flooding;

(4) grants to recognized nonprofit associations or organizations that are providing disaster relief or emergency assistance to persons who suffered damage or loss as a result of Hurricane Floyd and its associated flooding; and

(5) any other storm relief or flood relief purpose as determined by the Governor, which purposes may include, but are not limited to, providing relief to individuals, businesses, entities or governmental agencies for those losses, damages and situations not covered by existing aid programs, and providing low interest loans, zero interest loans or payments to local government units for the authorized deferral of property taxes.

The financial terms and conditions of any grants and loans issued pursuant to this subsection shall be established in consultation with the Department of the Treasury.

c. The Governor may direct and disburse monies to the New Jersey Economic Development Authority, established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4), and the New Jersey Housing and Mortgage Finance Agency, established pursuant to section 4 of P.L.1983, c.530 (C.55:14K-4), or any other State department or political subdivision of the State, as appropriate, to develop programs and assist in the disbursement of monies from the "1999 Hurricane and Flood Relief Dedicated Account."

d. Within 30 days after the date of enactment of this act, the Governor shall publicize the availability of the grants and loans authorized pursuant to this act and establish any administrative processes necessary for the disbursement of the monies in the "1999 Hurricane and Flood Relief Dedicated Account."

4. The Department of Community Affairs shall provide financial aid to local government units for costs incurred in responding to and recovering from the damage caused by Hurricane Floyd and its associated flooding, provided, however, that no monies appropriated pursuant to subsection b. of section 6 of this act shall be used to provide financial aid to a local government unit for any damage or loss met by any other source.

The Commissioner of Community Affairs may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations, as appropriate, to effectuate the purposes of this section; except that, notwithstanding any provision of P.L.1968, c.410 to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations deemed necessary to implement the provisions of this section, which rules and regulations shall be effective for a period not to exceed six months and may thereafter be amended, adopted or readopted in accordance with the requirements of P.L.1968, c.410.

5. There is established in the Department of Agriculture the "1999 Drought Relief Dedicated Account." Monies in the dedicated account shall be used by the Department of Agriculture to provide grants, zero interest

loans, low interest loans or other forms of financial assistance to farmers who have experienced demonstrated agricultural damage or loss due to the 1999 drought. Eligibility for grants and loans shall be based upon financial need, degree of agricultural damage or loss, and such other qualifying and application criteria as may be established by the Department of Agriculture, with due attention paid to distributing the financial assistance equitably throughout the drought-impacted areas of the State to the maximum extent practicable and feasible. Grant and loan recipients may use the monies only for agricultural purposes approved by the Department of Agriculture. The financial terms and conditions of the grants and loans shall be established by the Department of Agriculture in consultation with the Department of the Treasury. The Department of Agriculture shall, within 30 days after the date of enactment of this act, publicize to the agricultural community the availability of the grants and loans and commence accepting applications therefor from interested farmers.

The Secretary of Agriculture may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations, as appropriate, to effectuate the purposes of this section; except that, notwithstanding any provision of P.L.1968, c.410 to the contrary, the secretary may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations deemed necessary to implement the provisions of this section, which rules and regulations shall be effective for a period not to exceed six months and may thereafter be amended, adopted or readopted in accordance with the requirements of P.L.1968, c.410.

6. a. There is appropriated from the "Surplus Revenue Fund" established pursuant to P.L.1990, c.44 (C.52:9H-14 et seq.) to the "1999 Hurricane and Flood Relief Dedicated Account" established in the Office of the Chief Executive pursuant to section 3 of this act the sum of $50,000,000.

b. There is appropriated from the "Surplus Revenue Fund" established pursuant to P.L.1990, c.44 (C.52:9H-14 et seq.) to the Department of Community Affairs the sum of $5,000,000 for the purposes set forth in section 4 of this act.

c. There is appropriated from the "Surplus Revenue Fund" established pursuant to P.L.1990, c.44 (C.52:9H-14 et seq.) to the "1999 Drought Relief Dedicated Account" established in the Department of Agriculture pursuant to section 5 of this act the sum of $20,000,000.

d. There is appropriated from the "Surplus Revenue Fund" established pursuant to P.L.1990, c.44 (C.52:9H-14 et seq.) to the Department of the Treasury up to $5,000,000 for the purpose of reimbursing State agencies for costs incurred in providing assistance pursuant to this act.

7. Within 90 days after the date of enactment of this act, the Governor shall submit a written report to the Legislature detailing the disbursement of monies authorized pursuant to this act and making a recommendation to the Legislature on whether there is a need to provide additional assistance beyond that provided by this act.

8. This act shall take effect immediately.

Approved October 25, 1999.

CHAPTER 263

AN ACT concerning shipboard gambling and supplementing chapter 37 of Title 2C of the New Jersey Statutes.

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

C.2C:37-4.1 Shipboard gambling, crime; grading; exception.

1. a. A person is guilty of shipboard gambling when the person:

(1) knowingly causes, engages in or permits any gambling activity prohibited under N.J.S.2C:37-2, 2C:37-3 or 2C:37-4 to be conducted on a vessel that embarks from any point within the State, and disembarks at the same or another point within the State, whether the gambling activity is conducted within or without the waters of the State; or

(2) manages, supervises, controls, operates or owns any vessel that embarks from any point within the State, and disembarks at the same or another point within the State, during which time the person knowingly causes or permits any gambling activity prohibited under this chapter, whether the gambling activity is conducted within or without the waters of the State.

b. Any person who violates the provisions of subsection a. of this section is guilty of a crime of the same degree as the most serious crime that was committed in violation of N.J.S.2C:37-2, 2C:37-3 or 2C:37-4, as appropriate.

c. This section shall not apply to gambling activity conducted on United States-flagged or foreign-flagged vessels during travel from a foreign nation or another state or possession of the United States up to the point of first entry into New Jersey waters or during travel to a foreign nation or another state or possession of the United States from the point of departure from New Jersey waters, provided that nothing herein shall preclude prosecution for any other offense under this chapter.

2. This act shall take effect immediately.

Approved October 26, 1999.

CHAPTER 264

AN ACT concerning guide dog instructors and amending P.L.1977, c.456 and P.L.1939, c.274.

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

1. Section 6 of P.L.1977, c.456 (C.10:5-29.4) is amended to read as follows:

C.10:5-29.4 Right-of-way for person accompanied by or instructing a guide dog.

6. A blind person accompanied by a guide dog, or a guide dog instructor engaged in instructing a guide dog, shall have the right-of-way over vehicles while crossing a highway or any intersection thereof, as provided in section 1 of P.L.1939, c.274 (C.39:4-37.1).

2. Section 1 of P.L.1939, c.274 (C.39:4-37.1) is amended to read as follows:

C.39:4-37.1 Right-of-way crossing intersection for blind person, guide dog instructor.

1. Any blind person using as a guide a walking cane, predominantly white or metallic in color or any blind person using as a guide a seeing-eye dog or other dog trained as a guide for the blind, equipped with a rigid "U" -shaped harness such as customarily used on dog guides or any guide dog instructor engaged in instructing a guide dog shall have the right-of-way in crossing any highway or any intersection thereof, and all drivers of vehicles shall yield the right-of-way to such blind person or guide dog instructor engaged in instructing a guide dog although traffic on said highway or intersection thereof is controlled by traffic signals, anything in the motor vehicle and traffic laws of this State to the contrary notwithstanding. The failure of a blind person or guide dog instructor to comply with the provisions of this act shall not give rise to a conclusive presumption of contributory negligence by such person. The provisions of this section shall not apply where traffic is specially directed by a traffic or police officer.

3. This act shall take effect immediately.

Approved October 26, 1999.

CHAPTER 265

AN ACT establishing a New Jersey Council on Physical Fitness and Sports and supplementing Title 26 of the Revised Statutes.

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

C.26:1A-37.5 Definitions relative to New Jersey Council on Physical Fitness and Sports.

1. As used in this act:

"Council" means the New Jersey Council on Physical Fitness and Sports.

"Physical Fitness" means good or improved life-style habits of a State resident through the utilization of recreational opportunities, consistent and medically correct exercise and leisure time management for the express purpose of decreasing stress-related maladies, thereby promoting a more healthful environment for the citizens of the State.

"Sports" means those team or individual competitive athletic activities that are participated in on an amateur, nonprofit basis by the citizens of the State for the express purposes of enjoyment, exercise and sportsmanship.

C.26:1A-37.6 New Jersey Council on Physical Fitness and Sports.

2. There is established in the Department of Health and Senior Services a New Jersey Council on Physical Fitness and Sports which shall serve the citizens of the State by developing safe, healthful and enjoyable physical fitness and sports programs. The council shall provide instruments of motivation and education, and shall promote public awareness to ensure that all citizens of the State have the opportunity to pursue a more healthful lifestyle.

C.26:1A-37.7 Council, members, terms, compensation, administration.

3. a. The council shall consist of 16 members, including: the Commissioner of Health and Senior Services, or his designee, who shall serve as an ex officio member; and 15 public members to be appointed by the Governor as follows: one member each from the New Jersey Association of Health, Physical Education, Recreation and Dance; the New Jersey Recreation and Parks Association; the Medical Society of New Jersey; the New Jersey State Interscholastic Athletic Association; and such other persons or professionals as are interested in the physical fitness of the citizens of the State. The council shall meet and organize immediately after appointment of the members and shall elect from its membership a chairperson and vice chairperson.

b. Each public member of the council shall serve for a term of three years, expiring on January 1 in the appropriate year; except that of the

members first appointed, four shall be appointed for a term of one year, five shall be appointed for a term of two years and six shall be appointed for a term of three years, as determined by the Governor. Each member shall hold office for the term of appointment and until a successor is appointed and qualified. A public member of the council shall be eligible for reappointment. Members appointed to fill a vacancy occurring for any reason other than the expiration of the term shall serve for the unexpired term only.

c. Public members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties.

d. The council shall adopt rules for the transaction of its business and shall keep a record of its business, including a record of its resolutions, transactions, findings and determinations. A majority of the members of the council shall constitute a quorum, but a lesser number may hold a hearing.

e. The council shall meet at least once in each quarter of the fiscal year, and as often thereafter as shall be deemed necessary by the chairperson.

f. By a two-thirds vote of the council, a member may be dismissed from membership for such reasons as the council may establish, which reasons shall include lack of interest in council duties or repeated absences from council meetings.

g. The council shall be administrated by the Department of Health and Senior Services. The department shall employ necessary staff to carry out the duties and functions of the council as otherwise provided in this act or as otherwise provided by law.

C.26:1A-37.8 Powers, duties of council.

4. The council shall have the powers and duties to:

a. Enlist the active support and assistance of individual citizens, civic groups, private enterprise, voluntary organizations and others in an effort to promote and improve the fitness of all the citizens of the State through regular participation in physical fitness and sports activities;

b. Initiate programs to inform the general public of the importance of exercise and the link that exists between regular physical activity and such qualities as good health, wellness and effective performance;

c. Develop, foster, and coordinate services and programs of physical fitness and sports for the people of the State;

d. Develop programs to promote personal health, wellness and physical fitness in cooperation with medical, dental and other similar professional societies;

e. Assist the Department of Education in helping schools to develop health, physical fitness and wellness programs for students;

f. Sponsor physical fitness and sports workshops, clinics, conferences and other similar activities;

g. Give recognition to outstanding developments and achievements in, and contributions to, physical fitness and sports;

h. Assist recreation agencies and State sports governing bodies at all levels in developing "sports for all" programs which emphasize the value of sports to physical, mental and emotional fitness;

i. Collect and disseminate physical fitness and sports information;

j. Encourage State agencies, local governments and communities to develop local physical fitness programs, wellness programs and amateur athletic competitions;

k. Assist business, industry, government and labor organizations in establishing sound physical fitness programs to elevate employee fitness and in reducing the financial and human costs resulting from physical inactivity; and

l. Stimulate and encourage research in the areas of sports medicine, physical fitness and sports performance.

C.26:1A-37.9 Acceptance of grants, gifts.

5. The council is authorized and empowered to accept from the State government, or any instrumentality thereof, or from any person, firm, or corporation in the name of and for the State, services, equipment, supplies, materials or funds by way of gift or grant for the purpose of physical fitness.

C.26:1A-37.10 Annual report to Governor, Legislature.

6. The council shall submit an annual report to the Governor and the Legislature, including therein suggestions and recommendations for protecting and improving the physical fitness of the State.

7. This act shall take effect immediately.

Approved November 3, 1999.

CHAPTER 266

AN ACT concerning contaminated potable water supplies and amending P.L.1988, c.106 and P.L.1991, c.456.

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

1. Section 1 of P.L.1988, c.106 (C.58:12A-22) is amended to read as follows:

C.58:12A-22 Water Supply Replacement Trust Fund.

1. a. There is established in the Department of Environmental Protection a non-lapsing revolving fund to be known as the "Water Supply Replace-

ment Trust Fund," hereinafter referred to as the fund. The department shall administer the fund, and monies in the fund shall be used to (1) provide loans to individuals, municipalities or municipally-owned or privately-owned public water systems as defined in section 3 of P.L.1977, c.224 (C.58:12A-3) for the purposes of providing interim or permanent alternate water supplies to persons whose principal source of potable water is contaminated or is threatened with contamination by hazardous substances as identified by the department, or fails to meet the State primary drinking water standards contained in regulations developed pursuant to this act, or fails to meet a standard for sodium, chloride, lead, mercury, iron, or manganese established by the department pursuant to section 4 of P.L.1991, c.456 (C.58:12A-22.4), and (2) provide funds to the department to conduct feasibility studies to determine appropriate remedies for contaminated potable water supplies, including the evaluation of water treatment systems, to conduct confirmatory tests to determine the presence of hazardous substances in potable water supplies, to study the extent to which water supplies are contaminated or are threatened by contamination with hazardous substances, to develop recommendations for remediating contaminated or threatened water supplies, and to defray administrative costs incurred by the department in implementing the provisions of this act. Payments of principal and interest on loans issued under the authority of this act shall be deposited in the fund, and shall remain available for further disbursements as new loans to be awarded pursuant to this act. Any monies deposited in the "Water Supply Replacement Trust Fund" are hereby appropriated to the Department of Environmental Protection to carry out the purposes of this act.

b. Loans made to local government units pursuant to this act shall bear interest at a rate fixed by the State Treasurer, which rate shall not exceed two percent per year for a term of not more than 20 years.

c. As used in this act, "hazardous substance" means any substance defined as a hazardous substance by the Department of Environmental Protection pursuant to rules and regulations adopted pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b).

2. Section 2 of P.L.1991, c.456 (C.58:12A-22.2) is amended to read as follows:

C.58:12A-22.2 Water Supply Remediation sub-account.

2. a. There is established in the "Water Supply Replacement Trust Fund" established pursuant to section 1 of P.L.1988, c.106 (C.58:12A-22) a Water Supply Remediation sub-account.

b. Of the monies appropriated to the Water Supply Remediation sub-account pursuant to section 6 of P.L.1991, c.456, $500,000 shall be used by the Department of Environmental Protection for the evaluation of water treatment systems, and the Department of Community Affairs to administer the loan program established pursuant to section 3 of P.L.1991, c.456 (C.58:12A-22.3).

c. Any owner of a single family residence who has conducted a test of the potable water supply used by the occupants of the single family residence, the results of which indicate a violation of a primary drinking water standard or a violation of a standard for sodium, chloride, lead, mercury, iron, or manganese, established by the department pursuant to section 4 of P.L.1991, c.456 (C.58:12A-22.4), may apply for a loan pursuant to section 3 of P.L.1991, c.456 (C.58:12A-22.3).

3. Section 3 of P.L.1991, c.456 (C.58:12A-22.3) is amended to read as follows:

C.58:12A-22.3 NJHMFA loans to homeowners.

3. a. Of the amount appropriated to the Water Supply Remediation sub-account pursuant to section 6 of P.L.1991, c.456, $3,500,000 is allocated to the New Jersey Housing and Mortgage Finance Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.) and dedicated for the purposes of providing zero interest loans to owners of single family residences, whose source of potable water violates primary drinking water standards, or violates a standard for sodium, chloride, lead, mercury, iron, or manganese established by the department pursuant to section 4 of P.L.1991, c.456 (C.58:12A-22.4), to provide an interim or permanent alternative potable water supply or adequate and appropriate treatment technology. The purposes for which a loan may be issued pursuant to this section include, but are not necessarily limited to: (1) replacing the contaminated well with a new well or an interim or permanent alternative potable water supply, and sealing the contaminated well, (2) deepening, encasing, or otherwise modifying the contaminated well to prevent contamination, or (3) purchasing adequate and appropriate water treatment technology or equipment to render the water drawn from the contaminated well potable. For the purposes of qualifying for a loan pursuant to this section, the cause or source of contamination of the potable water shall not be relevant.

b. The New Jersey Housing and Mortgage Finance Agency shall establish, within 120 days of the date of enactment of P.L.1999, c.266, a program to provide the loans authorized pursuant to this section, which shall include, but need not be limited to, funding priorities based on the priority system developed by the Department of Environmental Protection pursuant

to section 4 of P.L.1991, c.456 (C.58:12A-22.4). The loans issued pursuant to this section shall bear zero interest and shall be for a term of not more than 10 years. The maximum amount for any single loan shall be $10,000. Loan applicants shall provide certification from the Department of Environmental Protection or from a municipal or regional health agency certified pursuant to section 15 of P.L.1977, c.443 (C.26:3A2-33) of the contamination or the threat of contamination when applying for loans on forms prescribed by the agency. Any loan issued pursuant to this section shall be secured and the New Jersey Housing and Mortgage Finance Agency may assess a loan servicing fee on each loan not to exceed one percent per year on the balance of the loan.

Notwithstanding any provision of P.L.1991, c.456 (C.58:12A-22.2 et al.) to the contrary, the New Jersey Housing and Mortgage Finance Agency may issue up to $1,000,000 in loans pursuant to this section prior to the Department of Environmental Protection developing the priority system required pursuant to section 4 of P.L.1991, c.456 (C.58:12A-22.4).

4. Section 4 of P.L.1991, c.456 (C.58:12A-22.4) is amended to read as follows:

C.58:12A-22.4 DEP water standards; priority system for NJHMFA loans.

4. The Department of Environmental Protection shall establish, within 90 days of the date of enactment of P.L.1999, c.266, standards for sodium, chloride, lead, mercury, iron, and manganese for the purpose of awarding loans to owners of single family residences whose source of potable water violates those standards. The department shall develop, within 90 days of the date of enactment of P.L.1999, c.266, a priority system, based on the nature and extent of the human health or environmental danger posed by a violation of a primary drinking water standard or a standard adopted pursuant to this section, for use by the New Jersey Housing and Mortgage Finance Agency in making zero interest rate loans in accordance with section 3 of P.L.1991, c.456 (C.58:12A-22.3).

5. This act shall take effect immediately.

Approved November 4, 1999.

CHAPTER 267

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, 1999 and regulating the disbursement thereof," approved June 30, 1998 (P.L.1998, c.45).

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.1998, c.45, there is appropriated out of the General Fund the following sum for the purpose specified:

GRANTS-IN-AID
42 DEPARTMENT OF ENVIRONMENTAL PROTECTION
40 Community Development and Environmental Management
42 Natural Resource Management

12-4875 Parks Management	$55,335
Special Purpose:	
Monument Restoration and Maintenance-Gettysburg National Military Park	($55,335)

Of the amount hereinabove appropriated for Monument Restoration and Maintenance - Gettysburg National Military Park, $16,335 shall be paid to the National Park Service in the United States Department of the Interior exclusively for the costs of the immediate restoration of those specific monuments at the park which commemorate the contributions of the soldiers from New Jersey who fought in the Battle of Gettysburg during the Civil War, and $39,000 shall be paid to the National Parks Foundation of the National Park Service for future costs of the maintenance of those monuments.

2. This act shall take effect immediately.

Approved November 8, 1999.

CHAPTER 268

AN ACT concerning the terms of members of certain municipal utilities authorities, and amending P.L.1957, c.183.

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

1. Section 5 of P.L.1957, c.183 (C.40:14B-5) is amended to read as follows:

C.40:14B-5 Membership of joint municipal utilities authorities; staggered terms; vacancies.

5. The governing bodies of any two or more municipalities, the areas of which together comprise an integral body of territory, may, by parallel ordinances duly adopted by each of such governing bodies within any single calendar year, create a public body corporate and politic under the name and style of "the ..... municipal utilities authority," with all or any significant part of the name of each such municipality or some identifying geographical phrase inserted. Said body shall consist of the members thereof, in an aggregate number as determined in this section, who shall be appointed by resolutions of the several governing bodies as provided in this section. Said body shall constitute the municipal authority contemplated and provided for in P.L.1957, c.183 (C.40:14B-1 et seq.) and an agency and instrumentality of the said municipalities. The number of members of the municipal authority to be appointed for terms of office by the governing body of any such municipality shall be as may be stated in said ordinances which shall be not less than one nor more than three. After the taking effect of the said ordinances of all such municipalities and after the filing of certified copies thereof as provided in section 7 of P.L.1957, c.183 (C.40:14B-7), the appropriate number of persons shall be appointed as members of the municipal authority by the governing body of each municipality.

The members next appointed after the effective date of P.L.1999, c.268 shall divide themselves by lot into classes. If there are five or more members, there shall be five classes. If there are fewer than five members, there shall be as many classes as there are members. To the extent possible, there shall be an equal number of members in each class, and each class shall contain no more than one member from each municipality. The term of members composing the first class shall be vacated at the expiration of the fifth year; the term of members composing the second class shall be vacated at the expiration of the fourth year; the term of members composing the third class, if any, shall be vacated at the expiration of the third year; the term of members composing the fourth class, if any, shall be vacated at the expiration of the second year; and the term of members composing the fifth class, if any, shall be vacated at the expiration of the first year. The term of members of each class shall expire on February 1 of their respective year.

On or after January 1 in the year in which expire the terms of such next appointments, the appropriate number of persons shall be appointed as members of the municipal authority by the governing body of each municipality, to serve for terms commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. In the event of a vacancy in the membership of the municipal authority occurring

during an unexpired term of office, a person shall be appointed as a member of the municipal authority to serve for such unexpired term by the governing body which made the original appointment for such unexpired term.

2. This act shall take effect immediately.

Approved November 8, 1999.

CHAPTER 269

AN ACT appropriating $2,563,910 from the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," P.L.1989, c.181, for the purpose of providing grants to local government units for financing the cost of developing watershed stormwater management plans.

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

1. a. There is appropriated from the "Stormwater Management and Combined Sewer Overflow Abatement Fund," created pursuant to section 14 of the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," P.L.1989, c.181, to the Department of Environmental Protection the sum of $2,563,910 for the purpose of providing grants to local government units for financing the cost of developing watershed stormwater management plans, as follows:

Local Government Unit	**County**	**Grant Award**
Cape Atlantic Soil Conservation District	Cape May/ Atlantic	$200,502
Cumberland Soil Conservation District	Cumberland	$333,681
Gloucester Soil Conservation District	Gloucester	$540,755
Camden Soil Conservation District	Camden	$540,755
Burlington Soil Conservation District	Burlington	$540,755
Freehold Soil Conservation District	Monmouth	$407,462

b. Any transfer of any funds or project sponsor listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To obtain the funds appropriated in subsection a. of this section, a local government unit shall submit a partnership proposal to the Department of Environmental Protection that:

(1) describes the method or process by which it will ensure the involvement of interested and affected persons within the watershed management planning area in the development of a watershed-based stormwater management plan, including at a minimum, representatives of State, county and municipal government agencies, farmers, builders and developers and watershed associations;

(2) describes the method by which it will ensure that the watershed-based stormwater management plan is developed, to the greatest extent practicable, in concert with the watershed management plans developed in accordance with the provisions of P.L.1997, c.261 (C.58:29-1 et seq.);

(3) describes the roles and responsibilities of each public, not-for-profit and private entity that will play a material part in the development of the watershed-based stormwater management plan, including the authority to exercise by any entity other than the local government unit, such as a technical advisory group; and

(4) provide a budget and a schedule, including key milestones, for the completion of a watershed-based stormwater management plan, which shall not exceed 24 months.

d. Within 45 days of the effective date of this act, the Department of Environmental Protection, in consultation with the State Soil Conservation Committee shall prepare and make available a template for partnership proposals to be used by local government units in accordance with subsection c. of this section.

e. The Department of Environmental Protection, in consultation with the State Soil Conservation Committee, shall approve a partnership proposal that meets the requirements of subsection c. of this section and section 2 of this act, and constitutes a "project" within the meaning of P.L.1989, c.181, as amended, and upon such approval shall make available the funds appropriated pursuant subsection a. of this section.

2. a. A watershed-based stormwater management plan shall consist of at least the following elements:

(1) a description of the geographic boundaries which shall comprise the area to be included within the watershed-based stormwater management plan;

(2) an assessment, based upon currently available information, of the status and trends in the quality and quantity of specific waterbodies within the watershed-based stormwater management area;

(3) an assessment, based upon currently available information, of the stormwater related water quality and quantity problems or issues requiring attention in the watershed-based stormwater management area, and their relative severity;

(4) an identification, based upon the assessment conducted in accordance with paragraph (3) of this subsection, of the stormwater related water quality or quantity goals and objectives for the watershed-based stormwater management area;

(5) a description of the strategies to be implemented to achieve the stormwater related water quality and quantity goals and objectives identified in accordance with paragraph (4) of this subsection, and a schedule for the development and implementation of each strategy;

(6) a description, for each strategy identified in accordance with paragraph (5) of this subsection, of the specific action or actions to be undertaken to implement the strategy, and the entity responsible for its implementation;

(7) a description, for each strategy identified in accordance with paragraph (5) of this subsection, of the performance measures to be used to monitor and periodically evaluate the progress achieved by the strategy in reducing the contribution to or effect of stormwater on the specific water quality and quantity problems the strategy is designed to address; and

(8) the method by which performance measures for all strategies developed in accordance with paragraph (7) of this subsection will be periodically evaluated to determine whether adjustments in strategies or their relative priority are required to ensure the continued improvement in water quality and quantity.

b. The Department of Environmental Protection, in consultation with the State Soil Conservation Committee, shall provide technical assistance and deep guidance to local government units regarding the development of watershed-based stormwater management plans under this act, not inconsistent with this act.

3. Subject to the approval of the Joint Budget Oversight Committee or its successor, the Commissioner of Environmental Protection may reduce the amount of any grant awarded pursuant to section 1 of this act based upon final allowable project costs.

4. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1989, c.181, as amended by P.L.1997, c.225.

5. This act shall take effect immediately.

Approved November 8, 1999.

CHAPTER 270

AN ACT concerning public school contracts, amending N.J.S.18A:18A-5 and supplementing P.L.1951, c.216 (C.39:12-1 et seq.).

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

1. N.J.S.18A:18A-5 is amended to read as follows:

Exceptions to requirement for advertising.

18A:18A-5. Exceptions to requirement for advertising. Any purchase, contract or agreement of the character described in N.J.S.18A:18A-4 may be made, negotiated or awarded by the board of education by resolution at a public meeting without public advertising for bids and bidding therefor if

a. The subject matter thereof consists of:

(1) Professional services;

(2) Extraordinary unspecifiable services which cannot reasonably be described by written specifications, which exception as to extraordinary unspecifiable services shall be construed narrowly in favor of open competitive bidding where possible and the State Board of Education is authorized to establish rules and regulations limiting its use in accordance with the intention herein expressed; and the board of education shall in each instance state supporting reasons for its action in the resolution awarding the contract for extraordinary unspecifiable services;

(3) The doing of any work by employees of the contracting unit;

(4) The printing of all legal notices; and legal briefs, records and appendices to be used in any legal proceeding in which the contracting party may be a party;

(5) Textbooks, copyrighted materials, kindergarten supplies, and student produced publications and services incidental thereto;

(6) Food services and supplies, including food supplies for home economics classes, when purchased pursuant to rules and regulations of the State board and in accordance with the provisions of N.J.S.18A:18A-6;

(7) 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, in accordance with the tariffs and schedules of charges made, charged and exacted, filed with said board;

(8) The printing of bonds and documents necessary to the issuance and sale thereof by a board of education;

(9) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with such services;

(10) Insurance, including the purchase of insurance coverage and consultant services;

(11) Publishing of legal notices in newspapers as required by law;

(12) The acquisition of artifacts or other items of unique intrinsic, artistic or historic character;

(13) Election expenses, including advertising expenses incidental thereto;

(14) Electronic data processing service obtained from another board of education;

(15) (Deleted by amendment, P.L.1999, c.270).

(16) Performance of work or services or the furnishing of materials, supplies or equipment for the purpose of conserving energy in buildings owned by any local board of education, the entire price of which shall be established as a percentage of the resultant savings in energy costs;

(17) The doing of any work by persons with disabilities employed by a sheltered workshop.

b. 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 or any other state or subdivision thereof.

c. The board of education has advertised for bids pursuant to N.J.S.18A:18A-4 on two occasions and has received no bids in response to its advertisement and, after reasonable inquiry, it is determined that no board, body, officer, agency or authority of the United States, or of the State of New Jersey or of any county or municipality in which the board of education is located is willing and able to perform any work or furnish or hire any materials or supplies in conformity with the specifications of the board of education. Any such contract or agreement entered into pursuant to this subsection c. may be made, negotiated or awarded only upon adoption of a resolution by the affirmative vote of two-thirds of the full membership of the board of education at a meeting thereof authorizing such a contract or agreement. Any amendment or modification of the terms, conditions, restrictions and specifications which were the subject of the competitive bidding pursuant to N.J.S.18A:18A-4 shall be stated in the resolution awarding the contract.

d. The board of education has advertised for bids pursuant to N.J.S.18A:18A-4 on two occasions and has rejected such bids on each occasion because the board of education has determined that they are not reasonable as to price on the basis of cost estimates prepared for the board of education prior to the advertising therefor or have not been independently arrived at in open competition, but no such contract or agreement may be entered into after such rejection of bids, unless:

(1) Notification of the intention to negotiate and a reasonable opportunity to negotiate shall have been given by the board of education to each responsible bidder;

(2) The negotiated price is lower than the lowest rejected bid price of a responsible bidder who bid thereon and is the lowest negotiated price offered by any responsible supplier and is a reasonable price for such work, materials, supplies or services;

(3) Any amendment or modification of the terms, conditions, restrictions and specifications which were the subject of competitive bidding pursuant to N.J.S.18A:18A-4 shall be stated in the resolution awarding the contract; and

(4) The negotiated price is lower than the price of the same or equivalent materials or supplies available from the State, county or municipality in which the board of education is located.

Whenever a board of education shall determine that a bid was not arrived at independently in open competition pursuant to this subsection d. of N.J.S.18A:18A-5, it shall thereupon notify the county prosecutor of the county in which the board of education 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.

e. The board of education has solicited and received at least three quotations on materials, supplies or equipment for which a State contract has been issued pursuant to N.J.S.18A:18A-10, and the lowest responsible quotation is at least 10% less than the price the board would be charged for the identical materials, supplies or equipment, in the same quantities, under the State contract. Any such contract or agreement entered into pursuant to subsection d. or subsection e. may be made, negotiated or awarded only upon adoption of a resolution by the affirmative vote of two-thirds of the full membership of the board of education at a meeting thereof authorizing such a contract or agreement.

C.39:12-2.2 Provision of list of licensed drivers' schools to school districts.

2. The Director of the Division of Motor Vehicles shall, by January 31st of each year, provide to the Department of Education a list of all

drivers' schools licensed by the director pursuant to section 2 of P.L.1951, c.216 (C.39:12-2) and the department shall disseminate the list to all school districts in the State.

3. This act shall take effect immediately.

Approved November 10, 1999.

CHAPTER 271

AN ACT appropriating $615,250 from the Jobs, Education and Competitiveness Fund created under 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 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 $615,250 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 Independent Institutions		
Construction of Library at Bloomfield College	$5,464,000	$364,000
Construction of Main Communication Room in Henderson Hall at the College of Saint Elizabeth	$61,615	$50,250

Construction of Library and Student Lounge at Georgian Court College	$5,194,889	$64,000
Renovation of the Frick Chemical Laboratories at Princeton University	$3,327,000	$73,000
Construction of Freshman Design Laboratory at Stevens Institute of Technology	$316,000	$64,000
TOTAL		**$615,250**

2. This act shall take effect immediately.

Approved November 16, 1999.

CHAPTER 272

AN ACT concerning mortgages and amending and supplementing P.L.1975, c.137.

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

1. Section 1 of P.L.1975, c.137 (C.46:18-11.2) is amended to read as follows:

C.46:18-11.2 Cancellation of mortgage after satisfaction.

1. a. When any mortgage registered or recorded pursuant to R.S.46:17-1 et seq. shall be redeemed, paid and satisfied, a mortgagee, other than a bank, savings bank, savings and loan association, credit union or other corporation engaged in the business of making or purchasing mortgage loans, or his agents or assigns shall within 10 days notify the mortgagor that he has the right to demand the mortgagee to cancel the mortgage of record upon payment by the mortgagor of the fee required by the county to effect the cancellation and the mortgagee shall within 30 days of the receipt by the mortgagee of the required fee from the mortgagor:

(1) apply to the county recording officer to have the mortgage canceled of record; and

(2) send to the mortgagor or mortgagor's agent at the same time the mortgage is sent to the county recording officer for cancellation of record

a copy of the letter of transmittal which the mortgagee sent to the county recording officer requesting the cancellation of the mortgage of record.

b. (1) When any mortgage registered or recorded pursuant to R.S.46:17-1 et seq. shall be redeemed, paid and satisfied and the mortgagee is a bank, savings bank, savings and loan association, credit union or other corporation in the business of making or purchasing mortgage loans, that mortgagee, its agents or assigns shall:

(a) cause the mortgage to be submitted to the county recording officer for cancellation of record within 30 days of receipt of all fees which are required to be paid by the mortgagor pursuant to this subsection; and

(b) send to the mortgagor or mortgagor's agent at the same time the mortgage is sent to the county recording officer for cancellation of record a copy of the letter of transmittal which the mortgagee sent to the county recording officer requesting the cancellation of the mortgage of record.

(2) The mortgagee shall have the right to receive from the mortgagor the amount of the fee charged by the county recording officer to cancel the mortgage plus an additional service fee from the mortgagor, which service fee shall not exceed $25 or such higher amount which the Commissioner of Banking and Insurance may approve by regulation, provided the mortgagor has received notice of the fees required by the mortgagee. The mortgagee may collect the service fee at the time of the mortgage transaction or at the time the mortgage is redeemed, paid and satisfied. The fee charged by the county recording officer to cancel the mortgage of record shall be collectible at the time the mortgage is redeemed, paid and satisfied.

c. If the final payment is made in cash, by certified check or cashier's check, the mortgage shall be deemed paid, satisfied and redeemed upon receipt of the cash, certified check or cashier's check by the mortgagee, his agents or assigns.

2. Section 2 of P.L.1975, c.137 (C.46:18-11.3) is amended to read as follows:

C.46:18-11.3 Penalty.

2. a. (1) If the mortgagee, his agent or assigns fails to comply with the applicable provisions of subsection a. or b. of section 1 of P.L.1975, c.137 (C.46:18-11.2), the mortgagor or the mortgagor's agent may serve the mortgagee or his assigns with written notice of the noncompliance, which notice shall identify the mortgage and the date and means of its redemption, payment and satisfaction. If the mortgagee has not complied within 15 business days after receipt of the written notice from the mortgagor or mortgagor's agent pursuant to this paragraph (1), the mortgagee or his assigns shall be subject to a fine of $50 per day for each

day after the 15-day period until compliance, except that the total fine imposed pursuant to this paragraph (1) shall not exceed $1,000.

(2) If the mortgagee, his agent or assigns fails to comply with the applicable provisions of section 1 of P.L.1975, c.137 (C.46:18-11.2), the purchaser or the purchaser's agent may serve the mortgagee or his assigns with written notice of the noncompliance, which notice shall identify the mortgage and the date and means of its redemption, payment and satisfaction. If the mortgagee has not complied within 15 business days after receipt of the written notice from the purchaser or purchaser's agent pursuant to this paragraph (2), the mortgagee or his assigns shall be subject to a fine of $50 per day for each day after the 15-day period until compliance, except that the total fine imposed pursuant to this paragraph (2) shall not exceed $1,000.

b. Of each fine collected pursuant to subsection a. of this section, 100% shall be payable to the private citizen instituting the action. The fine may be collected by summary proceedings instituted by a private citizen or the Attorney General in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

c. (1) If a mortgagee, his agent or assigns has not applied to the county recording officer to cancel the mortgage of record pursuant to subsection a. or b. of section 1 of P.L.1975, c.137 (C.46:18-11.2), within the 15 business day period provided by paragraph (1) of subsection a. of this section, the mortgagee shall be liable to the mortgagor for the greater of the mortgagor's actual damages or the sum of $1,000, less any fines recovered by the mortgagor pursuant to paragraph (1) of subsection a. and paragraph (1) of subsection b. of this section. In any successful action to recover damages pursuant to this paragraph (1), the mortgagee shall reimburse the mortgagor for the costs of the action including the mortgagor's reasonable attorneys' fees.

(2) If a mortgagee, his agent or assigns has not applied to the county recording officer to cancel the mortgage of record pursuant to subsection a. or b. of section 1 of P.L.1975, c.137 (C.46:18-11.2), within the 15 business day period provided by paragraph (2) of subsection a. of this section, the mortgagee shall be liable to the purchaser for the greater of the purchaser's actual damages or the sum of $1,000, less any fines recovered by the purchaser pursuant to paragraph (2) of subsection a. and paragraph (2) of subsection b. of this section. In any successful action to recover damages pursuant to this paragraph (2), the mortgagee shall reimburse the purchaser for the costs of the action including the purchaser's reasonable attorneys' fees.

C.46:18-11.8 Regulations.

3. The Commissioner of Banking and Insurance may promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968,

c.410 (C.52:14B-1 et seq.), necessary to effectuate the provisions of P.L.1975, c.137 (C.46:18-11.2 et seq.).

4. This act shall take effect on the 30th day following enactment.

Approved November 24, 1999.

CHAPTER 273

AN ACT providing an exemption for sales and repair of ferryboats from the sales and use tax, amending P.L.1980, c.105.

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

1. Section 24 of P.L.1980, c.105 (C.54:32B-8.12) is amended to read as follows:

C.54:32B-8.12 Tax exemption for marine terminal services, certain vessels.

24. Receipts from sales or charges for repairs, alterations or conversion of commercial ships or any component thereof including cargo containers of any type whatsoever, barges and other vessels of 50-ton burden or over, primarily engaged in interstate or foreign commerce, machinery, apparatus and equipment for use at a marine terminal facility in loading, unloading and handling cargo carried by those commercial ships, barges and other vessels, and storage and other services rendered with respect to such loading, unloading and handling cargo at a marine terminal facility, ferryboats that are primarily engaged in the transportation of passengers during peak hours of commutation, or other vessels, regardless of tonnage, primarily engaged in commercial fishing or shell fishing, including equipment necessary for harvesting fish, shellfish and other crustaceans and aquatic organisms, or other vessels primarily engaged in commercial party boat (head boat) sport fishing and subject to annual inspection by the United States Coast Guard, and of governmentally-owned ships, barges and other vessels and property used by or purchased for the use of such vessels, machinery, apparatus and equipment for fuel, provisions, supplies, maintenance and repairs (other than articles purchased for the original equipping of a new ship) are exempt from the tax imposed under the Sales and Use Tax Act.

2. This act shall take effect immediately

Approved November 24, 1999.

CHAPTER 274

AN ACT concerning the enforcement of civil penalties in certain cases, supplementing Title 2A of the New Jersey Statutes and repealing N.J.S.2A:58-1 through N.J.S.2A:58-9.

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

C.2A:58-10 Recording of final administrative order on judgment docket.

1. a. If an administrative agency of the State has assessed a fixed amount of money as a civil penalty or award after the person against whom the penalty or award was ordered was afforded an opportunity for a hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), at the request of the agency the Clerk of the Superior Court or the Clerk of the Superior Court, Law Division, Special Civil Part shall record the final order assessing the penalty or award on the judgment docket of the court.

b. The final order of the agency recorded on the judgment docket of the court thereafter shall have the same effect as a judgment of the court.

C.2A:58-11 Action to impose penalty, proceedings.

2. a. If a statute or ordinance allows a court action to impose a civil penalty or a penalty has been imposed that may not be enforced pursuant to section 1 of this act, an action to impose a penalty shall be brought as provided by this section.

b. The action may be brought in the Superior Court. If the statute that establishes the civil penalty provides that the action may be brought in a municipal court, the action may be brought in any municipal court that has territorial jurisdiction over the action or in the Superior Court.

c. The court shall decide the case in a summary manner without a jury unless otherwise provided in the statute imposing the penalty. The court shall hear testimony on any factual issues, and if it finds that the violation occurred, shall impose a penalty as provided by the statute. The defendant shall not be precluded from contesting the amount of the penalty.

d. Unless precluded by the statute imposing the penalty, informal disposition may be made of any case by stipulation, agreed settlement, or consent order. Payment of a penalty pursuant to an informal disposition shall be considered a prior violation for the purpose of determining subsequent offender status.

e. An action in Superior Court to impose a civil penalty may be joined with an action brought to restrain related violations.

f. If a judgment for a civil penalty is rendered against a defendant, payment shall be made to the court and shall be remitted to the State Treasurer of New Jersey, unless other disposition is provided for in the statute imposing the penalty.

C.2A:58-12 "Penalty Enforcement Law of 1999."

3. This chapter shall be known as the "Penalty Enforcement Law of 1999" References to the "penalty enforcement law" which this law replaces shall be treated as references to this law.

Repealer.

4. N.J.S.2A:58-1 through N.J.S.2A:58-9 are repealed.

5. This act shall take effect 30 days following enactment.

Approved November 24, 1999.

CHAPTER 275

AN ACT concerning the filing of certain life insurance policy forms and amending P.L.1995, c.73.

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

1. Section 17 of P.L.1995, c.73 (C.17B:25-18.3) is amended to read as follows:

C.17B:25-18.3 Policies, contract forms; certification memorandums; exceptions.

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, except that any life insurance policy or contract form that is the same as or substantially similar to a life

insurance policy or contract form that has been approved for use in at least 42 other states in which the combined population equals or exceeds two-thirds of the total United States population, except that the population of the State of New Jersey shall not be included in the total United States population, as determined by the most current decennial census shall be deemed to comply with the law and regulation applicable to that type or kind of form, except for the conditions provided therefor in subsection b. of this section. 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 and, notwithstanding any other provision of law or regulation to the contrary, any life insurance policy or contract form that is the same as or substantially similar to a life insurance policy or contract form that has been approved for use in at least 42 other states in which the combined population equals or exceeds two-thirds of the total United States population, except that the population of the State of New Jersey shall not be included in the total United States population, as determined by the most current decennial census unless disapproved by the commissioner within 60 days of filing with the commissioner. Such disapproval shall be in writing and shall set forth the substantive, not arbitrary, reasons for the disapproval.

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. The acknowledgment shall be sent by first class mail by the commissioner to the insurer within 60 days of receipt by the commissioner of the form and the certification memorandum which conforms to the requirements of this section.

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.

2. This act shall take effect immediately and shall apply to life insurance policy and contract forms filed on or after that date.

Approved November 24, 1999.

CHAPTER 276

AN ACT providing for informational sessions for veterans and supplementing P.L.1974, c.80 (C.34:1B-1 et seq.).

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

C.34:1B-175 Findings, determinations relative to informational sessions for veterans.

1. The Legislature finds and determines that:

a. In order to encourage and assist veterans to avail themselves of the State's business assistance programs, it is important to provide for the establishment of informational sessions to make veterans aware of such resources.

b. It is the purpose of this act to provide for the establishment of informational sessions for veterans in this State to inform them of the authority's business assistance programs and to facilitate their application for such programs.

C.34:1B-176 Development of informational sessions by EDA.

2. a. The New Jersey Economic Development Authority (hereinafter referred to as "the authority"), established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4), shall, in consultation with the Adjutant General of the Department of Military and Veterans' Affairs (hereinafter referred to as "the department"), develop informational sessions to inform veterans of the availability of the authority's assistance programs.

b. The informational sessions shall be conducted by the authority through the network of veterans' service offices, operated by the department, in the form of lectures, demonstrations or discussions to familiarize veterans with the types of programs administered by the authority and to provide assistance to veterans with the application process required for the programs. The sessions shall also include such printed or otherwise duplicated materials as the authority shall consider necessary or expedient to render the sessions effective.

c. The number of sessions and the content of the sessions shall be determined by the authority, in consultation with the department, so as to most properly effectuate the purposes of this act.

C.34:1B-177 Preparation of report to Governor, Legislature.

3. The authority shall prepare a report within two years following the effective date of this act, and not less than every third year thereafter, which shall include, but not be limited to: a description of the demand for the sessions from veterans in this State, the efforts made by the authority to promote the sessions; an assessment of the effectiveness of the informational sessions in meeting the goals of this act; and any recommendations for legislation to improve the effectiveness of the sessions. The authority shall submit its reports to the Governor and the Legislature.

4. This act shall take effect on the 120th day following the date of enactment.

Approved November 24, 1999.

CHAPTER 277

AN ACT concerning the offense of enticing or luring a child and amending P.L.1993, c.291.

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

1. Section 1 of P.L.1993, c.291 (C.2C:13-6) is amended to read as follows:

C.2C:13-6 Luring, enticing child into motor vehicle, structure, or isolated area, attempts; crime of third degree; subsequent offense, mandatory imprisonment.

1. A person commits a crime of the third degree if he attempts to lure or entice a child into a motor vehicle, structure or isolated area with a purpose to commit a criminal offense with or against the child.

"Child" as used in this act means a person less than 18 years old.

"Structure" as used in this act means any building, room, ship, vessel or airplane and also means any place adapted for overnight accommodation of persons, or for carrying on business therein, whether or not a person is actually present.

Nothing herein shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for attempted kidnapping under the provisions of N.J.S.2C:13-1.

A person convicted of a second or subsequent offense under this section shall be sentenced to a term of imprisonment. Notwithstanding the provisions of paragraph (3) of subsection a. of N.J.S.2C:43-6, the term of imprisonment shall include, unless the person is sentenced pursuant to the provisions of N.J.S. 2C:43-7, a mandatory minimum term of one-third to one-half of the sentence imposed, or two years, whichever is greater, during which time the defendant shall not be eligible for parole. If the person is sentenced pursuant to N.J.S.2C:43-7, the court shall impose a minimum term of one-third to one-half of the sentence imposed, or three years, whichever is greater. The court may not suspend or make any other non-custodial disposition of any person sentenced as a second or subsequent offender pursuant to this section. For the purposes of this section an offense is considered a second or subsequent offense if the actor has at any time been convicted pursuant to this section, or under any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to this section.

2. This act shall take effect immediately.

Approved December 3, 1999.

CHAPTER 278

AN ACT establishing a continuing education program for certified tax assessors and amending and supplementing P.L.1967, c.44 (C.54:1-35.25 et seq.).

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

C.54:1-35.25b Continuing education requirements for certified tax assessors.

1. a. All tax assessor certificates issued prior to the effective date of P.L.1999, c.278 (C.54:1-35.25b et al.) shall expire five years following that effective date and shall be renewed in accordance with the procedure established in this section. All tax assessor certificates issued on or after the effective date of P.L.1999, c.278 (C.54:1-35.25b et al.) shall expire five years after the issuance of the certificate and shall be renewed in accordance with the procedure established in this section.

(1) All tax assessor certificates shall be renewed upon application, payment of the required renewal fee, and verification that the applicant has met continuing education requirements, as set forth in paragraph (2) of this subsection. After the initial expiration of any tax assessor certificates following the effective date of P.L.1999, c.278 (C.54:1-35.25b et al.), each renewal period shall thereafter be for a period of three years. The renewal date shall be 30 days prior to the expiration date of the tax assessor certificate.

(2) Prior to the first renewal date of a tax assessor certificate pursuant to P.L.1999, c.278 (C.54:1-35.25b et al.) every applicant for renewal shall, on a form prescribed by the Director of the Division of Taxation, furnish proof of having earned a total of at least 50 continuing education credit hours over the prior five-year period. Thereafter, prior to each succeeding renewal date of a tax assessor certificate, every applicant for renewal shall, on a form prescribed by the Director of the Division of Taxation, furnish proof of having earned a total of at least 30 continuing education credit hours over the prior three-year period. For the purposes of this section, one continuing education credit hour means 50 minutes of classroom or lecture time. After verifying that the applicant has fulfilled the continuing education requirement and after receiving a fee of not less than $50 paid by the applicant to the order of the Treasurer of the State of New Jersey, the Director of the Division of Taxation shall renew the tax assessor certificate. The Director of the Division of Taxation shall determine, by regulation, the circumstances under which an extension of time to complete the requirements for continuing education may be granted by the director.

b. There is established within the Division of Taxation in the Department of the Treasury the Tax Assessor Continuing Education Eligibility Board. The board shall consist of six members and be comprised as follows: the Director of the Division of Taxation or his designee, the President of the Association of Municipal Assessors, and the President of the New Jersey Association of County Tax Board Commissioners and County Tax Administrators shall be permanent members. The Director of the Division of Taxation and the President of the Association of Municipal Assessors shall each appoint an additional member who shall serve for a term of two years. The Director of Government Services at Rutgers University shall serve ex officio. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided by the original appointment. The first meeting of the board shall be held at the call of the Director of the Division of Taxation, and thereafter the board shall meet annually and shall hold at least one additional meeting within each 12-month period. The board shall establish the curriculum areas and the number of hours in each curriculum area that an assessor shall complete in order to renew certification.

c. When the holder of a tax assessor 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 certificate, then application may be made in the same manner as a renewal, but with an additional late renewal fee of $50.

d. The Director of the Division of Taxation, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt such regulations as are necessary to effectuate the provisions of this section.

2. Section 7 of P.L.1967, c.44 (C.54:1-35.31) is amended to read as follows:

C.54:1-35.31 Reappointment or re-election; term; removal.

7. Notwithstanding the provisions of any other law to the contrary, every person

(1) who, upon reappointment or re-election subsequent to having received a tax assessor certificate and having served as tax assessor or performed the duties of assessor for not less than four consecutive years immediately prior to such reappointment or re-election, or

(2) who, on or before June 30, 1969, shall have received a tax assessor certificate while actually in office as assessor or performing the duties of an assessor, and who, on or before June 30, 1969, shall have

served as assessor or performed the duties of assessor for not less than four consecutive years,

shall hold his position during good behavior and efficiency and compliance with requirements for continuing education pursuant to section 1 of P.L.1999, c.278 (C.54:1-35.25b), notwithstanding that such reappointment or re-election was for a fixed term of years, and he shall not be removed therefrom for political reasons but only for good cause shown and after a proper hearing before the director or his designee after due notice. A person who was formerly an assessor, a secretary of a board of assessors or a member of a board of assessors who shall have become by virtue of this amendatory and supplementary act, P.L.1981, c.393, a deputy tax assessor or an assessor, and who has not met the requirements of (1) or (2) above shall not be removed during his term in office for political reasons, but only for good cause shown and after a proper hearing before the director or his designee after due notice. In municipalities operating under forms of government where the assessor served at the pleasure of the appointing authority for an unlimited term of office, receipt of a tax assessor certificate and continuance in service as assessor after completion of four consecutive years of service shall be deemed the equivalent of reappointment. The provisions of this section shall apply to every person actually in office as assessor or performing the duties of an assessor whether in the classified service under Title 11A, Civil Service, or in a municipality which has not adopted Title 11A, Civil Service. For the purpose of this section, "good cause" shall include the failure of a tax assessor to meet the continuing education requirement required by section 1 of P.L.1999, c.278 (C.54:1-35.25b), and such failure shall render a tax assessor ineligible for service as a tax assessor.

3. Section 5 of P.L.1967, c.44 (C.54:1-35.29) is amended to read as follows:

C.54:1-35.29 Revocation, suspension of tax assessor certificate.

5. Any tax assessor certificate may be revoked or suspended by the director for dishonest practices, or willful or intentional failure, neglect or refusal to comply with the constitution and laws relating to the assessment and collection of taxes, or other good cause. Failure to comply with requirements for continuing education pursuant to section 1 of P.L.1999, c.278 (C.54:1-35.25b) shall cause the automatic revocation, without a hearing, of the tax assessor certificate. Otherwise, no certificate shall be revoked or suspended except upon a proper hearing before the director or his designee after due notice. If the tax assessor certificate of a person serving as assessor shall be revoked, such person shall be removed from office by the director, his office shall be declared vacant, and such person

shall not be eligible to hold that office for a period of five years from the date of his removal.

4. This act shall take effect on the first day of the seventh month following enactment.

Approved December 8, 1999.

CHAPTER 279

AN ACT establishing a mentoring program for at-risk public school students, supplementing chapter 54 of Title 18A of the New Jersey Statutes and making an appropriation.

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

C.34:15F-1 Findings, declarations relative to mentoring programs.

1. The Legislature finds and declares that there are a significant number of students in New Jersey who are economically and socially disadvantaged and who are alienated from the community and school. These students are at-risk of substance abuse, teen pregnancy or other behavioral problems that inhibit academic achievement and successful integration into society.

The Legislature further finds that mentoring programs that develop relationships between professionally trained and committed adult volunteers and at-risk students, for the purpose of providing support, counseling, reinforcement and constructive examples, create an environment in which students can achieve their full academic potential and which fosters their future success as productive citizens of the State.

C.34:15F-2 Definitions relative to mentoring programs.

2. As used in this act:

"Abbott district" means one of the 28 urban districts in district factor groups A and B specifically identified in the appendix to Raymond Abbott, et al. v. Fred G. Burke, et al. decided by the New Jersey Supreme Court on June 5, 1990 (119 N.J. 287, 394) or any other district classified as a special needs district under the "Quality Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.);

"Commissioner" means the Commissioner of Labor;

"Department" means the Department of Labor;

"Educational foundation" means a nonprofit organization that may be created by or on behalf of a board of education or a nonprofit organization that has experience in the establishment of mentoring programs or the provision of services to at-risk youth;

"Joint committee" means the Joint Committee on Mentoring;

"Mentor" means a volunteer from the community who agrees to participate in a mentoring program; and

"Program" means the At-Risk Youth Mentoring Program established by this act.

C.34:15F-3 At-Risk Youth Mentoring Program.

3. There is established in the Department of Labor an At-Risk Youth Mentoring Program to be administered by the Commissioner of Labor pursuant to the provisions of this act. The commissioner shall consult with the Department of Human Services, the Department of Education and other appropriate State agencies regarding the development, operation and administration of the program. The commissioner shall also consult with the Community Agencies Corporation of New Jersey and other public and private nonprofit organizations providing youth mentoring services. The program shall provide for the training of volunteer mentors through local collaborative partnerships between the school district, the educational foundation and other community based organizations and for the assignment of mentors to at-risk students enrolled within a participating school district. The program shall also provide for collaboration with public and private organizations that provide comprehensive health, employment, and social services to youth. The purpose of the program shall be to enable at-risk students to develop a relationship with a caring and responsible adult to provide the personal and emotional support necessary for school success and future successful functioning in society.

C.34:15F-4 "At-Risk Youth Mentoring Grant Fund."

4. There is established within the Department of Labor a separate grant fund to be known as the "At-Risk Youth Mentoring Grant Fund." An educational foundation shall be eligible to apply for a grant of a minimum of $25,000 up to a maximum of $50,000, depending on the size of the program, in order to pay the expenses associated with the operation and maintenance of a mentoring program. During the first year of implementation of the program, only educational foundations operating in Abbott districts shall be eligible to receive a grant.

C.34:15F-5 Application for grant.

5. An educational foundation shall submit an application for a grant to the commissioner for his review. The application shall provide the

following information: the name of the educational foundation; the name of the school district that created or authorized the creation of the foundation if applicable; the name of the coordinating teacher; a description of the activities of the program; the number and grade level of the students who will participate in the program; the process of student referral to the program; the selection criteria for student participants, which shall include the identification of students who are not successfully meeting the core curriculum content standards and district standards of behavior; the procedure for the identification and selection of adult mentors; an implementation schedule; a plan for supervision of the program; a training plan; a plan for quality assurance and evaluation; and the process which will be utilized to match students to mentors. An educational foundation shall also submit with its application a letter of commitment defining agreements to provide mentoring services for at-risk public school students in its respective school district. Preference may be given to applicants that have prior experience in the establishment and oversight of mentoring programs and the provision of services to at-risk youth.

C.34:15F-6 Participation of mentor; student schedules.

6. a. Under the program each mentor shall commit to participate in the program for a minimum of one calendar year. Each student shall meet with a mentor one day per week for at least one hour unless the district determines that some other schedule would be of greater benefit to the student. Any meeting between the mentor and the student may also occur off school property or before or after school hours for the purpose of engaging in enrichment activities.

b. A program shall not serve less than 25 students nor exceed 50 students, unless exceeding such a limit is approved by the commissioner.

C.34:15F-7 Criminal history record check for mentor.

7. Notwithstanding any provision of P.L.1986, c.116 (C.18A:6-7.1 et seq.) to the contrary, a mentor shall undergo a criminal history record check in accordance with the procedures established in that act, except that the educational foundation shall bear the cost of the check, including all costs for administering and providing the check.

C.34:15F-8 Joint Committee on Mentoring.

8. There is created a joint legislative committee to be known as the Joint Committee on Mentoring. The joint committee shall be comprised of 12 members, six members from each House. The President of the Senate and the Minority Leader of the Senate shall each appoint three members, and the Speaker of the General Assembly and the Minority Leader of the General Assembly shall each appoint three members.

C.34:15F-9 Annual report on progress of mentoring program; report to Governor, Legislature after three years.

9. a. An educational foundation shall submit an annual report on the progress of its mentoring program to the department and to the joint committee on or before May 1 of each year. The report shall include information concerning the number of mentors and students participating in the program, the approximate number of hours each mentor spent with the students over the course of the preceding year, the utilization of grant funds, and a general description of activities conducted pursuant to the program. The department may establish additional reporting requirements as necessary.

b. On or before January 1 of the third year of the program, the commissioner shall report to the Governor, the joint committee, the President of the Senate, the Speaker of the General Assembly, and the Minority Leaders of the Senate and the General Assembly on the effectiveness and implementation of the program. The report shall include a recommendation on whether the program should be continued. If the Legislature does not act on the recommendation by the adoption of a concurrent resolution within 60 days of the commissioner's submission of the report, then the commissioner's recommendation regarding continuation of the program shall take effect following the expiration of the third year of the program.

C.34:15F-10 Application for supplementation of grant.

10. A school district may apply to the Commissioner of Education for approval to use Demonstrably Effective Program Aid provided pursuant to section 18 of P.L.1996, c.138 (C.18A:7F-18) to supplement a grant provided pursuant to the provisions of this act. An application may be made and approved only when the costs of a mentoring program exceed the amount of a grant and when the district, in collaboration with the educational foundation, has made every reasonable effort to obtain funding from other sources. A district may amend its plans for the use of Demonstrably Effective Program Aid to include a mentoring program. The Commissioner of Education may require that Abbott district mentoring programs receiving Demonstrably Effective Program Aid meet applicable whole school reform requirements.

C.34:15F-11 Rules, regulations.

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

12. The sum of $750,000 is transferred from the Work First New Jersey - Work Activities account in the Department of Human Services to the Workforce Development Partnership Fund in the Department of Labor. There is appropriated from the Workforce Development Partnership Fund to the At-Risk Youth Mentoring Grant Fund established in the Department of Labor $750,000 to effectuate the purposes of this act.

13. In lieu of funding the At-Risk Youth Mentoring Grant Fund from the Department of Human Services' Work First New Jersey Activities account, federal funds available to the Department of Labor may be utilized for this program

14. This act shall take effect immediately.

Approved December 17, 1999.

CHAPTER 280

AN ACT concerning certain public contracts and revising 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:18A-18 is amended to read as follows:

Preparation of separate plans, specifications for certain construction work, materials; bidding; awarding of contracts.

18A:18A-18. a. In the preparation of plans and specifications for the construction, alteration or repair of any building by a board of education, when the entire cost of the work and materials will exceed the amount set forth in, or calculated by the Governor pursuant to, N.J.S. 18A:18A-3 separate plans and specifications may be prepared for each of the following, and all work and materials kindred thereto to be performed or furnished in connection therewith:

(1) The plumbing and gas fitting work;

(2) The heating and ventilating systems and equipment;

(3) The electrical work, including any electrical power plant;

(4) The structural steel and ornamental iron work; and

(5) General construction, which shall include all other work and materials required for the completion of the project.

b. The board of education or its contracting agent shall advertise for and receive, in the manner provided by law, (1) separate bids for each of

the branches of work specified in subsection a. of this section, or (2) bids for all the work and materials required to complete the building to be included in a single overall contract, or (3) both. In the case of a single bid under paragraph (2) or (3) of this subsection, there will be set forth in the bid the name or names of all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting, and all kindred work, and of the heating and ventilating systems and equipment, and electrical work, structural steel and ornamental iron work, each of which subcontractors shall be qualified in accordance with this chapter.

c. Contracts shall be awarded to the lowest responsible bidder in each branch of work in the case of separate bids and to the single lowest responsible bidder in the case of single bids. In the event that a contract is advertised in accordance with paragraph (3) of subsection b. of this section, the contract shall be awarded in the following manner: If the sum total of the amounts bid by the lowest responsible bidder for each branch is less than the amount bid by the lowest responsible bidder for all the work and materials, the board of education shall award separate contracts for each of such branches to the lowest responsible bidder therefor, but if the sum total of the amount bid by the lowest responsible bidder for each branch is not less than the amount bid by the lowest responsible bidder for all the work and materials, the board of education shall award a single overall contract to the lowest responsible bidder for all of such work and materials. In every case in which a contract is awarded under paragraph (2) or (3) of subsection b. of this section, all payments required to be made under such contract for work and materials supplied by a subcontractor may, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor. Payments to a subcontractor for work and materials supplied in connection with the contract shall be made within 10 calendar days of the receipt of payment for that work or the delivery of those materials by the subcontractor in accordance with the provisions of P.L.1991, c.133 (C.2A:30A-1 et seq.), and any regulations promulgated thereunder.

2. Section 11 of P.L.1981, c.120 (C.52:18A-78.11)is amended to read as follows:

C.52:18A-78.11 Adoption of standing rules, procedures for contracts by authority.

11. a. The authority, in the exercise of its authority to make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, shall adopt standing rules and procedures providing that no contract on behalf of the authority shall be entered into for the doing of any work, or for the hiring of equipment or

vehicles, where the sum to be expended exceeds the sum of $7,500.00 unless the authority shall first publicly advertise for bids therefor, and shall award the contract to the lowest responsible bidder. Advertising shall not be required where the contract to be entered into is one for the furnishing or performing of services of a professional nature or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities and tariffs and schedules of the charges made, charged, or exacted by the public utility for any products to be supplied or services to be rendered are filed with the board. This section shall not prevent the authority from having any work done by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires, or the exigency of the accomplishment of the projects will not allow advertisement. In that case, the board of directors of the authority shall, by resolution, declare the exigency or emergency to exist, and set forth in the resolution the nature thereof and the approximate amount to be so expended.

b. (1) In undertaking any project where the cost of construction, reconstruction, rehabilitation or improvement will exceed $25,000.00, the authority shall be subject to the rules and regulations of the Division of Building and Construction concerning procedural requirements for the making, negotiating or awarding of purchases, contracts or agreements; and the authority, with the assistance of the division, may prepare, or cause to be prepared, separate plans and specifications for:

(a) The plumbing and gas fitting and all work and materials kindred thereto,

(b) The steam and hot water heating and ventilating apparatus, steam power plants and all work and materials kindred thereto,

(c) The electrical work,

(d) Structural steel and ornamental iron work and materials, and

(e) General construction, which shall include all other work and materials required to complete the building.

(2) The authority shall receive (a) separate bids for each of the branches of work specified in paragraph (1) of this subsection; or (b) bids for all the work and materials required to complete the project to be included in a single overall contract, in which case there shall be set forth in the bid the name or names of all subcontractors to whom the bidder will subcontract for the furnishing of any of the work and materials specified in branches (a) through (d) in paragraph (1) of this subsection; or (c) both.

(3) Contracts shall be awarded to the lowest responsible bidder in each branch of work in the case of separate bids and to the single lowest responsible bidder in the case of single bids. In the event that a contract

is advertised in accordance with subparagraph (c) of paragraph (2) of this subsection, the contract shall be awarded in the following manner: If the sum total of the amounts bid by the lowest responsible bidder for each branch is less than the amount bid by the lowest responsible bidder for all of the work and materials, the authority shall award separate contracts for each of the branches to the lowest responsible bidder therefor, but if the sum total of the amount bid by the lowest responsible bidder for each branch is not less than the amount bid by the lowest responsible bidder for all the work and materials, the authority shall award a single over-all contract to the lowest responsible bidder for all of the work and materials.

Whenever a contract is awarded under subparagraph (b) or (c) of paragraph (2) of this subsection, all payments required to be made by the authority under the contract for work and materials supplied by a subcontractor may, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor. Payments to a subcontractor for work and materials supplied in connection with the contract shall be made within 10 calendar days of the receipt of payment for that work or the delivery of those materials by the subcontractor in accordance with the provisions of P.L.1991, c.133 (C.2A:30A-1 et seq.), and any regulations promulgated thereunder.

(4) All construction, reconstruction, rehabilitation or improvement undertaken by the authority pursuant to this act shall be subject during such undertaking to the supervision of the Division of Building and Construction to the same extent as any project undertaken by the State.

c. With respect to the lease or sale of any project or portion thereof to any person, firm, partnership or corporation, for subsequent lease to or purchase by a State agency, no agreement for that lease or sale shall be entered into, unless the authority shall first publicly advertise for bids therefor. The authority shall employ a person, firm, partnership or corporation, independent from any other aspect or component of the financing of or any ownership or leasehold interest in that project, to assist in the bid procedure and evaluation.

3. R.S.52:32-2 is amended to read as follows:

Separate plans, specifications for alteration, repair of public buildings.

52:32-2. a. When the entire cost of the erection, construction, alteration or repair by the State of any public buildings in this State will exceed $2,000.00, the person preparing the plans and specifications for such work may prepare separate plans and specifications for: (1) the plumbing and gas fitting and all work kindred thereto; (2) the steam and hot water heating and ventilating apparatus, steam power plants and all work kindred thereto; (3) electrical work; (4) structural steel and

ornamental iron work; and (5) general construction, which shall include all other work and materials required for the completion of the project.

b. The board, body or person authorized by law to award contracts for such work shall advertise for, in the manner provided by law, and receive (1) separate bids for each of the branches of work specified in subsection a. of this section; or (2) bids for all the work and materials required to complete the project to be included in a single over-all contract, in which case there shall be set forth in the bid the name or names of all subcontractors to whom the bidder will subcontract for the furnishing of any of the work and materials specified in branches (1) through (4) in subsection a. of this section, each of which subcontractors shall be qualified in accordance with chapter 35 of Title 52 of the Revised Statutes; or (3) both.

c. Contracts shall be awarded to the lowest responsible bidder in each branch of work in the case of separate bids and to the single lowest responsible bidder in the case of single bids. In the event that a contract is advertised in accordance with paragraph (3) of subsection b. of this section, the contract shall be awarded in the following manner: If the sum total of the amounts bid by the lowest responsible bidder for each such branch is less than the amount bid by the lowest responsible bidder for all of the work and materials, the board, body or person authorized to award contracts for such work shall award separate contracts for each of such branches to the lowest responsible bidder therefor, but if the sum total of the amount bid by the lowest responsible bidder for each such branch is not less than the amount bid by the lowest responsible bidder for all the work and materials, the board, body or person authorized to award the contract shall award a single over-all contract to the lowest responsible bidder for all of such work and materials.

In every case in which a contract is awarded under paragraph (2) or (3) of subsection b. of this section, all payments required to be made by the board, body or person awarding the contract under such contract for work and materials supplied by a subcontractor may, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor. Payments to a subcontractor for work and materials supplied in connection with the contract shall be made within 10 calendar days of the receipt of payment for that work or the delivery of those materials by the subcontractor in accordance with the provisions of P.L.1991, c.133 (C.2A:30A-1 et seq.), and any regulations promulgated thereunder.

4. This act shall take effect immediately.

Approved December 20, 1999.

CHAPTER 281

AN ACT concerning the use of certain firearms sighting systems 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

(f) Any justice of the Supreme Court, judge of the Superior Court, judge of the Tax Court or municipal judge while clearly identifiable as being engaged in the performance of judicial duties or because of his status as a member of the judiciary; 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;

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

(8) Causes bodily injury by knowingly or purposely starting a fire or causing an explosion in violation of N.J.S.2C:17-1 which results in bodily injury to any emergency services personnel involved in fire suppression activities, rendering emergency medical services resulting from the fire or explosion or rescue operations, or rendering any necessary assistance at the scene of the fire or explosion, including any bodily injury sustained while responding to the scene of a reported fire or explosion. For purposes of this subsection, "emergency services personnel" shall include, but not be limited to, any paid or volunteer fireman, any person engaged in emergency first-aid or medical services and any law enforcement officer. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this paragraph upon proof of a violation of N.J.S.2C:17-1 which resulted in bodily injury to any emergency services personnel;

(9) Knowingly, under circumstances manifesting extreme indifference to the value of human life, points or displays a firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer;

(10) Knowingly points, displays or uses an imitation firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law

enforcement officer with the purpose to intimidate, threaten or attempt to put the officer in fear of bodily injury or for any unlawful purpose; or

(11) Uses or activates a laser sighting system or device, or a system or device which, in the manner used, would cause a reasonable person to believe that it is a laser sighting system or device, against a law enforcement officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority. As used in this paragraph, "laser sighting system or device" means any system or device that is integrated with or affixed to a firearm and emits a laser light beam that is used to assist in the sight alignment or aiming of the firearm.

Aggravated assault under subsections b. (1) and b. (6) is a crime of the second degree; under subsections b. (2), b. (7), b. (9) and b. (10) 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. Aggravated assault under subsection b. (8) is a crime of the third degree if the victim suffers bodily injury; if the victim suffers significant bodily injury or serious bodily injury it is a crime of the second degree. Aggravated assault under subsection b. (11) is a crime of the third degree.

c. (1) 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.

(2) Assault by auto or vessel is a crime of the third degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily injury results and is a crime of the fourth degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

(3) Assault by auto or vessel is a crime of the second degree if serious bodily injury results from the defendant operating the auto or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

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

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

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

Assault by auto or vessel is a crime of the third degree if bodily injury results from the defendant operating auto or vessel in violation of this paragraph.

A map or true copy of a map depicting the location and boundaries of the area on or within 1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board produced pursuant to section 1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under subparagraph (a) of paragraph (3) of this section.

It shall be no defense to a prosecution for a violation of subparagraph (a) or (b) of paragraph (3) of this subsection that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be a defense to a prosecution under subparagraph (a) or (b) of paragraph (3) of this subsection that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session.

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 with a purpose to intimidate an individual or group of individuals because of race, color, religion, gender, handicap, sexual orientation, or ethnicity.

2. This act shall take effect on the first day of the second month following enactment.

Approved December 20, 1999.

CHAPTER 282

AN ACT concerning fish and wildlife, amending various sections of Title 23 of the Revised Statutes, supplementing Title 23 of the Revised Statutes, and repealing R.S.23:3-23, R.S.23:3-24, R.S.23:3-25, and R.S.23:3-26.

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

1. R.S.23:1-1 is amended to read as follows:

Definitions.

23:1-1. As used in this title:

"Assistant protector" or "assistant fish and game protector" means the Deputy Chief of the Bureau of Law Enforcement in the division;

"Closed season" means the date and time of year when wildlife may not be captured, taken, killed, or had in possession in the field;

"Code" means the State Fish and Game Code;

"Conservation officer" means any sworn, salaried member of the Bureau of Law Enforcement in the division holding the titles of Conservation Officer I, II, or III, and includes the titles of Supervising Conservation Officer and Chief of the Bureau of Law Enforcement;

"Council" means the Fish and Game Council in the Division of Fish and Wildlife in the Department of Environmental Protection;

"Delaware river" means the waters of the Delaware river from the Pennsylvania shore to the New Jersey shore, or in the case of any tributaries or inland bays on the New Jersey side, to the mouths of those tributaries or bays;

"Deputy warden" or "deputy fish and game warden" means any commissioned deputy conservation officer of the Bureau of Law Enforcement in the division;

"Division," "Division of Fish, Game and Wildlife," "board," or "Board of Fish and Game Commissioners" means the Division of Fish and Wildlife in the Department of Environmental Protection;

"Fishing" means the possession of an instrument used to take fish in a condition that makes the instrument readily usable, while in a place or in proximity thereto where fish may be found;

"Hunting" means the possession of an instrument used to take wildlife in a condition that makes the instrument readily usable, while in a place or in proximity thereto where wildlife may be found;

"Open season" means the date and time of year when wildlife may be captured, taken, killed, or had in possession;

"Protector" or "fish and game protector" means the Chief of the Bureau of Law Enforcement in the division;

"Warden" or "fish and game warden" means a conservation officer;

"Wildlife" means any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean or other wild animal or any part, product, egg or offspring or the dead body or parts thereof.

C.23:2B-15.1 Division of Fish and Wildlife constituted.

2. a. The Division of Fish, Game and Wildlife is continued and constituted as the Division of Fish and Wildlife in the Department of Environmental Protection. All the functions, powers, and duties of the existing Division of Fish, Game and Wildlife and the director thereof are continued in the Division of Fish and Wildlife and the director thereof, and whenever the term "Division of Fish, Game and Wildlife" occurs or any reference is made thereto in any law, contract, or document, it shall be deemed or mean to refer to the Division of Fish and Wildlife.

b. The Fish and Game Council, together with all its functions, powers and duties, is continued as the Fish and Game Council in the Division of Fish and Wildlife in the Department of Environmental Protection.

3. R.S.23:3-1 is amended to read as follows:

License for hunting, fishing or trapping; penalty; exemptions.

23:3-1. a. A person shall not at any time hunt, take or attempt to take, kill or pursue, with a gun or any firearm of any kind or character, or with longbow and arrow, a wild bird, animal or fowl, or take or attempt to take any skunk, mink, muskrat, or other fur-bearing animal by means of a trap, or set a trap for any fur-bearing animal, nor shall any person above the age of 16 years at any time take or attempt to take fish in any of the fresh waters of this State by the method commonly known as angling with a hand line or rod and line, or with longbow and arrow, unless he has first procured a proper license.

b. A person shall not engage in hunting, fishing or trapping unless the appropriate license or tag as prescribed hereunder is visibly displayed in a holder in a conspicuous place on the outer clothing at the time of such hunting, fishing or trapping. A licensee shall exhibit his license and tag for inspection to any conservation officer, deputy conservation officer, police officer or other person requesting to see it.

c. A person under 12 years of age shall not be issued a trapping license.

d. A person who is on active duty with any branch or department of the armed service of the United States shall be entitled to hunt or fish upon obtaining the proper resident license therefor.

e. Nothing in this section shall prevent the occupant of a farm in this State, who actually resides thereon, or the immediate members of his family who also reside thereon, from hunting for, taking, killing or pursuing with a gun or firearm or a longbow and arrow on the farm a wild bird, animal or fowl, from taking any skunk, mink, muskrat, or other fur-bearing animal by means of a trap or from setting a trap for a fur-bearing animal on the farm, or from taking fish on the farm with hand

line, rod and line, or longbow and arrow in the manner provided by law during the time when it is lawful so to do, without being licensed hereunder. The exemption provided pursuant to this subsection shall not apply to a person residing on the farm or in a tenant house thereon who is not a member of the occupant's family, nor to a servant of the occupant.

f. (1) Any person found hunting, fishing or trapping without the proper license or tag as may be required conspicuously displayed pursuant to subsection b. of this section shall be liable to a penalty of $10 and costs, to be recovered pursuant to the provisions of Title 23, chapter 10, of the Revised Statutes.

(2) Any person who violates any provision of this section for which a penalty is not otherwise expressly provided, shall be liable to a penalty of not less than $50 nor more than $200 for each offense.

4. Section 9 of P.L.1986, c.198 (C.23:3-1c) is amended to read as follows:

C.23:3-1c Application fee for each permit, license.

9. The division is authorized to charge a $2.00 nonrefundable application fee, in addition to any other permit or license fees authorized by law, for each permit or license, as follows:
duplicate hunting and fishing; falconry; beaver; otter; turkey; coyote; special season Canada goose; special season deer; rifle; semi-wild hunting preserve; commercial fishing preserve; commercial shooting preserve; senior citizen fishing; senior citizen clamming; field trial; horseback riding on wildlife management area; daily use permit for wildlife management area; clubhouse rental; fire on wildlife management area; fish stocking by clubs; lake lowering; alewife (for bait); carp and suckers; fish basket for eels, catfish, carp, and suckers; game animals and game birds - individual hobby, scientific holding, zoological, propagation and sale, animal exhibitor, animal theatrical agency, and fur farming; salvage - recover carcass; special purpose; scientific collecting - fish; crab pot (recreational); crab pot (commercial); menhaden netting; food fish netting; and commercial fish netting.

The amounts remitted to the State Treasury for these application fees shall be deposited to the credit of the "hunters' and anglers' license fund."

5. Section 1 of P.L.1993, c.303 (C.23:3-1e) is amended to read as follows:

C.23:3-1e Members of New Jersey National Guard, disabled veterans exempt from certain fees.

1. a. Notwithstanding any law, rule, or regulation to the contrary, no fee, including application fees and issuance fees, may be charged of an applicant for a license, permit, stamp, tag, or certificate to hunt, fish, trap,

or otherwise lawfully take fish, game, or any other wildlife in the State, who is an active member of the New Jersey National Guard who has completed Initial Active Duty Training or who is a disabled veteran.

The Division of Fish and Wildlife shall prescribe by regulation the types of evidence that may be used to qualify persons for the benefits of this section.

b. As used in this act:

"Disabled veteran" means any resident of the State who has been honorably discharged or released under honorable circumstances from active service in any branch of the Armed Forces of the United States and who has been declared by the United States Department of Veterans Affairs, or its successor, to have a service-connected disability of any degree; and

"Initial Active Duty Training" means Basic Military Training, for members of the New Jersey Air National Guard, and Basic Combat Training and Advanced Individual Training, for members of the New Jersey Army National Guard.

C.23:3-1g Fee for hunting migratory birds.

6. For the purpose of meeting the costs of complying with information collection activities mandated by the United States Fish and Wildlife Service Migratory Bird Harvest Information Program, the division is authorized to charge a fee of $2.00 to any person who hunts migratory birds, which fee shall be in addition to any other fees charged for licenses, permits, or stamps required by law to hunt migratory birds.

7. Section 11 of P.L.1982, c.180 (C.23:3-1.1) is amended to read as follows:

C.23:3-1.1 "All Around Sportsman License."

11. a. The division shall issue a special license combining the resident's firearm hunting license, the resident's bow and arrow license and the resident's fishing license as provided under R.S.23:3-4 into one license to be designated as the "All Around Sportsman License."

b. The "All Around Sportsman License" shall authorize its holder to hunt with a shotgun or bow and arrow and to angle or attempt to take fish in the fresh waters of this State at the time, and in the manner, provided by law and the State Fish and Game Code, except that this license shall not authorize its holder to take trout from the fresh waters of the State.

c. A resident of this State above the age of 16 years may procure the "All Around Sportsman License" from the division at Trenton or from its agents as designated by the division. It shall not be valid unless it contains

the signature of the owner written in ink. Each license issued under this section shall expire on December 31 next following its issuance.

d. The division shall determine the form of the "All Around Sportsman License." The fee for this license shall be $71.25 and an issuance fee of $1.00, or as adjusted by the Fish and Game Council pursuant to section 12 of P.L.1982, c.180 (C.23:3-1a). The amounts remitted to the State Treasury from the collection of this fee shall be deposited to the credit of the "hunters' and anglers' license fund."

8. R.S.23:3-2 is amended to read as follows:

Minimum age for issuance of license; misrepresentation; penalty.

23:3-2. Except as provided in R.S.23:3-3, no license to hunt, pursue or kill with a gun or any firearm any game bird, wild animal or fowl in this State, shall be issued to a person under 16 years of age. An applicant for license who misrepresents his age shall be liable to a penalty of twenty dollars.

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

Youth hunting license.

23:3-3. The division may, in its discretion, issue a youth hunting license to a citizen of the United States above 10 years and under 16 years of age, who has successfully completed a course in gun or bow and arrow safety, as the case may be, as required in accordance with this title. Persons above 10 years and under 14 years of age may obtain the license only with the permission of a parent or legal guardian. The license shall authorize a licensee above 10 years and under 14 years of age to hunt only when accompanied by a holder, above 21 years of age, of a regular resident's or nonresident's firearm or bow and arrow license, as the case may be. This license shall be void after December 31 of the year in which the licensee becomes 16 years of age.

10. R.S.23:3-4 is amended to read as follows:

Types of licenses; fees.

23:3-4. The licenses issued under this article shall be as follows:

a. A license issued to a person above 16 years of age, who has an actual and bona fide domicile in this State at the time of the application for the license and who has had an actual and bona fide domicile in this State for at least six months immediately prior thereto, provided that for a resident's trapping license the person shall be above 12 years of age. These licenses shall be designated as the resident's firearm hunting

license, the resident's bow and arrow license, the resident's trapping license, and the resident's fishing license.

(1) The resident's firearm hunting license shall authorize its holder to hunt with hounds and firearms only, and a fee of $26.50 and an issuance fee of $1.00 shall be charged therefor, except that a person above the age of 65 years shall be charged a fee of $14.50 and an issuance fee of $1.00.

(2) The resident's bow and arrow license shall authorize its holder to hunt with bow and arrow only, and a fee of $30.50 and an issuance fee of $1.00 shall be charged therefor, except that a person above the age of 65 years shall be charged a fee of $15.50 and an issuance fee of $1.00.

(3) `The resident's trapping license shall authorize its holder to trap only, and a fee of $31.50 and an issuance fee of $1.00 shall be charged therefor, except that a person above 12 years and under 16 years of age shall be charged no fee.

(4) The resident's fishing license shall authorize its holder to fish only, and a fee of $21.50 and an issuance fee of $1.00 shall be charged therefor, except that (a) in any case where the applicant is above 70 years of age and is otherwise qualified, no license shall be required, and (b) a person above 65 years and under 70 years of age shall be charged a fee of $11.50 and an issuance fee of $1.00.

(5) Any resident of this State who is afflicted with total blindness, upon application to the division, shall be entitled to a resident's fishing license without fee or charge.

b. A license issued to a person above 16 years of age not entitled to a resident's license, authorizing him to trap or to hunt, except that a nonresident's two-day small game firearm hunting license shall not permit the taking, hunting, or killing of deer or turkey. These licenses shall be designated as the nonresident's firearm hunting license, the nonresident's bow and arrow license, the nonresident's trapping license, and the nonresident's two-day small game firearm hunting license.

(1) The fees for the nonresident's firearm hunting license and the nonresident's bow and arrow license shall each be $134.50 and an issuance fee of $1.00.

(2) The fee for the nonresident's trapping license shall be $199.50 and an issuance fee of $1.00.

(3) The fee for a nonresident's two-day small game firearm hunting license shall be $35.50 and an issuance fee of $1.00.

c. A license issued to a person above 16 years of age not entitled to a resident's license, authorizing him to fish only. These licenses shall be designated as the nonresident's annual fishing license, the nonresident's two-day fishing license, valid for a period of two consecutive days, and

the nonresident's seven-day vacation fishing license, valid for a period of seven consecutive days.

(1) The fee for the nonresident's annual fishing license shall be $33.00 and an issuance fee of $1.00.

(2) The fee for the nonresident's two-day fishing license shall be $8.00 and an issuance fee of $1.00.

(3) The fee for the nonresident's seven-day fishing license shall be $18.50 and an issuance fee of $1.00.

d. Every license issued hereunder shall be void after December 31 next succeeding its issuance, except the one-day hunting license, which shall expire on the date of issuance; the nonresident's seven-day fishing license, which is valid only for seven consecutive days after date of issuance; the nonresident's two-day fishing license, which shall expire on the day after the date of issuance; and the nonresident's two-day small game firearm hunting license, which shall expire on the day after the date of issuance.

Any license issued hereunder to a person under 16 years of age shall be void after December 31 of the year in which the licensee becomes 16 years of age.

e. The fees for licenses set forth in this section may be adjusted by the Fish and Game Council pursuant to section 12 of P.L.1982, c.180 (C.23:3-1a).

11. Section 2 of P.L.1951, c.226 (C.23:3-4.1) is amended to read as follows:

C.23:3-4.1 One-day license; fee.

2. The division may, in its discretion, issue a license to a person above the age of 16 years authorizing him to hunt for one day only in areas licensed under subsections b. and d. of R.S.23:3-29, or at a shoot to kill field trial which is being held under a proper permit from the division. The fee for this license shall be $11.50, or as adjusted by the Fish and Game Council pursuant to section 12 of P.L.1982, c.180 (C.23:3-1a), and an issuance fee of $1.00. The fees collected hereunder shall be remitted to the State Treasurer, and placed to the credit of the "hunters' and anglers' license fund," and be disbursed by the State Treasurer on vouchers certified to by the division.

12. Section 5 of P.L.1954, c.57 (C.23:3-4.6) is amended to read as follows:

C.23:3-4.6 Application to issuance of youth hunting licenses.

5. This act shall also apply to the issuance of youth hunting licenses under R.S.23:3-3, and all applicants for such licenses shall be required to first complete the gun safety course.

13. Section 8 of P.L.1986, c.198 (C.23:3-4.11) is amended to read as follows:

C.23:3-4.11 Rifle permit; fee.

8. All persons in possession of a muzzleloader rifle or other rifle while hunting or trapping shall have in their possession, in addition to the appropriate and valid firearm hunting license or trapping license, an appropriate and valid rifle permit. The division is authorized to charge a fee of $17.00 for each permit issued, except that a person under 16 years of age shall be charged a fee of $8.00. A rifle permit issued hereunder shall be valid for a period not to exceed two years. The amount remitted to the State Treasury for rifle permits shall be deposited to the credit of the "hunters' and anglers' license fund."

The fee for a permit issued pursuant to this section may be adjusted by the Fish and Game Council pursuant to section 12 of P.L.1982, c.180 (C.23:3-1a).

14. Section 5 of P.L.1957, c.195 (C.23:3-7.5) is amended to read as follows:

C.23:3-7.5 Application to issuance of youth hunting licenses.

5. This act shall also apply to the issuance of youth hunting licenses under R.S.23:3-3, and all applicants for such licenses shall be required to first complete the bow and arrow safety and proficiency course.

15. Section 7 of P.L.1986, c.198 (C.23:3-27.1) is amended to read as follows:

C.23:3-27.1 Wild turkey permits, fee.

7. Whenever an open season is prescribed for wild turkey by the State Fish and Game Code, the division is authorized to charge a fee of $19.00, or as adjusted by the Fish and Game Council pursuant to section 12 of P.L.1982, c.180 (C.23:3-1a), except that a person under 16 years of age shall be charged a fee of $10.00, for each permit issued. This permit shall be void at the close of the prescribed open season. The amounts remitted to the State Treasury for wild turkey permits shall be deposited to the credit of the "hunters' and anglers' license fund."

16. R.S.23:3-29 is amended to read as follows:

Licenses for raising, selling game birds, animals.

23:3-29. A person desiring to engage in the business of raising and selling game birds or game animals, or both, in a wholly enclosed area of which he is the owner or lessee, or to have in captivity game birds or game animals, shall apply in writing to the division for a license to do so. The license fee shall be $10.00 per year for each of the above purposes.

A person desiring to propagate pheasant, partridge, or quail, or any of them, in a semiwild state on lands of which he is the owner or lessee, shall apply in writing to the division for a license to do so. The license fee shall be $75.00 per year. No two or more noncontiguous tracts of land shall be covered under the same license.

The division, when it appears that the application is made in good faith, and is in the public interest, may, upon the payment of the fee for each license, issue to the applicant such of the following license or licenses as may be applied for:

a. Propagating license permitting the licensee to propagate game birds or game animals, or both, in the wholly enclosed area, the location of which is stated in the license and the application therefor, and to sell such propagated game birds or game animals, or both, and ship them from the State alive at any time and to kill the same and sell the carcasses for food subject to the conditions prescribed by R.S.23:3-28 to 23:3-39, inclusive;

b. License to propagate pheasant, partridge, or quail, or any of them, in a semiwild state on lands of which the applicant is the owner or lessee, when the applicant shall have produced evidence satisfactory to the division that he will raise, or purchase for liberation, and liberate on the semiwild preserve at least one pheasant, quail, partridge or combination thereof for each acre of land to be licensed or at least 200 pheasant, quail or partridge or combination thereof between November 1 of the year for which the license is issued and the following February 28;

c. License to keep game birds and animals in captivity; or

d. License to operate a "commercial pheasant, mallard, quail and partridge-shooting preserve," as defined pursuant to R.S.23:3-28, on lands owned or leased by the applicant, who shall apply in writing to the division for a license to do so. The license fee shall be $320.00 per year for the first tract of land and $165 per year for each additional tract of land, each of which shall be at least 50 acres in size, and the form of the application and license shall be determined by the division. Two or more noncontiguous tracts of land owned or leased, or operated as a commercial pheasant, mallard, quail and partridge-shooting preserve by the same person shall be covered under the same license.

The division may, upon payment of the fee, issue to the applicant such a license when it appears that:

(1) The operation of such shooting preserve shall not conflict with a prior reasonable public interest; and

(2) The applicant shall have produced evidence satisfactory to the division that he will raise or purchase for liberation and liberate on the shooting preserve a total of at least 500 pheasant, mallard, quail and partridge or combination thereof between September 1 of the year for which the license was issued and the following May 1.

e. The fees for licenses set forth in this section may be adjusted by the Fish and Game Council pursuant to section 12 of P.L.1982, c.180 (C.23:3-1a).

f. The division shall coordinate the dates of issuance and renewal of the licenses to propagate game birds with the dates of issuance and renewal of licenses to operate commercial pheasant, mallard, quail and partridge-shooting preserves, and to the extent practicable, shall issue and renew these licenses under one license.

17. Section 1 of P.L.1959, c.37 (C.23:3-56.1) is amended to read as follows:

C.23:3-56.1 Limited deer license, fees; exemption.

1. a. When the Fish and Game Council has established a season for deer of either sex and has fixed a certain number of permits to be issued for that harvest, the division is authorized to charge a fee of $26.00, or as adjusted by the Fish and Game Council pursuant to section 12 of P.L.1982, c.180 (C.23:3-1a), except that a person under 16 years of age shall be charged a fee of $10.00, for each permit so issued, which fee shall be in addition to any other fees authorized by law.

b. (1) No such fee charged pursuant to subsection a. of this section shall be required of a qualified farmer or the spouse or children of that farmer who reside in the farmer's household, provided that the person or persons are otherwise authorized to participate in the limited harvest.

The exemption provided under this subsection:

(a) shall not apply to a person residing on the farm or in a tenant house thereon who is not the spouse or a child of the qualified farmer, nor to an employee of the qualified farmer;

(b) shall be limited to one permit each for the qualified farmer who owns or leases a farm on which the farmer resides as described in subparagraph (a) of paragraph (3) of this subsection, and the spouse and children of that farmer; and

(c) shall be limited to one permit each for the qualified farmer or farmers who owns or leases a farm or farms on which that farmer or farmers does not reside as described in subparagraph (b) of paragraph (3) of this subsection,

and their spouses and children, but in no case shall more than five permits in total be issued for such property pursuant to this subparagraph.

(2) An application for a permit issued to a qualified farmer or the spouse or a child of that farmer pursuant to this subsection shall be made on a form supplied by the division and shall include, in the case of leased land, a copy of all leases authorizing the agricultural and hunting uses of the land.

(3) For purposes of this subsection, "qualified farmer" means a person who:

(a) owns or leases a farm on which that person resides that is valued, assessed and taxed as land actively devoted to agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.); or

(b) owns or leases a farm on which that person does not reside, provided that: (i) the person actively farms at least 30 tilled, non-woodland acres, which may be noncontiguous; and (ii) the farm, or each parcel in the case of noncontiguous parcels, is valued, assessed and taxed as land actively devoted to agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

c. The division may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement the provisions of this section.

18. Section 1 of P.L.1952, c.328 (C.23:3-57) is amended to read as follows:

C.23:3-57 "Special trout fishing stamp."

1. No person, above the age of 16 years or under the age of 70 years, shall take or attempt to take trout in any of the fresh waters of this State, unless he has first procured, as hereinafter provided, a special trout stamp, in addition to the license required by article 1 of chapter 3 of Title 23 of the Revised Statutes and unless at the time of fishing he has the license and stamp affixed to that license on his person, and exhibits the same for inspection to any warden, deputy warden, police officer or other person requesting to see them.

The stamp issued under this act shall be designated as the "special trout fishing stamp" and shall authorize its holder to take trout at the time and in the manner provided by law, or by the Fish and Game Code, and shall be invalid unless it contains the name of the licensee written in ink.

19. Section 3 of P.L.1952, c.328 (C.23:3-59) is amended to read as follows:

C.23:3-59 Fee for trout stamps.

3. The fee for this stamp shall be $10.50 for residents and $20.00 for nonresidents, or as adjusted by the Fish and Game Council pursuant to

section 12 of P.L.1982, c.180 (C.23:3-1a). The amounts remitted to the State Treasury for stamps issued under this law shall be placed to the credit of the "hunters' and anglers' license fund."

20. Section 1 of P.L.1975, c.117 (C.23:3-61.1) is amended to read as follows:

C.23:3-61.1 "Special pheasant and quail stamp."

1. No person above the age of 16 years shall at any time hunt for, pursue, kill, take or attempt to take with a firearm or bow and arrow, or have in possession, any pheasant or quail while present in such division wildlife management areas as may be designated in the Fish and Game Code unless such person is the holder of a valid youth hunting license issued pursuant to R.S.23:3-3 or has first procured in addition to a hunting license a valid "special pheasant and quail stamp."

This special pheasant and quail "stamp" shall be in the possession of the hunter at all times while engaged in hunting pheasant or quail in such division wildlife management areas as may be designated in the Fish and Game Code and the hunter shall exhibit the special stamp for inspection to any conservation officer, deputy conservation officer or police officer requesting to see the stamp.

21. Section 3 of P.L.1975, c.117 (C.23:3-61.3) is amended to read as follows:

C.23:3-61.3 Fee for pheasant and quail stamps.

3. The fee for this stamp shall be $40.00, or as adjusted by the Fish and Game Council pursuant to section 12 of P.L.1982, c.180 (C.23:3-1a). The amounts remitted to the State Treasury for special pheasant and quail stamps shall be deposited to the credit of the "hunters' and anglers' license fund."

22. Section 2 of P.L.1970, c.247 (C.23:3-63) is amended to read as follows:

C.23:3-63 Fishing preserve license.

2. (a) The division may, in its discretion, after application on forms furnished by it, issue to an owner of such fishing preserve waters a fishing preserve license permitting the holder thereof to manage such fishing preserve waters and to possess, propagate and rear, and to take or permit others to take therefrom, fish therein legally propagated or acquired. Such license shall expire on December 31 in the year it was issued unless previously revoked. A separate license is required for each body of water defined herein as fishing preserve waters. Two or more ponds under one

ownership, supplied by one common water source and located on one continuous parcel of land, shall be considered as one body of water requiring one license.

(b) The license so issued shall: contain the name of the town and county in which such fishing preserve waters are located; specify the species of fish authorized to be stocked therein; authorize the licensee to stock, propagate, raise and release such fish in such licensed fishing preserve waters and to buy, sell or otherwise traffic in fish taken therefrom; specify the manner of tagging fish taken from the licensed waters; specify the means of acquisition of fish stocked therein.

(c) The license may also: authorize the licensee to control undesirable protected fish, wildlife and insects and specify means of control of same; specify such other restrictions and controls for the management of fishing preserve waters as in the judgment of the division may be deemed advisable for proper fish management.

(d) The fee for the license shall be $228.00 per year, or as adjusted by the Fish and Game Council pursuant to section 12 of P.L.1982, c.180 (C.23:3-1a), payable at the time application is made.

(e) The division may for cause, revoke or suspend the license of any licensee.

Repealer.

23. R.S.23:3-23, R.S.23:3-24, R.S.23:3-25, and R.S.23:3-26 are repealed.

24. This act shall take effect immediately.

Approved December 20, 1999.

CHAPTER 283

AN ACT concerning the use of bicycles in law enforcement and amending P.L.1951, c.23.

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

1. Section 16 of P.L.1951, c.23 (C.39:4-14.1) is amended to read as follows:

C.39:4-14.1 Rights, duties of bicycle riders on roadways, exemptions.

16. a. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by chapter four of Title 39 of the Revised Statutes and

all supplements thereto except as to those provisions thereof which by their nature can have no application.

Regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

b. A law enforcement officer operating a bicycle while in the performance of his duty, and who is engaged in the apprehension of violators of the law or of persons charged with, or suspected of, a violation shall not be subject to the provisions of this section.

2. This act shall take effect immediately.

Approved December 20, 1999.

CHAPTER 284

AN ACT concerning the taxation of recreational vehicles and supplementing Title 54 of the Revised Statutes.

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

C.54:4-1.18 Definitions relative to taxation of recreational vehicles.

1. As used in this act:

"Campsite" means any parcel of land, or contiguous parcels of land under common ownership, designed and used for the purpose of camping and associated recreational uses.

"Nonpermanent foundation" means any foundation consisting of nonmortared blocks, wheels, a concrete slab, runners, or any combination thereof, or any other system for the installation and anchorage of a recreational vehicle on other than a permanent foundation.

"Recreational vehicle" means a unit which:

a. Consists of one or more transportable sections which are substantially constructed off-site and, if the unit consists of more than one section, is joined together on-site;

b. Is built on a permanent chassis;

c. Is designed to be used, when connected to utilities, as a temporary dwelling on a nonpermanent foundation and is not, in fact, used as a dwelling unit on a permanent basis; and

d. Is not a "manufactured home" as defined in section 3 of P.L.1983, c.400 (C.54:4-1.4).

C.54:4-1.19 Exemption from taxation as real property for certain recreational vehicles.

2. A recreational vehicle which is installed in a campsite shall not be subject to taxation as real property.

3. This act shall take effect immediately.

Approved December 20, 1999.

CHAPTER 285

AN ACT concerning adult day care center programs for victims of Alzheimer's disease, amending P.L.1988, c.114 and making an appropriation.

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

1. Section 2 of P.L.1988, c.114 (C.26:2M-10) is amended to read as follows:

C.26:2M-10 Definitions.

2. As used in this act:

a. "Adult day care" means a community-based group program designed to meet the needs of functionally or cognitively impaired adults through an individual plan of care structured to provide a variety of health, social and related support services in a protective setting during any part of a day but less than 24 hours.

b. "Alzheimer's Disease and related disorders" means forms of dementia characterized by a general loss of intellectual abilities of sufficient severity to interfere with social or occupational functioning.

c. "Care needs or behavioral problems" means the manifestations of dementia which may include, but need not be limited to, progressive memory loss, confusion, inability to communicate, extreme personality change, and eventual inability to perform the most basic tasks.

d. "Commissioner" means the Commissioner of the State Department of Health and Senior Services.

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

f. "Grantee" means a public agency, private for profit agency or private nonprofit agency selected by the department to establish an adult day care program for participants pursuant to this act.

g. "Participant" means an individual with Alzheimer's disease or a related disorder, particularly those in the moderate to severe stages. To be eligible for services, a participant shall have documentation from a physician that the participant has Alzheimer's disease or a related disorder.

2. Section 4 of P.L.1988, c.114 (C.26:2M-12) is amended to read as follows:

C.26:2M-12 Qualifications for grant recipients.

4. a. In order to be eligible to receive a grant from the department pursuant to section 3 of this act, an applicant shall apply in a manner which the commissioner shall prescribe and shall possess all of the following qualifications:

(1) The applicant shall be able to identify the special care needs or behavioral problems of participants, and the applicant's program shall be designed to meet those needs.

(2) The applicant shall demonstrate to the satisfaction of the department that the applicant's program has adequate and appropriate staffing to meet the nursing, psychosocial and recreational needs of participants.

(3) The applicant shall provide an outline of the design of the applicant's physical facilities, and of the safeguards which shall be used to protect the participants' safety.

(4) The applicant shall submit a plan for assisting individuals who cannot afford the entire cost of the program. This may include, but need not be limited to, utilizing additional funding sources to provide supplemental aid and allowing family members to serve as volunteers at the applicant's facility.

(5) The applicant shall identify potential sources of funding for the applicant's facility and shall outline plans to seek additional funding to remain solvent. This may include private donations and foundation grants, Medicare reimbursement for specific services, and the use of adult education and public health services.

(6) The department shall establish a sliding fee scale for payments by participants based on the participant's ability to pay.

b. Each grantee shall also satisfy all of the following requirements:

(1) Establish family support groups;

(2) Encourage family members to provide transportation for participants to and from the applicant's facility;

(3) Concentrate on participants in moderate to severe ranges of disability;

(4) Provide appropriate nutrition to participants, which the grantee may arrange to have provided by an organization organized for the purpose of providing meals to the elderly or to those who are needy;

(5) Establish contact with local educational programs, including nursing and other disciplines offering gerontology programs, to provide on-site training to students; and

(6) Provide services to assist family members, including counseling and referral to other resources.

3. There is appropriated $803,000 from the General Fund to the Department of Health and Senior Services for the adult day care center program for victims of Alzheimer's disease and related disorders to reduce participant waiting lists and provide increased hours of care for needy patients. Of this amount, $50,000 shall be allocated to fund the training program established pursuant to section 5 of P.L.1988, c.114 (C.26:2M-13).

4. This act shall take effect immediately.

Approved December 20, 1999.

CHAPTER 286

AN ACT concerning stabilized aid for public school districts and amending P.L.1996, c.138.

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

1. Section 10 of P.L.1996, c.138 (C.18A:7F-10) is amended to read as follows:

C.18A:7F-10 Stabilization aid per district; calculation.

10. a. Notwithstanding any other provision of this act to the contrary, the total stabilized aid for each district shall not be increased by more than the district's stabilization aid growth limit. In the event that total stabilized aid exceeds the prebudget year total by a rate greater than the stabilization aid growth limit, the commissioner shall adjust the components of total stabilized aid so that they total exactly the prebudget year total increased by the stabilization aid growth limit. For the 1997-98 school year, the prebudget year total shall include foundation aid, transition aid, categorical aids for special education, bilingual education and county vocational education, and transportation aid paid for the 1996-97 school year. For the 1998-99 school year and thereafter, the prebudget year total shall be the total for the same aid categories as

included in total stabilized aid plus any stabilization aid the district has received pursuant to subsection b. of this section, as paid in the prebudget years, plus, in the 1998-99 school year, any aid received by the district in the 1997-98 school year for the restoration of administrative penalties pursuant to the provisions of section 1 of P.L.1997, c.232 (C.18A:7F-5.1). The restoration of administrative penalties for this purpose shall not affect the calculation of the T & E budget pursuant to section 13 of P.L.1996, c.138 (C.18A:7F-13). For the 1997-98 and 1998-99 school years, total stabilized aid shall include core curriculum standards aid, categorical aids for special education programs, bilingual education programs, and county vocational programs, transportation aid, and aid for adult and postsecondary programs calculated pursuant to sections 15, 19, 20, 21, 25, and 28 of this act. For the 1999-2000 school year and thereafter, total stabilized aid shall include core curriculum standards aid, supplemental core curriculum standards aid, distance learning network aid, categorical aids for special education programs, bilingual education programs, county vocational programs, early childhood program aid, demonstrably effective program aid, instructional supplement aid, transportation aid, aid for adult and postsecondary programs, and academic achievement rewards calculated pursuant to sections 15 through 22, 25, 28 and 29 of this act.

Notwithstanding any provision of this section to the contrary, the commissioner shall ensure that for any district with a stabilization reduction in 1997-98 that by the 1999-2000 school year and thereafter, the total stabilized aid for each school district reflects the actual pupil counts of the district.

b. Notwithstanding any other provision of this act to the contrary, the total of a district's stabilization aid, core curriculum standards aid, supplemental core curriculum standards aid, distance learning network aid, categorical aids for special education programs, bilingual education programs, county vocational programs, early childhood program aid, demonstrably effective program aid, transportation aid, aid for adult and postsecondary programs, and academic achievement rewards calculated pursuant to subsection a. of this section and sections 15 through 17, subsection a. of section 18, 19 through 22, 25, 28 and 29 of this act, shall not be decreased by more than 10% below the amounts paid for these categories in the prebudget year. In the event that the sum of the formula entitlements calculated pursuant to those sections is less than 90% of the prebudget total, stabilization aid shall be paid in the amount of the difference between 90% of the prebudget year total and the sum of those entitlements. For the 1997-98 school year, the prebudget year total shall include foundation aid, transition aid, aid for at-risk pupils, technology aid

and categorical aids for special education, bilingual education and county vocational education, and transportation aid.

c. For the 1997-98 school year, supplemental stabilization aid shall be paid to any district in which:

(1) the total aid payable for the categories listed in subsection b. of this section is less than the prebudget year total for the same aids; and

(2) resident enrollment projected for October 1997 exceeds 99 percent of the resident enrollment for October 1991 or resident enrollment projected for October 1997 is less than resident enrollment for October 1991 by 35 or fewer pupils or the prebudget year equalized tax rate exceeded the Statewide average equalized school tax rate by 10% or more.

An eligible district shall be aided in the amount of its total aid decline, after offset by any stabilization aid provided pursuant to subsection b. of this section, or $4,000,000, whichever is less. The commissioner, in consultation with the Commissioner of the Department of Community Affairs and the Director of the Division of Local Government Services in the Department of Community Affairs, shall examine the fiscal ability of districts eligible for supplemental stabilization aid to absorb aid losses and shall make recommendations to the Legislature and the Governor regarding the continuation of supplemental stabilization aid. The commissioner shall not implement any of those recommendations until the recommendations are enacted into law.

d. Additional supplemental stabilization aid of $500,000 per district shall be disbursed to any district which meets all of the following criteria:

(1) the district's projected resident enrollment for the 1997-98 school year exceeds 10,000 pupils;

(2) the district's 1996-97 net budget is less than the sum of its maximum T&E budget calculated pursuant to section 13 of this act and early childhood program aid, demonstrably effective program aid, instructional supplement aid, transportation aid, and categorical program aid received pursuant to sections 19 through 22, 28, and 29 of this act;

(3) the district's total aid payable for the categories listed in subsection b. of this section exceeds the prebudget year total for the same aids by no more than 10%;

(4) the district's original State aid notice for 1996-97 was not reduced pursuant to P.L.1995, c.236 (C.18A:7E-6 et seq.);

(5) the district's core curriculum standards aid as a percentage of its T&E budget is less than 50%; and

(6) the district was certified as of November 30, 1996.

e. For the 1997-98 school year, each district which had pupils placed in a county special services school district on October 15, 1995 shall receive additional supplemental stabilization aid as follows:

(1) when the sum of the district's total aid payable for the categories listed in subsection b. of this section, aid payable pursuant to subsections c. and d. of this section, and aid payable pursuant to subsection c. of section 18 of this act exceeds the prebudget year total for the same aids pursuant to subsection b. of this section, the district shall receive an amount equal to the excess of the State aid generated by such placements in the county special services school district in 1996-97 over the excess calculated pursuant to this paragraph; or

(2) when the district's prebudget year aid pursuant to subsection b. of this section equals or exceeds the sum of the total aid payable for the categories listed in subsection b. of this section, aid payable pursuant to subsections c. and d. of this section, and aid payable pursuant to subsection c. of section 18 of this act, the district shall receive an amount equal to the State aid generated by such placements in the county special services school district in 1996-97.

f. Supplemental school tax reduction aid shall be paid to any district which meets the following criteria:

(1) the district's 1996-97 net budget per pupil is less than 115% of the State average net budget per pupil;

(2) the district's 1996-97 equalized tax rate of the general fund is greater than 130% of the Statewide average equalized school tax rate;

(3) the district does not receive any supplemental core curriculum standards aid; and

(4) the district is not included within the Department of Education's district factor groups I or J based on the 1990 federal census data.

Each district which is determined to be eligible to receive aid pursuant to this subsection shall receive aid according to the following formula:

.75 X (ESTR - 1.30 X STESTR) X EVAL

where

ESTR is the district's equalized tax rate of the general fund for the 1996-97 school year;

STESTR is the Statewide average equalized school tax rate for the 1996-97 school year; and

EVAL is the district October 1995 equalized valuation.

No district shall receive more than $300,000 pursuant to this subsection.

g. Additional supplemental stabilization aid shall be paid to any district which is located in a municipality which has a population composed of more than 45% senior citizens age 65 or older according to the most recent federal decennial census. The aid shall equal $200 multiplied by the district's resident enrollment projected for October 1997.

h. For the 1997-98 school year, any county vocational school district which is not eligible for supplemental stabilization aid pursuant to subsection c. of this section but which meets the requirements of paragraph (1) of that subsection and in which the secondary resident enrollment for October 1996 exceeds the resident enrollment projected for October 1997 shall be entitled to supplemental stabilization aid after offset by any aid received by the district pursuant to subsections b., d., e., f., and g. of this section and subsection c. of section 18 of P.L.1996, c.138 (C.18A:7F-18), or $500,000, whichever is less. A recommendation concerning the continuation of aid awarded pursuant to this subsection shall be made by the commissioner pursuant to the provisions of subsection c. of this section.

i. Any stabilization aid, supplemental stabilization aid, and supplemental school tax reduction aid paid pursuant to this section shall be applied toward the required local share of the school district or county vocational school district which receives the aid; except that for the 1997-98 school year, any aid received by a district pursuant to subsection h. of this section shall be an adjustment to the district's spending growth limitation.

2. Any additional State aid received by a district in the 1998-99 school year pursuant to the provisions of P.L.1999, c.286 shall be an adjustment to the district's spending growth limitation for the 1998-99 school year.

3. This act shall take effect immediately.

Approved December 20, 1999.

CHAPTER 287

AN ACT concerning the liability of public entities in certain circumstances and supplementing Title 59 of the New Jersey Statutes.

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

C.59:2-1.2 Immunity from liability for public entities, employees for damages resulting from computer failure in certain circumstances.

1. Notwithstanding any provision of law to the contrary, a public entity, public employee, bi-state governmental entity of which the State of New Jersey is a member, or an employee of such an entity, shall not be liable in any civil action for damages resulting from or caused directly or indirectly by the failure of computer hardware or software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort or otherwise process dates or times.

2. This act shall take effect immediately

Approved December 20, 1999.

CHAPTER 288

AN ACT concerning the fingerprinting of domestic violence offenders and amending R.S.53:1-15.

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

1. R.S.53:1-15 is amended to read as follows:

Fingerprinting of suspects.

53:1-15. The sheriffs, chiefs of police, members of the State Police and any other law enforcement agencies and officers shall, immediately upon the arrest of any person for an indictable offense, or for any of the grounds specified in paragraph (1), (2), (3) or (4) of subsection a. of section 5 of P.L.1991, c.261 (C.2C:25-21) or of any person believed to be wanted for an indictable offense, or believed to be an habitual criminal, or within a reasonable time after the filing of a complaint by a law enforcement officer charging any person with an indictable offense, or upon the arrest of any person for shoplifting, pursuant to N.J.S.2C:20-11, or upon the arrest of any person for prostitution, pursuant to N.J.S.2C:34-1, or the conviction of any other person charged with a nonindictable offense, where the identity of the person charged is in question, take the fingerprints of such person, according to the fingerprint system of identification established by the Superintendent of State Police and on the forms prescribed, and forward without delay two copies or more of the same, together with photographs and such other descriptions

as may be required and with a history of the offense committed, to the State Bureau of Identification.

Such sheriffs, chiefs of police, members of the State Police and any other law enforcement agencies and officers shall also take the fingerprints, descriptions and such other information as may be required of unknown dead persons and as required by section 2 of P.L.1982, c.79 (C.2A:4A-61) of juveniles adjudicated delinquent and shall forward same to the State Bureau of Identification.

Any person charged in a complaint filed by a law enforcement officer with an indictable offense, who has not been arrested, or any person charged in an indictment, who has not been arrested, or any person convicted of assault or harassment constituting domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19), or any person against whom a final order has been entered in any domestic violence matter pursuant to the provisions of section 13 of P.L.1991, c.261 (C.2C:25-29) shall submit himself to the identification procedures provided herein either on the date of any court appearance or upon written request of the appropriate law enforcement agency within a reasonable time after the filing of the complaint. Any person who refuses to submit to such identification procedures shall be a disorderly person.

2. This act shall take effect immediately.

Approved December 20, 1999.

CHAPTER 289

AN ACT concerning domestic violence training of judges and amending P.L.1991, c.261.

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

1. Section 4 of P.L.1991, c.261 (C.2C:25-20) is amended to read as follows:

C.2C:25-20 Development of training course, curriculum.

4. a. The Division of Criminal Justice shall develop and approve a training course and curriculum on the handling, investigation and response procedures concerning reports of domestic violence and abuse and neglect of the elderly and disabled. This training course and curriculum shall be

reviewed at least every two years and modified by the Division of Criminal Justice from time to time as need may require. The Division of Criminal Justice shall distribute the curriculum to all local police agencies. The Attorney General shall be responsible for ensuring that all law enforcement officers attend initial training within 90 days of appointment or transfer and biannual inservice training as described in this section.

b. (1) The Administrative Office of the Courts shall develop and approve a training course and a curriculum on the handling, investigation and response procedures concerning allegations of domestic violence. This training course shall be reviewed at least every two years and modified by the Administrative Office of the Courts from time to time as need may require.

(2) The Administrative Director of the Courts shall be responsible for ensuring that all judges and judicial personnel attend initial training within 90 days of appointment or transfer and annual inservice training as described in this section.

(3) The Division of Criminal Justice and the Administrative Office of the Courts shall provide that all training on the handling of domestic violence matters shall include information concerning the impact of domestic violence on society, the dynamics of domestic violence, the statutory and case law concerning domestic violence, the necessary elements of a protection order, policies and procedures as promulgated or ordered by the Attorney General or the Supreme Court, and the use of available community resources, support services, available sanctions and treatment options. Law enforcement agencies shall either establish domestic crisis teams or train individual officers in methods of dealing with domestic violence and neglect and abuse of the elderly and disabled. The teams may include social workers, clergy or other persons trained in counseling, crisis intervention or in the treatment of domestic violence and neglect and abuse of the elderly and disabled victims.

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

Approved December 20, 1999.

CHAPTER 290

AN ACT concerning homeowners insurance.

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

C.17:36-5.20a Cancellation, non-renewal of homeowners insurance prohibited under certain circumstances.

1. No insurer authorized to do business in this State shall cancel or non-renew an insurance policy covering an owner occupied one-to-four family dwelling solely because of claims or losses due to weather-related damage or a third-party criminal act committed by someone who is not a resident of the insured dwelling, unless the claim or loss identifies or confirms an increase in hazard, a material change in the risk assumed or a breach of contractual duties, conditions or warranties that materially affect the nature or the insurability of the risk. However, this section shall not be construed to prohibit an insurer from offering to continue coverage on different terms and conditions if the insured fails to reduce the risk of additional or future claims or losses, either by effecting necessary repairs or taking other remedial action.

2. This act shall take effect 90 days after enactment.

Approved December 23, 1999.

CHAPTER 291

AN ACT concerning certain exemptions from municipal rent control and rent leveling ordinances and amending P.L.1987, c.153.

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

1. Section 2 of P.L.1987, c.153 (C.2A:42-84.2) is amended to read as follows:

C.2A:42-84.2 Applicability of municipal rent control ordinances.

2. a. In any municipality which has enacted or which hereafter enacts a rent control or rent leveling ordinance, other than under the authority of P.L.1966, c.168 (C.2A:42-74 et seq.), those provisions of the ordinance which limit the periodic or regular increases in base rentals of dwelling units shall not apply to multiple dwellings constructed after the effective date of this act, for a period of time not to exceed the period of amortization of any initial mortgage loan obtained for the multiple dwelling, or for 30 years following completion of construction, whichever is less.

b. In the event that there is no initial mortgage financing, the period of exemption from a rent control or rent leveling ordinance shall be 30 years from the completion of construction.

2. Section 5 of P.L.1987, c.153 (C.2A:42-84.5) is amended to read as follows:

C.2A:42-84.5 Exemptions from rent control, leveling, stabilization; legislative intent.

5. a. It is the intent of P.L.1987, c.153 (C.2A:42-84.1 et seq.), that the exemption from rent control or rent leveling ordinances afforded under P.L.1987, c.153 (C.2A:42-84.1 et seq.) shall apply to any form of rent control, rent leveling or rent stabilization, whether adopted now or in the future, and by whatever name or title adopted, which would limit in any manner the periodic or regular increases in base rentals of dwelling units of multiple dwellings constructed after the effective date of P.L.1987, c.153 (C.2A:42-84.1 et seq.). No municipality, county or other political subdivision of the State, or agency or instrumentality thereof, shall adopt any ordinance, resolution, or rule or regulation, or take any other action, to limit, diminish, alter or impair any exemption afforded pursuant to P.L.1987, c.153 (C.2A:42-84.1 et seq.).

b. The Legislature deems it to be necessary for the public welfare to increase the supply of newly constructed rental housing to meet the need for such housing in New Jersey. In an effort to promote this new construction, the Legislature enacted P.L.1987, c.153 (C.2A:42-84.1 et seq.), the purpose of which was to exempt new construction of rental multiple dwelling units from municipal rent control so that the municipal rent control or rent leveling ordinances would not deter the new construction. Although this legislation was initially made effective only for a temporary five-year period, it was expanded for a second five-year period by P.L.1992, c.206 until 1997, and then in that year made permanent by P.L.1997, c.56. At the time P.L.1987, c.153 (C.2A:42-84.1 et seq.) was introduced, the uniform method of financing construction of new apartments was through project-based mortgage loans. There was little, if any, new construction financed in any other way. Recently, however, there has been increased utilization of Real Estate Investment Trusts (REITs) and other public companies which could potentially be an important new source of construction of rental housing in New Jersey. These entities generally do not utilize project-based mortgages but instead obtain comprehensive financing not secured by individual mortgages as a more efficient and lower cost means of financing new construction. There has been confusion as to whether new construction undertaken by REITs and other such entities would be exempted from municipal rent control under the terms of section 2 of P.L.1987, c.153 (C.2A:42-84.2) when there is no initial mortgage financing. To eliminate any confusion and to facilitate the construction of new rental units for which there is no initial mortgage financing, section 1 of P.L.1999, c.291 amends section 2 of P.L.1987, c.153 (C.2A:42-84.2) to add a

subsection b. to that section in order to clarify the Legislature's intent of providing an exemption from municipal rent control ordinances, except those adopted under the authority of P.L.1966, c.168 (C.2A:42-74 et seq.), by specifying that the period of time for exemption from rent control in such instances shall be 30 years following completion of construction.

3. This act shall take effect immediately and shall be applicable to all multiple dwellings or portions of multiple dwellings for which construction was completed prior to the effective date of this act, provided that the owner of the multiple dwellings has fully complied with the requirements of section 4 of P.L.1987, c.153 (C.2A:42-84.4).

Approved December 23, 1999.

CHAPTER 292

AN ACT authorizing the use of dedicated revenues for recreational purposes, amending N.J.S.40A:4-39 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:*

1. N.J.S.40A:4-39 is amended to read as follows:

Anticipation of dedicated revenues.

40A:4-39. a. In the budget of any local unit, dedicated revenues anticipated during the fiscal year from any dog tax, dog license, revenues collected pursuant to N.J.S.18A:39-1.2, solid fuel license, sinking fund for term bonds, bequest, escheat, federal grant, motor vehicle fine dedicated to road repairs, relocation costs deposited into a revolving relocation assistance fund established pursuant to section 2 of P.L.1987, c.98 (C.20:4-4.1a), fee revenues collected in connection with recreation programs operated pursuant to section 2 of P.L.1999, c.292 (C.40:48-2.56), receipts from franchise assessments levied pursuant to section 4 of P.L.1995, c.173 (C.40A:12A-53) to be retained by the municipality, refund payments from a joint insurance fund deposited into a joint insurance revolving fund established pursuant to section 12 of P.L.1996, c.113 (C.40A:10-36.2) and, subject to the prior written consent of the director, other items of like character when the revenue is not subject to reasonably accurate estimate in advance, may be included in said budget by annexing to said budget a statement in substantially the following form:

"The dedicated revenues anticipated during the year..... from ..... (here insert one or more of the sources above, as the case may be) are hereby anticipated as revenue and are hereby appropriated for the purposes to which said revenue is dedicated by statute or other legal requirement."

b. Dedicated revenues included in accordance with this section shall be available for expenditure by the local unit as and when received in cash during the fiscal year. The inclusion of such dedicated revenues shall be subject to the approval of the director, who may require such explanatory statements or data in connection therewith as the director deems advisable for the information and protection of the public.

C.40:48-2.56 Recreation trust fund, creation, use.

2. Any county or municipality which has not established a board of recreation commissioners may, by resolution, establish a recreation trust fund into which shall be deposited any fees paid by individuals to offset the costs of operating county or municipal recreational programs. Those amounts expended from the fund shall be utilized exclusively for the purpose of operating those programs for which fees are collected and to refund payments made by program participants.

3. The Director of the Division of Local Government Services in the Department of Community Affairs shall promulgate those rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes of this act.

4. This act shall take effect immediately.

Approved December 23, 1999.

CHAPTER 293

AN ACT concerning certain leased motor vehicles and amending P.L.1994, c.190.

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

1. Section 2 of P.L.1994, c.190 (C.56:12-61) is amended to read as follows:

C.56:12-61 Definitions.

2. As used in sections 1 through 8 and sections 11 through 14 of this act:

"Adjusted capitalized cost" means the agreed upon amount which serves as the basis for determining the periodic lease payment and a portion of the lessee's early termination liability, computed by subtracting from the gross capitalized cost any capitalized cost reduction.

"Business day" means every day other than a Saturday, a Sunday, or a day on which State-chartered banks in New Jersey are required to be closed.

"Capitalized cost reduction" means any payment made by cash, check, rebates or similar means that are in the nature of down payments made by the lessee and any net trade-in allowance granted by the lessor at the inception of the lease for the purpose of reducing the gross capitalized cost but does not include any periodic lease payments due at the inception of the lease or all of the periodic lease payments if they are paid at the inception of the lease.

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

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

"Fair market value commercial lease" means a contract or other agreement between a lessor and a lessee in which the vehicle is to be used primarily for business or commercial purposes and which provides an option for the purchase of the vehicle by the lessee from the lessor at its fair market value at the end of the lease term.

"Fleet lease" means a contract or other agreement between a lessor and a lessee entered into after the effective date of this act and in which the vehicles are to be used primarily for business or commercial purposes that is either: a written agreement for the use of at least two vehicles that includes an agreement for an option to use at least one additional motor vehicle; or a written agreement for the lease of five or more vehicles.

"Gross capitalized cost" means the amount, which, when reduced by the amount of the capitalized cost reduction, equals the adjusted capitalized cost. The gross capitalized cost shall include, the cost of the vehicle and, without limitation, taxes, registration, license, acquisition, assignment and other fees and charges for insurance, for a waiver of the contractual obligation to pay certain liability in the event the motor vehicle is damaged, stolen or otherwise lost, for accessories and their installation, for delivering, serving, repairing or improving the motor vehicle and for other services and benefits incidental to the lease. It may also include, with respect to a vehicle or other property traded-in in connection with a lease, the unpaid balance of any amount financed under an outstanding vehicle loan agreement or vehicle retail installment contract or the unpaid portion of the early termination obligation under any other obligation of the lessee.

"Lease" means a contract or other agreement between a lessor and a lessee, other than a fleet lease, a fair market value commercial lease, or a TRAC lease, entered into after the effective date of this act for the use of a motor vehicle by the lessee for a period of time exceeding 120 days, whether or not the lessee has the option to purchase or otherwise become the owner of the motor vehicle at the expiration of the lease. A lease shall not be deemed to be a retail installment contract, as defined in subsection (b) of section 1 of P.L.1960, c.40 (C.17:16C-1), unless the lessee, for no or for a nominal consideration, becomes the owner, or has the option of becoming the owner, of the motor vehicle at the end of the term of the lease.

"Leasing dealer" means a person who, in the ordinary course of business, offers or enters into motor vehicle leases or who in the course of any 12-month period offers or enters into more than three motor vehicle leases. The term "leasing dealer" shall not include a person to whom a lease is assigned by a leasing dealer.

"Lessee" means a person who leases a motor vehicle under a lease.

"Lessor" means a leasing dealer who holds title to a motor vehicle leased to a lessee under a lease or a leasing dealer who holds the lessor's rights under the lease or a person to whom a lease is assigned.

"Motor vehicle" or "vehicle" means a motor vehicle as defined in R.S.39:1-1, except the living facilities of motor homes.

"Purchase option price" means total cost to the lessee, excluding sales tax, to purchase the motor vehicle at the end of the lease term.

"Residual value" means the projected fair market value of the motor vehicle at the end of the lease term.

"TRAC lease" means a contract or other agreement between a lessor and a lessee which contains a "terminal rental adjustment clause," as that provision is defined in subsection (h) of 26 U.S.C. s.7701.

2. This act shall take effect on the 30th day following enactment.

Approved December 23, 1999.

CHAPTER 294

AN ACT concerning homicide prosecutions and amending N.J.S.2C:11-3 and P.L.1985, c.249.

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, carjacking 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. (1) 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 be sentenced 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.

(2) If the victim was a law enforcement officer and was murdered while performing his official duties or was murdered because of his status as a law enforcement officer, the person convicted of that murder shall be sentenced, except as otherwise provided in subsection c. of this section, by the court to a term of life imprisonment, during which the person shall not be eligible for parole.

(3) A person convicted of murder and who is not sentenced to death under this section shall be sentenced to a term of life imprisonment without eligibility for parole if the murder was committed under all of the following circumstances:

(a) The victim is less than 14 years old; and

(b) The act is committed in the course of the commission, whether alone or with one or more persons, of a violation of N.J.S.2C:14-2 or N.J.S.2C:14-3.

The defendant shall not be entitled to a deduction of commutation and work credits from that sentence.

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 or the crime of contempt in violation of N.J.S.2C:29-9b;

(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. As used in this paragraph "victim and survivor evidence" may include the display of a photograph of the victim taken before the homicide.

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.

j. In a sentencing proceeding conducted pursuant to this section, the display of a photograph of the victim taken before the homicide shall be permitted.

2. Section 3 of P.L.1985, c.249 (C.52:4B-36) is amended to read as follows:

C.52:4B-36 Findings, declarations.

3. The Legislature finds and declares that crime victims and witnesses are entitled to the following rights:

a. To be treated with dignity and compassion by the criminal justice system;

b. To be informed about the criminal justice process;

c. To be free from intimidation;

d. To have inconveniences associated with participation in the criminal justice process minimized to the fullest extent possible;

e. To make at least one telephone call provided the call is reasonable in both length and location called;

f. To medical assistance if, in the judgment of the law enforcement agency, medical assistance appears necessary;

g. To be notified if presence in court is not needed;

h. To be informed about available remedies, financial assistance and social services;

i. To be compensated for their loss whenever possible;

j. To be provided a secure, but not necessarily separate, waiting area during court proceedings;

k. To be advised of case progress and final disposition;

l. To the prompt return of property when no longer needed as evidence;

m. To submit a written statement about the impact of the crime to a representative of the county prosecutor's office which shall be considered prior to the prosecutor's final decision concerning whether formal criminal charges will be filed; and

n. To make, prior to sentencing, an in-person statement directly to the sentencing court concerning the impact of the crime.

This statement is to be made in addition to the statement permitted for inclusion in the presentence report by N.J.S.2C:44-6.

In any homicide prosecution the victim's survivor may display directly to the sentencing court at the time of this statement a photograph of the victim taken before the homicide.

C.2C:11-3a Adoption of court rules concerning photo of homicide victim.

3. The Supreme Court may adopt court rules pertaining to the display of a photograph of a homicide victim in court as permitted in N.J.S.2C:11-3 concerning murder and in section 3 of P.L.1985, c.249 (C.52:4B-36) concerning other homicide prosecutions. These court rules may include, but shall not be limited to, the following matters to ensure uniformity in all homicide prosecutions:

a. the size of the photograph;
b. the duration of the display;
c. the location of the photograph in the courtroom.

4. This act shall take effect immediately.

Approved December 23, 1999.

CHAPTER 295

AN ACT concerning drug abuse education, supplementing Title 2C of the New Jersey Statutes and amending N.J.S.2C:46-1, N.J.S.2C:46-2, P.L.1979, c.396 and P.L.1991, c.329.

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

C.2C:43-3.5 Additional penalty for certain offenses.

1. a. 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 for a violation of any offense defined in chapter 35 or 36 of Title 2C of the New Jersey Statutes, each participant shall be assessed a penalty of $50 for each adjudication or conviction.

b. All penalties provided by this section shall be collected as provided for collection of fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4) and shall be forwarded to the Department of the Treasury as provided in subsection c. of this section.

c. All monies collected pursuant to this section shall be forwarded to the Department of the Treasury to be deposited in the " Drug Abuse Education Fund" established pursuant to section 1 of P.L.1999, c.12 (C.54A:9-25.12).

d. Monies in the fund shall be appropriated by the Legislature on an annual basis in the manner and for the purposes prescribed by section 2 of P.L.1999, c.12 (C.54A:9-25.13).

2. 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, a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5) 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;

(7) the amount of the penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5); and

(8) 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, a penalty imposed pursuant to section 1 of

P.L.1999, c.295 (C.2C:43-3.5) 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, the mandatory penalty pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5) 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, a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5) 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, a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5) 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, a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5) 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.

3. 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, a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), 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, a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5) 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, a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5), 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.

4. Section 3 of P.L.1979, c.329 (C.2C:46-4) is amended to read as follows:

C.2C:46-4 Fines, assessments, penalties, restitution; collection; disposition.

3. a. All fines, assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), all penalties imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5) and restitution shall be collected as follows:

(1) All fines, assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), all penalties imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5) and restitution imposed by the Superior Court or otherwise imposed at the county level, shall be collected by the county probation division except when such fine, assessment or restitution is imposed in conjunction with a custodial sentence to a State correctional facility or in conjunction with a term of incarceration imposed pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44) in which

event such fine, assessment or restitution shall be collected by the Department of Corrections or the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170). An adult prisoner of a State correctional institution or a juvenile serving a term of incarceration imposed pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44) who has not paid an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5) or restitution shall have the assessment, fine or restitution deducted from any income the inmate receives as a result of labor performed at the institution or on any type of work release program or, pursuant to regulations promulgated by the Commissioner of the Department of Corrections or the Juvenile Justice Commission, from any personal account established in the institution for the benefit of the inmate.

(2) All fines, assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), any penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5) and restitution imposed by a municipal court shall be collected by the municipal court administrator except if such fine, assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), or restitution is ordered as a condition of probation in which event it shall be collected by the county probation division.

b. Except as provided in subsection c. with respect to fines imposed on appeals following convictions in municipal courts and except as provided in subsection i. with respect to restitution imposed under the provisions of P.L.1997, c.253 (C.2C:43-3.4 et al.), all fines imposed by the Superior Court or otherwise imposed at the county level, shall be paid over by the officer entitled to collect same to:

(1) The county treasurer with respect to fines imposed on defendants who are sentenced to and serve a custodial term, including a term as a condition of probation, in the county jail, workhouse or penitentiary except where such county sentence is served concurrently with a sentence to a State institution; or

(2) The State Treasurer with respect to all other fines.

c. All fines imposed by municipal courts, except a central municipal court established pursuant to N.J.S.2B:12-1 on defendants convicted of crimes, disorderly persons offenses and petty disorderly persons offenses, and all fines imposed following conviction on appeal therefrom, and all forfeitures of bail shall be paid over by the officer entitled to collect same to the treasury of the municipality wherein the municipal court is located.

In the case of an intermunicipal court, fines shall be paid into the municipal treasury of the municipality in which the offense was committed, and costs, fees, and forfeitures of bail shall be apportioned among the

several municipalities to which the court's jurisdiction extends according to the ratios of the municipalities' contributions to the total expense of maintaining the court.

In the case of a central municipal court, established by a county pursuant to N.J.S.2B:12-1, all costs, fines, fees and forfeitures of bail shall be paid into the county treasury of the county where the central municipal court is located.

d. All assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) shall be forwarded and deposited as provided in that section.

e. All mandatory Drug Enforcement and Demand Reduction penalties imposed pursuant to N.J.S.2C:35-15 shall be forwarded and deposited as provided for in that section.

f. All forensic laboratory fees assessed pursuant to N.J.S.2C:35-20 shall be forwarded and deposited as provided for in that section.

g. All restitution ordered to be paid to the Victims of Crime Compensation Board pursuant to N.J.S.2C:44-2 shall be forwarded to the board for deposit in the Victims of Crime Compensation Board Account.

h. All assessments imposed pursuant to section 11 of P.L.1993, c.220 (C.2C:43-3.2) shall be forwarded and deposited as provided in that section.

i. All restitution imposed on defendants under the provisions of P.L.1997, c.253 (C.2C:43-3.4 et al.) for costs incurred by a law enforcement entity in extraditing the defendant from another jurisdiction shall be paid over by the officer entitled to collect same to the law enforcement entities which participated in the extradition of the defendant.

j. All penalties imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5) shall be forwarded and deposited as provided in that section.

5. Section 13 of P.L.1991, c.329 (C.2C:46-4.1) is amended to read as follows:

C.2C:46-4.1 Application of moneys collected; priority.

13. Moneys that are collected in satisfaction of any assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), or in satisfaction of restitution or fines imposed in accordance with the provisions of Title 2C of the New Jersey Statutes or with the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), shall be applied in the following order:

a. first, in satisfaction of all assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1);

b. second, except as provided in subsection f. of this section, in satisfaction of any restitution ordered;

c. third, in satisfaction of all assessments imposed pursuant to section 11 of P.L.1993, c.220 (C.2C:43-3.2);

d. fourth, in satisfaction of any forensic laboratory fee assessed pursuant to N.J.S.2C:35-20;

e. fifth, in satisfaction of any mandatory Drug Enforcement and Demand Reduction penalty assessed pursuant to N.J.S.2C:35-15;

f. sixth, in satisfaction of any anti-drug profiteering penalty imposed pursuant to section 2 of P.L.1997, c.187 (N.J.S.2C:35A-1 et seq.);

g. seventh, in satisfaction of any anti-money laundering profiteering penalty imposed pursuant to section 9 of P.L.1999, c.25;

h. eighth, in satisfaction of restitution for any extradition costs imposed pursuant to section 4 of P.L.1997, c.253 (C.2C:43-3.4);

i. ninth, in satisfaction of any penalty imposed pursuant to section 1 of P.L.1999, c.295 (C.2C:43-3.5); and

j. tenth, in satisfaction of any fine.

6. This act shall take effect immediately.

Approved December 23, 1999.

CHAPTER 296

AN ACT concerning small water companies and small sewer companies, amending P.L.1981, c.347 and P.L.1981, c.389, and supplementing Title 58 of the Revised Statutes.

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

1. The title of P.L.1981, c.347 is amended to read as follows:

Title amended

An Act concerning improvements to the facilities and services of small water companies and small sewer companies and supplementing Title 58 of the Revised Statutes.

2. Section 1 of P.L.1981, c.347 (C.58:11-59) is amended to read as follows:

C.58:11-59 Failure to comply by small water, sewer companies.

1. a. Whenever a small water company or a small sewer company, or both, are found to have failed to comply with any unstayed order of the Department of Environmental Protection concerning the availability of water, the potability of water, or the provision of water at adequate

volume and pressure, or any unstayed order finding a small water company or a small sewer company or both a significant noncomplier or requiring the abatement of a serious violation, as those terms are defined pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), which the department is authorized to enforce pursuant to Title 58 of the Revised Statutes, the department and the Board of Public Utilities may, after 30 days' notice to capable proximate public or private water or sewer companies, municipal utilities authorities established pursuant to P.L.1957, c.183 (C.40:14B-1 et seq.), municipalities or any other suitable public or private entities wherein the small water company, small sewer company, or both, provide service, conduct a joint public hearing to announce: the actions that may be taken and the expenditures that may be required, including acquisition costs, to make all improvements necessary to assure the availability of water, the potability of water and the provision thereof at adequate volume and pressure, and the compliance with all applicable federal and State water pollution control requirements for a small sewer company, including, but not necessarily limited to, the acquisition of the small water company or small sewer company, or both, by the most suitable public or private entity.

At the hearing the department and the board shall state the costs that are expected to be borne by the current users of the small water company, small sewer company, or both. The department shall propose an administrative consent order setting forth an agreed upon time schedule by which the acquiring entity would be required to make improvements required to resolve existing violations of federal and State safe drinking water and water pollution control statutes and regulations. The administrative consent order shall stipulate that the acquiring entity shall not be liable for any fines or penalties for continuing violations arising from the deficiencies, obsolescence or disrepair of the facilities at the time of the acquisition, provided that:

(1) the stipulation shall be conditioned upon compliance by the acquiring entity with the timeframes established for improving the facilities and eliminating the existing violations; and

(2) the stipulation shall not include any violation to the extent caused by operational error, lack of preventive maintenance or careless or improper operation by the acquiring entity.

Under no circumstances shall the acquiring entity be liable for violations occurring prior to the acquisition.

At the conclusion of a hearing conducted pursuant to this section the record of the hearing shall be kept open for 30 days to allow for the submission of additional comments.

b. As used in sections 1 through 4 of P.L.1981, c.347 (C.58:11-59 through 58:11-62):

"Small water company" means any company, purveyor or entity, other than a governmental agency, that provides water for human consumption and which regularly serves less than 1,000 customer connections ; and

"Small sewer company"means any company, business, or entity, other than a governmental agency, which is a public utility as defined pursuant to R.S.48:2-13, that collects, stores, conveys, or treats primarily domestic wastewater, and that regularly serves less than 1,000 customer connections.

3. Section 2 of P.L.1981, c.347 (C.58:11-60) is amended to read as follows:

C.58:11-60 Compensation for acquisition of small water, sewer company.

2. a. Compensation for the acquisition of a small water company, small sewer company, or both, shall be determined:

(1) By agreement between the parties, subject to the approval of the Board of Public Utilities, in consultation with the Department of Environmental Protection, and after the holding of a joint public hearing by the board and the department; or

(2) Through use of the power of eminent domain by the appropriate agencies or, the provisions of section 34 of P.L.1957, c.183 (C.40:14B-34) to the contrary notwithstanding, the designated acquiring public or private entity.

b. Compensation shall be the commercially reasonable value as determined by agreement between the small water company, small sewer company, or both, and the designated acquiring public or private entity, as approved by the board and the department, or the appraised value as established through eminent domain proceedings. Upon remittance of the compensation as set forth herein, the designated acquiring public or private entity shall obtain title to the assets of the small water company, small sewer company, or both, free and clear of all liens, claims and encumbrances, judgments, security interests, fines, penalties, and outstanding taxes incurred by the small water company, small sewer company, or both. The acquiring public or private entity shall place in escrow or deposit in court so much of the compensation amount as necessary to satisfy any liens, claims and encumbrances, judgments, security interests, fines, penalties, and outstanding taxes which are of record or of which the designated acquiring public or private entity has actual knowledge.

Nothing contained herein shall waive, or impair the right of any creditor, including a secured creditor, to obtain payment directly from the owner or operator of the small water company or small sewer company from the proceeds of any acquisition concluded pursuant to the provisions

of P.L.1981, c.347 (C.58:11-59 et seq.), section 1 of P.L.1981, c.389 (C.58:11-63) and P.L.1999, c.296 (C.58:11-63.1 et al.).

No fines or penalties incurred by the owner or operator of a small water company or small sewer company shall be a liability of the owner or operator of the designated acquiring public or private entity, of the service users of the acquired small water company or small sewer company or any service user of the water supply or sewer system of the designated acquiring public or private entity. Any such incurred penalties shall remain the sole liability of the owner or operator who incurred the penalties.

c. If a small water company and a small sewer company serve a common residential development, were established by the developer to service that development, and are under common control and ownership, and if the small water company or the small sewer company, or both, have failed to comply with an order of the Department of Environmental Protection and are subject to the provisions of section 1 of P.L.1981, c.347 (C.58:11-59), they may be treated as one company for the purposes of sections 1 through 4 of P.L.1981, c.347 (C.58:11-59 through 58:11-62), section 1 of P.L.1981, c.389 (C.58:11-63) and P.L.1999, c.296 (C.58:11-63.1 et al.), provided that the proceeds of the acquisition shall be segregated and distributed based on the commercially reasonable or appraised value of each company.

4. Section 3 of P.L.1981, c.347 (C.58:11-61) is amended to read as follows:

C.58:11-61 Order for acquisition of small water, sewer company.

3. a. The Department of Environmental Protection and the Board of Public Utilities, upon a determination that the costs of improvements to and the acquisition of the small water company, small sewer company, or both, are necessary and reasonable, may order the acquisition of the small water company, small sewer company, or both, by the most suitable public or private entity pursuant to this section. This order shall provide for the immediate inclusion in the rates of the designated acquiring public or private entity the anticipated costs of necessary improvements, or, if the determination of acquisition costs has been deferred, as soon as possible thereafter as may be practicable and feasible. No order may be issued pursuant to this section until at least 30 days following the date of the hearing conducted pursuant to section 1 of P.L.1981, c.347 (C.58:11-59).

b. The Board of Public Utilities shall extend the franchise area of the designated acquiring public or private entity to the extent necessary to cover the service area of the small water company, small sewer company, or both, taken over pursuant to the provisions of P.L.1981, c.347 (C.58:11-59 et

seq.), section 1 of P.L.1981, c.389 (C.58:11-63) and P.L.1999, c.296 (C.58:11-63.1 et al.). The governing body of the municipality in which the small water company, small sewer company, or both, are located shall provide the board with the municipal consent that allows the designated acquiring public or private entity to operate within the franchise area. The board shall approve any municipal consent granted pursuant to this subsection necessary to cover the service area of the small water company, small sewer company, or both, acquired pursuant to the provisions of P.L.1981, c.347 (C.58:11-59 et seq.), section 1 of P.L.1981, c.389 (C.58:11-63) and P.L.1999, c.296 (C.58:11-63.1 et al.).

c. An order issued pursuant to this section designating a public or private entity to acquire a small water company, small sewer company, or both, shall authorize the public or private entity to commence eminent domain proceedings in accordance with P.L.1971, c.361 (C.20:3-1 et seq.), without further petition to, or further order by, the board. Prior to commencing eminent domain proceedings, an appropriate officer of the designated acquiring public or private entity shall transmit notice to the board, the department, and all parties affected by the order issued pursuant to this section, including, without limitation, any person or entity having a recorded interest in the land or property which may be subject to eminent domain proceedings pursuant to the provisions of P.L.1981, c.347 (C.58:11-59 et seq.), section 1 of P.L.1981, c.389 (C.58:11-63) and P.L.1999, c.296 (C.58:11-63.1 et al.). Notice provided to such parties pursuant to this section shall satisfy the notice requirements set forth in R.S.48:3-17.

d. An order issued pursuant to this section shall constitute revocation by the board of the franchise of the small water company, small sewer company, or both, to be acquired and shall render the owner or operator of the acquired small water company, small sewer company, or both, unfit to hold any other water or sewer franchise or municipal consent to provide water or sewer service.

5. Section 4 of P.L.1981, c.347(C.58:11-62) is amended to read as follows:

C.58:11-62 Acquisition, improvements to assure compliance.

4. Any water company, sewer company, municipal utilities authority or other suitable public or private entity which receives an order pursuant to section 3 of P.L.1981, c.347 (C.58:11-61) shall acquire the small water company, small sewer company, or both, and shall make the necessary improvements to assure the availability of water, the potability of the water and the provision of water at adequate volume and pressure and the compliance with all applicable federal and State water pollution control

requirements in the case of a small sewer company. The small water company, small sewer company, or both, as the case may be, shall immediately comply with the order and shall facilitate its sale to the water company, sewer company, municipal utilities authority, or other suitable public or private entity ordered to acquire the small water company, the small sewer company, or both, as the case may be.

6. Section 1 of P.L.1989, c.389 (C.58:11-63) is amended to read as follows:

C.58:11-63 Collection of differential rate from customers of acquired company.

1. Whenever the Department of Environmental Protection and the Board of Public Utilities order the acquisition of a small water company, small sewer company, or both, by the most suitable public or private entity pursuant to the provisions of P.L.1981, c.347 (C.58:11-59 et seq.) and P.L.1999, c.296 (C.58:11-63.1 et al.), the board may, in its discretion, allow the designated acquiring public or private entity to charge and collect a differential rate from the customers of the small water company, small sewer company, or both, for the use or service of the acquiring public or private entity's water supply system or facilities, sewage system or facilities, or both.

As used in this section "small water company" and "small sewer company" shall have the same meaning as in section 1 of P.L.1981, c.347 (C.58:11-59).

C.58:11-63.1 Costs of acquisition, improvements eligible for financing.

7. a. Whenever a public or private entity receives an order pursuant to section 3 of P.L.1981, c.347 (C.58:11-61) to acquire a small sewer company, the cost to the designated acquiring public or private entity of the improvements to the acquired small sewer company necessary to assure the compliance with all applicable federal and State water pollution control requirements for a small sewer company shall be eligible for financing pursuant to the "New Jersey Environmental Infrastructure Trust Act," P.L.1985, c.334 (C.58:11B-1 et seq.), as amended by P.L.1997, c.224. Any loan application made by an acquiring public entity pursuant to this subsection shall be expedited by the New Jersey Environmental Infrastructure Trust and the Department of Environmental Protection, to the maximum extent feasible while still maintaining compliance with all applicable laws, rules and regulations.

b. Whenever a public or private entity receives an order pursuant to section 3 of P.L.1981, c.347 (C.58:11-61) to acquire a small water company, the cost to the designated acquiring public or private entity of the improvements to the acquired small water company necessary to assure the

availability of water, the potability of water, and the provision thereof at adequate volume and pressure and compliance with all applicable federal and State safe drinking water requirements for a small water company, shall be eligible for financing pursuant to the "New Jersey Environmental Infrastructure Trust Act," P.L.1985, c.334 (C.58:11B-1 et seq.), as amended by P.L.1997, c.224. Any loan application made by an acquiring public entity pursuant to this subsection shall be expedited by the New Jersey Environmental Infrastructure Trust and the Department of Environmental Protection, to the maximum extent feasible while still maintaining compliance with all applicable laws, rules and regulations.

c. The provisions of any other law or rule or regulation adopted pursuant thereto to the contrary notwithstanding, improvements to an acquired small water company pursuant to the provisions of P.L.1981, c.347 (C.58:11-59 et seq.), section 1 of P.L.1981, c.389 (C.58:11-63) and P.L.1999, c.296 (C.58:11-63.1 et al.) shall constitute a water supply project for the purposes of P.L.1981, c.261, as amended by P.L.1983, c.355 and P.L.1997, c.223.

d. As used in this section "small water company" and "small sewer company" shall have the same meaning as in section 1 of P.L.1981, c.347 (C.58:11-59).

C.58:11-63.2 Acquiring entity not responsible for prior discharge of hazardous substance; immunity from liability; exceptions.

8. The provisions of any law, or rule or regulation adopted pursuant thereto to the contrary notwithstanding, whenever a public or private entity receives an order pursuant to section 3 of P.L.1981, c.347 (C.58:11-61) to acquire a small water company, small sewer company, or both, the designated acquiring public or private entity shall not be deemed the discharger or responsible party for a discharge of a hazardous substance that occurred prior to the acquisition and is attributed to the facilities being acquired, and shall not be liable for any required cleanup and removal costs or damages resulting from any such discharge of a hazardous substance. As a condition of, and at the time of the acquisition, the designated acquiring public or private entity shall conduct a preliminary assessment and a site investigation of the facilities to be acquired to ascertain the presence and the levels of any hazardous substance. Neither the designated acquiring public or private entity, the service users of the small water company or small sewer company being acquired, or the users of the designated acquiring public or private entity's services shall have any liability for cleanup and removal costs relating to any hazardous discharge identified by the site investigation conducted pursuant to this section as being a pre-acquisition hazardous discharge, provided that the designated acquiring public or

private entity shall exercise reasonable care in addressing any environmental contamination at the facilities upon acquisition.

The exemption from liability granted to an acquiring public or private entity pursuant to this section shall not apply to the designated acquiring public or private entity's liability, pursuant to any law or rule or regulation, for arranging for the off-site disposal or treatment of a hazardous substance or for transporting and disposing of a hazardous substance at an off-site facility selected by the designated acquiring public or private entity.

Nothing in this section shall prohibit or limit the right of the Department of Environmental Protection to undertake a cleanup of the property or to obtain a lien on the property for the cost of a cleanup pursuant to section 7 of P.L.1976, c.141 (C.58:10-23.11f). Any recovery of cleanup and removal costs from an acquiring public or private entity pursuant to a lien obtained by the Department of Environmental Protection shall be limited to the actual financial benefit realized by the designated acquiring public or private entity solely due to a cleanup or removal action. Recovery by the Department of Environmental Protection shall be conditioned upon the department providing a detailed financial analysis to the designated acquiring public or private entity demonstrating that the actual financial gain realized by the designated acquiring public or private entity is due solely to the cleanup or removal action. The acquiring entity shall have 30 days to notify the department, in writing, of any dispute relating to the financial analysis or the department's determination of actual financial gain. The Department of Environmental Protection shall negotiate, for a period not to exceed 30 days, with the designated acquiring public or private entity to resolve any dispute relating to the financial analysis or the department's determination of actual financial gain identified by the designated acquiring public or private entity prior to imposition of a lien. The department may waive any lien or recovery if warranted by the circumstances.

As used in this section "small water company" and "small sewer company" shall have the same meaning as in section 1 of P.L.1981, c.347 (C.58:11-59).

C.58:11-63.3 Violations, penalties.

9. Any owner or operator of a small water company, small sewer company, or both, who violates the provisions of P.L.1981, c.347 (C.58:11-59 et seq.), section 1 of P.L.1981, c.389 (C.58:11-63), and P.L.1999, c.296 (C.58:11-63.1 et al.), or fails to comply with any order issued pursuant to section 3 of P.L.1981, c.347 (C.58:11-61), shall be subject upon order of a court to a civil penalty not to exceed $50,000 per day of such violation, and each day's continuance of the violation shall

constitute a separate violation. Any penalty incurred pursuant to this section may be recovered with costs, and, if applicable, interest charges, in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Board of Public Utilities or the Department of Environmental Protection may also commence a civil action in the Superior Court for any other appropriate relief, including without limitation, a temporary or permanent injunction, and the reasonable costs of preparing and litigating the case. Use of any of the remedies in this section shall not preclude the use of any other remedy available to the Board of Public Utilities or the Department of Environmental Protection under this section or under any other applicable law. As used in this section "small water company" and "small sewer company" shall have the same meaning as in section 1 of P.L.1981, c.347 (C.58:11-59).

C.58:11-63.4 Construction of act as to BPU enforcement.

10. Nothing in the provisions of P.L.1981, c.347 (C.58:11-59 et seq.), section 1 of P.L.1981, c.389 (C.58:11-63), or P.L.1999, c.296 (C.58:11-63.1 et al.) shall be construed to prohibit the Board of Public Utilities from determining, after notice and hearing, that a franchise or other authority to operate should be revoked for good cause or that penalties as may otherwise be authorized, should be imposed.

11. This act shall take effect immediately.

Approved December 23, 1999.

CHAPTER 297

AN ACT concerning the giving of false information to law enforcement officials and amending N.J.S.2C:29-3.

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

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

Hindering apprehension or prosecution.

2C:29-3. Hindering Apprehension or Prosecution.

a. A person commits an offense if, with purpose to hinder the detention, apprehension, investigation, prosecution, conviction or punishment of another for an offense or violation of Title 39 of the New Jersey Statutes or a violation of chapter 33A of Title 17 of the Revised Statutes he:

(1) Harbors or conceals the other;

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

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

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

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

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

(7) Gives false information to a law enforcement officer or a civil State investigator assigned to the Office of the Insurance Fraud Prosecutor established by section 32 of P.L.1998, c.21 (C.17:33A-16).

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

b. A person commits an offense if, with purpose to hinder his own detention, apprehension, investigation, prosecution, conviction or punishment for an offense or violation of Title 39 of the New Jersey Statutes or a violation of chapter 33A of Title 17 of the Revised Statutes, he:

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

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

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

(4) Gives false information to a law enforcement officer or a civil State investigator assigned to the Office of the Insurance Fraud Prosecutor established by section 32 of P.L.1998, c.21 (C.17:33A-16).

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

2. This act shall take effect immediately.

Approved December 23, 1999.

CHAPTER 298

AN ACT concerning certain consumer fraud practices relating to senior citizens and amending 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 Senior Citizens Fraudulent Claims Act."

2. Section 1 of P.L.1960, c.39 (C.56:8-1) is amended to read as follows:

C.56:8-1 Definitions.

1. (a) The term "advertisement" shall include the attempt directly or indirectly by publication, dissemination, solicitation, indorsement or circulation or in any other way to induce directly or indirectly any person to enter or not enter into any obligation or acquire any title or interest in any merchandise or to increase the consumption thereof or to make any loan;

(b) The term "Attorney General" shall mean the Attorney General of the State of New Jersey or any person acting on his behalf;

(c) The term "merchandise" shall include any objects, wares, goods, commodities, services or anything offered, directly or indirectly to the public for sale;

(d) The term "person" as used in this act shall include any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trustent thereof;

(e) The term "sale" shall include any sale, rental or distribution, offer for sale, rental or distribution or attempt directly or indirectly to sell, rent or distribute;

(f) The term "senior citizen" means a natural person 60 years of age or older.

3. Section 1 of P.L.1966, c.39 (C.56:8-13) is amended to read as follows:

C.56:8-13 Penalties.

1. Any person who violates any of the provisions of the act to which this act is a supplement shall, in addition to any other penalty provided by law, be liable to a penalty of not more than $7,500 for the first offense and not more than $15,000 for the second and each subsequent offense. The penalty shall be exclusive of and in addition to any moneys or property ordered to be paid or restored to any person in interest pursuant to section 2 of P.L.1966, c.39 (C.56:8-14) or section 3 of P.L.1971, c.247 (C.56:8-15).

4. Section 2 of P.L.1966, c.39 (C.56:8-14) is amended to read as follows:

C.56:8-14 Enforcement of penalty; process.

2. The Superior Court and every municipal court shall have jurisdiction of proceedings for the collection and enforcement of a penalty imposed because of the violation, within the territorial jurisdiction of the court, of any provision of the act to which this act is a supplement. Except as otherwise provided in this act the penalty shall be collected and enforced in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the Attorney General or any other person.

In any action brought pursuant to this section to enforce any order of the Attorney General or his designee the court may, without regard to jurisdictional limitations, restore to any person in interest any moneys or property, real or personal, which have been acquired by any means declared to be unlawful under this act, except that the court shall restore to any senior citizen twice the amount or value, as the case may be, of any moneys or property, real or personal, which have been acquired by any means declared to be unlawful under P.L.1960, c.39 (C.56:8-1 et seq.).

In the event that any person found to have violated any provision of this act fails to pay a civil penalty assessed by the court, the court may issue, upon application by the Attorney General, a warrant for the arrest of such person for the purpose of bringing him before the court to satisfy the civil penalty imposed.

A person who fails to restore any moneys or property, real or personal, found to have been acquired unlawfully from a senior citizen shall be

subject to punishment for criminal contempt pursuant to N.J.S.2C:29-9, which is a crime of the fourth degree.

5. Section 3 of P.L.1971, c.247 (C.56:8-15) is amended to read as follows:

C.56:8-15 Additional penalties.

3. In addition to the assessment of civil penalties, the Attorney General or his designee may, after a hearing as provided in P.L.1967, c.97 (C.56:8-3.1) and upon a finding of an unlawful practice under this act and the act hereby amended and supplemented, order that any moneys or property, real or personal, which have been acquired by means of such unlawful practice be restored to any person in interest, except that if any moneys or property, real or personal, have been acquired by means of an unlawful practice perpetrated against a senior citizen, the amount of moneys or property, real or personal, ordered restored shall be twice the amount acquired.

6. Section 5 of P.L.1971, c.247 (C.56:8-17) is amended to read as follows:

C.56:8-17 Noncompliance; penalties.

5. Upon the failure of any person to comply within 10 days after service of any order of the Attorney General or his designee directing payment of penalties or restoration of moneys or property, the Attorney General may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted, and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed and the amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the final order of the Attorney General or his designee.

A person who fails to restore moneys or property found to have been acquired unlawfully from a senior citizen shall be subject to punishment for criminal contempt pursuant to N.J.S.2C:29-9, which is a crime of the fourth degree.

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

Approved December 23, 1999.

CHAPTER 299

AN ACT concerning the rights and obligations of campground facility owners and occupants and supplementing Title 5 of the Revised Statutes.

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

C.5:16-1 Short title.

1. This act shall be known and may be cited as the "Campground Facilities Act."

C.5:16-2 Definitions relative to campground facilities.

2. As used in this act:

a. "Last known address" means the address provided by the occupant in the latest rental agreement or the address provided by the occupant in a subsequent written notice of change of address.

b. "Occupant" means a person, the person's sublessee, successor or assignee entitled to the use of a campground facility or a portion thereof under a rental agreement to the exclusion of others.

c. "Owner" means the proprietor, operator, lessor, sublessor or owner of a campground facility, the owner's agent or any other person authorized by the owner to manage the facility or to receive rent from an occupant under a rental agreement.

d. "Personal property" means property, located at the campground facility, not affixed to the land and including but not limited to goods, merchandise, household items, trailers, boats, campers, tents and the contents thereof.

e. "Rental agreement" means any written agreement or lease that establishes or modifies the terms, conditions, rules or any other provisions concerning the use and occupancy of a campground facility or any portion thereof.

f. "Campground facility" means any real property designed and used for the purpose of renting or leasing individual portions thereof to occupants who are to have access for the purpose of camping and the recreation associated therein.

C.5:16-3 Lien upon personal property located at campground facility.

3. a. The owner of a campground facility or the owner's heirs, successors or assignees shall have a lien upon all personal property located at a campground facility for rent, labor or other reasonable charges due as specified in the rental agreement, and for expenses necessary for its preservation or for expenses reasonably incurred in any sale executed under this act. The lien provided for in this section is superior to any other lien or

security interest except those prior liens as to which the occupant has notified the owner in writing. The lien shall attach as of the date the personal property is brought to the campground facility. The owner may retain the personal property until such time as the lien is satisfied or the personal property is sold at auction.

b. The owner of the campground facility shall post and maintain in a conspicuous place a written notice which states that the owner of the campground facility has a lien on all personal property located at the campground facility for rent, labor or other reasonable charges due as specified in the rental agreement, and for expenses necessary for its preservation or for expenses reasonably incurred in any sale executed pursuant to the provisions of this act.

C.5:16-4 Enforcement of lien.

4. If charges under a rental agreement are more than 30 days overdue, the owner may enforce a lien as follows:

a. Notice shall be delivered to the occupant either in person or sent by certified mail to the last known address of the occupant.

b. The notice shall include:

(1) An itemized statement of the owner's claims showing the sum due at the time of the notice and the date when the sum became due;

(2) A brief and general description of the personal property subject to the lien. The description shall be reasonably adequate to permit the person notified to identify the properties, except that any container, including but not limited, to a trunk, valise, box or trailer which is locked, fastened, sealed or tied in any manner which deters immediate access to its contents, may be described without listing its contents;

(3) A notice of denial of access to the personal property, if this denial is permitted under the terms of the rental agreement, which provides the name, street address, and telephone number of the owner or the owner's designated agent whom the occupant may contact to respond to this notice;

(4) A demand for payment within a specified time, not less than 14 days after delivery of notice; and

(5) A conspicuous statement that unless the claim is paid within the time stated in the notice, the personal property will be advertised for sale. The notice shall specify the time and place of the sale.

c. Any notice made pursuant to this section shall be presumed delivered when it is deposited with the United States Postal Service and properly addressed with postage prepaid.

C.5:16-5 Advertisement of sale.

5. a. After the expiration of the time given in the notice, an advertisement of the sale shall be published once a week for two consecutive weeks

in a newspaper of general circulation where the campground facility is located. The advertisement shall include:

(1) A brief and general description of the personal property adequate to permit its identification as provided for in section 4 of this act;

(2) The address of the campground facility and the number, if any, of the space or campsite where the personal property is located and the name of the occupant; and

(3) The time, place and the manner of the sale.

The sale shall take place not sooner than 15 days after the final publication.

b. If there is no newspaper of general circulation where the campground facility is located, the advertisement shall be posted at least ten days before the date of sale, in not less than six conspicuous places in the neighborhood where the campground facility is located.

C.5:16-6 Sale of personal property.

6. a. A sale of personal property shall conform to the terms of the notification.

b. A sale of personal property shall be public and shall be held at the campground facility or at the nearest suitable place to where the personal property is held or stored.

c. Before a sale of personal property, the occupant may, in order to redeem the personal property, pay the amount necessary to satisfy the lien and the reasonable expenses incurred by the owner including reasonably incurred attorney's fees, advertisement costs and costs of removal of personal property.

d. A purchase in good faith of the personal property sold to satisfy a lien as provided for in section 3 of this act makes the property free of any rights of any person against whom any lien is held despite non-compliance by the owner with the requirements of this act.

e. The owner may satisfy his lien from the proceeds of the sale, but shall deposit the balance, if any, in an interest-bearing account with notice given to the occupant of the amount and place of the deposit and of the occupant's right to secure the funds.

C.5:16-7 Removal of person violating terms of rental agreement.

7. a. A campground facility owner may remove or cause to be removed from such campground facility any person residing in the campground facility or portion thereof in violation of the terms of the rental agreement by notifying such person that the campground facility no longer desires to entertain them and requesting that they immediately leave. Such removal shall be construed as eviction. Any person who remains or attempts to

remain after being so requested to leave shall be guilty of a disorderly persons offense.

b. (1) A campground facility owner may remove or cause to be removed by a law enforcement officer any person refusing to pay registration or visitor's fees or any person who willfully denies other persons their right to quiet enjoyment of the campground facility or any person who violates any local, county or State law.

(2) The right to remove or cause to be removed shall arise after the campground facility owner makes a reasonable attempt to verbally warn the person to cease and desist the breach of quiet enjoyment or violation of the local, county or State laws, or rules of the campground facility or contained within the rental agreement signed by the person or person's agent.

(3) Following eviction, said person may make a written request to the owner within 30 days for a refund of the unused portion of his prepaid campsite rental or visitor fee.

(4) Upon such request the owner shall refund such unused portion of the fees less any amount deducted for damages.

(5) Upon eviction, the person shall be deemed to have abandoned his right to use of the facility and the owner may make the facility available to other persons.

c. (1) A law enforcement officer, upon the request of a campsite facility owner, shall place under arrest and take into custody any person who violates this section in the presence of the officer.

(2) Upon arrest, the person arrested shall be deemed to have abandoned his right of use of the facility and the owner may then make such facility available to other persons.

8. This act shall take effect immediately.

Approved December 23, 1999.

CHAPTER 300

AN ACT concerning the position of the tax collector and amending P.L.1979, c.384 and P.L.1993, c.25.

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

1. Section 2 of P.L.1979, c.384 (C.40A:9-145.2) is amended to read as follows:

C.40A:9-145.2 Certification as tax collector.

2. a. Commencing on the effective date of this act, the director shall hold examinations semi-annually, and at such other times as he may determine appropriate, for certification as tax collector. An applicant for examination shall furnish proof to the director, not less than 30 days before an examination, 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 as fully equivalent; has graduated from a four-year course at an institution of higher education of recognized standing, or has not less than two years' full-time experience in tax collection, or has at least one year's full-time experience in tax collection and 30 credit hours at an institution of higher education of recognized standing; and possesses certificates of completion of Municipal Tax Collection I, II, and III courses offered by Rutgers, The State University which courses shall be approved by the Division of Local Government Services in the Department of Community Affairs.

b. For the purpose of this section, experience in tax collection must include experience in the following areas: lien enforcement, tax collecting, tax billing, and reporting, and, shall be attested to by the tax collector of the employing municipality.

c. The proofs required pursuant to this section shall be provided on such application forms and in such manner as shall be prescribed by the director. Each completed application form shall be accompanied by a fee in the amount of $50 payable to the order of the State Treasurer and shall be filed with the director at least 30 days prior to the date of the examination. Examinations shall be written, or both written and oral, and shall be of such character as fairly to test and determine the qualifications, fitness and ability of the person tested to actually perform the duties of tax collector.

d. Commencing with examinations given after the effective date of P.L.1999, c.300, the examination shall be given in sections on the subjects of lien enforcement; tax collecting, tax billing, and reporting; policies and practices relating to tax collection in a municipality operating under a State fiscal year; and any other material as determined appropriate by the director and in sections as determined necessary. The director shall notify applicants of the nature of any such other material at the time the examinations are announced. There shall be no limit on the number of times an applicant may sit for any section of the examination. When an examination section or sections are taken separately, the fee for registering for a single examination sitting shall not exceed $25.

e. A person shall not be required to pass the State fiscal year section of the examination in order to receive certification as a tax collector, except that any such certification shall be noted as restricted to serve in a municipality operating under a calendar fiscal year; and such a person shall not serve as tax collector in a municipality operating under a State fiscal year until such time the person successfully passes the State fiscal year section of the examination. The director shall note that a person has passed the State fiscal year section of the examination by appropriately noting the fact on the person's certificate. Notwithstanding the provisions of this subsection, nothing shall preclude a certified tax collector who, prior to the effective date of P.L.1999, c.300, serves, served, or successfully passed the certified tax collector examination, from being appointed as a tax collector in a municipality operating under a State fiscal year.

2. Section 7 of P.L.1993, c.25 (C.40A:9-145.3b) is amended to read as follows:

C.40A:9-145.3b Expiration, renewal of outstanding, lapsed certificates; fee.

7. Commencing on the effective date of P.L.1993, c.25 (C.40A:9-145.3a et al.) all outstanding tax collector certificates shall expire and be renewed in accordance with the following procedure:

a. All tax collector certificates shall be renewed upon application, payment of the required fee, and verification that the applicant has met continuing education requirements, as set forth in subsection c. of this section. Each renewal shall be for a period of two years. The renewal date shall be 30 days prior to the expiration date.

b. All tax collector certificates subject to renewal pursuant to this section issued prior to January 1, 1993 shall have an expiration date of December 31, 1994. All tax collector certificates issued on or after January 1, 1993 shall have an expiration date of either June 30 or December 31, whichever is sooner, of the second year following the year in which the certificates were originally issued, provided that no certificate shall expire sooner than two years from the date of original issue.

c. Prior to the renewal date of a tax collector certificate, every tax collector shall, on a form prescribed by the director, furnish proof of having earned at least 1.5 continuing education units. For the purpose of this section, 1.5 continuing education units equals 15 contact hours with a minimum number of hours, as determined by the director.

Under verification of this requirement, and upon payment of a fee of $50 to the order of the Treasurer of the State of New Jersey, the director shall renew the tax collector certificate.

d. When the holder of a tax collector 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 certificate, then application may be made in the same manner as a renewal, but the application shall be accompanied by the fee required for a new application.

3. This act shall take effect immediately.

Approved December 23, 1999.

CHAPTER 301

AN ACT concerning nontenured school district employees and amending and supplementing P.L.1997, c.200.

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

1. Section 1 of P.L.1997, c.200 (C.18A:16-1.3) is amended to read as follows:

C.18A:16-1.3 Dismissal of nontenured, certificated employee for cause, notice to State board.

1. A board of education shall notify the State Board of Examiners whenever a non-tenured, certificated employee is dismissed prior to the end of any school year for just cause as a result of misconduct in office. This notification requirement shall not apply in instances where the employee's contract is not renewed. The State Board of Examiners shall maintain a list containing the name and Social Security number of the employee and the reason for the dismissal. If a disciplinary grievance arbitration is conducted pursuant to section 8 of P.L.1989, c.269 (C.34:13A-29) as to the dismissal, or if the dismissal is appealed to a court or administrative tribunal of competent jurisdiction the board of education shall not notify the State Board of Examiners unless just cause due to misconduct in office is found by the arbitrator, the court or administrative tribunal of competent jurisdiction. If a person's name is placed on the list subsequent to a determination of just cause due to misconduct in office by the arbitrator and the person later files an appeal to a court or administrative tribunal of competent jurisdiction, a board of education shall notify the State Board of Examiners that an appeal has been filed. The State Board of Examiners shall remove the person's name from the list and upon any inquiry as to the person's status

on the list, the State Board of Examiners shall indicate that the person's name has been proposed for inclusion on the list. A board of education shall notify the State Board of Examiners regarding the final determination of the court or administrative tribunal of competent jurisdiction. If a final determination is made that the basis for dismissal does not constitute misconduct in office, the State Board of Examiners shall not put the name of the person on the list. If a final determination is made that the basis for dismissal does constitute misconduct in office, the State Board of Examiners shall place the name of the person on the list. Nothing herein shall be deemed to create a right to tenure beyond the provisions of existing law.

The chief school administrator of a public school district or a nonpublic school, in New Jersey or any other state that has entered into the interstate agreement on qualification of educational personnel pursuant to P.L.1969, c.114 (C.18A:26-11 et seq.), may submit to the State Board of Examiners the name and Social Security number of a person who has applied for a position in the district or school, and the State Board of Examiners shall indicate to the chief school administrator whether the person's name appears on the list and if so, the listed reason for the dismissal or whether the person's name has been proposed for inclusion on the list.

Whenever a board of education notifies the State Board of Examiners of a person's dismissal for reasons of misconduct, the board of education shall send the person a simultaneous copy of the notifying correspondence. Whenever a chief school administrator inquires about the status on the list of a job applicant, the chief school administrator shall send the applicant a simultaneous copy of the inquiry and shall subsequently forward to the applicant a copy of the response received from the State Board of Examiners.

Any non-tenured, certificated employee who submits a false name or Social Security number to a board of education is deemed to be in violation of N.J.S.2C:28-3.

C.18A:16-1.4 Removal from list.

2. Upon application to the State Board of Examiners, a person's name shall be removed from the list provided that his name has been on the list for at least three years.

C.18A:16-1.5 Employee rights unaffected.

3. Nothing herein shall limit the rights of employees to pursue any remedy permitted by law.

4. This act shall take effect immediately.

Approved December 23, 1999.

CHAPTER 302

AN ACT concerning executions and amending P.L.1983, c.245.

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

1. Section 7 of P.L.1983, c.245 (C.2C:49-7) is amended to read as follows:

C.2C:49-7 Persons present at execution.

7. a. The commissioner, the persons designated by the commissioner to act as execution technicians, and one licensed physician shall be present at the execution. The commissioner shall also select and invite the presence of, by at least three days' prior notice, six adult citizens. The names of the execution technicians shall not be disclosed, and the names of the six adult citizens who witnessed the execution shall not be disclosed until after the execution.

b. The commissioner shall, at the request of the person sentenced to death, authorize and permit no more than two clergymen, who are not related to the inmate, to be present at the execution. The commissioner may, at the request of the person sentenced to death, authorize and permit no more than two adult members of the person's immediate family to be present at the execution.

c. The commissioner shall permit four representatives of the news media to be present at the execution, for the purpose of giving their respective newspapers and associations accounts of the execution. The four representatives shall be composed of one representative of the major wire services, one representative of television news services, one representative of newspapers, and one representative of radio news services. Immediately following the execution, the four representatives of the news media may hold a press conference for the purpose of giving other news representatives an account of the execution.

d. The commissioner shall not authorize or permit any person to be present, except those authorized by this section.

e. The commissioner shall authorize and permit no more than four adult members of the victim's immediate family to be present at the execution. The names of the members of the victim's immediate family who witnessed the execution shall not be disclosed.

f. For purposes of this section, "immediate family" means a spouse, parent, stepparent, legal guardian, grandparent, child, or sibling.

g. Nothing in this section shall be construed to give a right to any person to delay or prevent the execution of a sentence of death on the date appointed in the warrant pursuant to N.J.S.2C:49-5.

2. This act shall take effect immediately.

Approved December 23, 1999.

CHAPTER 303

AN ACT concerning certain expenditures by municipalities and counties.

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

1. As used in this act:

"Necessary repair or replacement" means those repairs or replacements which are necessary to correct a potential "Year 2000" transition failure.

"Year 2000 transition" means the ability of a device or system containing electronic microprocessing circuitry to correctly process or otherwise deal with the transition from the year 1999 to the year 2000.

2. In addition to the exceptions to the limits on increases to municipal appropriations set forth in section 3 of P.L.1976, c.68 (C.40A:4-45.3) and to the county tax levy set forth in section 4 of P.L.1976, c.68 (C.40A:4-45.4), appropriations which represent expenditures made by a municipality or county for the purpose of testing micro-processor based equipment and computer software, and remediating or replacing micro-processor based equipment and computer software that is found to fail testing for "Year 2000" transition, including but not limited to, appropriations for the provision of electronic data processing hardware, software, and peripherals compatible with existing applications, and for any necessary repair or replacement of other equipment containing electronic micro-processing circuitry, shall be exempt from the limits on increases to municipal appropriations and to the limits on increases to the county tax levy in county budgets, respectively, for either budget year 1999 or budget year 2000, but not both, the decision of which shall be made by each local government entity seeking to utilize the additional exception authorized herein.

3. In addition to the purposes set forth in N.J.S.40A:4-53 for which special emergency appropriations may be authorized, a municipality or

county may adopt a special emergency appropriation by ordinance or resolution, as appropriate, for the purpose of making expenditures which the county or municipality is required to make for the purpose of testing micro-processor based equipment and computer software and remediating or replacing micro-processor based equipment and computer software that is found to fail testing for "Year 2000" transition, including, but not limited to, the provision of electronic data processing hardware, software, and peripherals compatible with existing applications, and for any necessary repair or replacement of other equipment containing electronic micro-processing circuitry. An ordinance or resolution adopted pursuant to this section shall be treated in the same manner as an ordinance adopted pursuant to N.J.S.40A:4-53.

4. This act shall take effect immediately and shall expire on December 31, 2000.

Approved December 23, 1999.

CHAPTER 304

AN ACT concerning the participation of victims of crime in parole hearings and amending P.L.1979, c.441.

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

1. Section 10 of P.L.1979, c.441 (C.30:4-123.54) is amended to read as follows:

C.30:4-123.54 Report prior to parole eligibility date.

10. a. At least 120 days but not more than 180 days prior to the parole eligibility date of each adult inmate, a report concerning the inmate shall be filed with the appropriate board panel, by the staff members designated by the superintendent or other chief executive officer of the institution in which the inmate is held.

b. (1) The report filed pursuant to subsection a. shall contain preincarceration records of the inmate, including any history of civil commitment, any disposition which arose out of any charges suspended pursuant to N.J.S.2C:4-6 including records of the disposition of those charges and any acquittals by reason of insanity pursuant to N.J.S.2C:4-1, state the conduct of the inmate during the current period of confinement, include a complete report on the inmate's social and physical

condition, include an investigation by the Bureau of Parole of the inmate's parole plans, and present information bearing upon the likelihood that the inmate will commit a crime under the laws of this State if released on parole. The report shall also include a complete psychological evaluation of the inmate in any case in which the inmate was convicted of a first or second degree crime involving violence and:

(a) the inmate has a prior acquittal by reason of insanity pursuant to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6; or

(b) the inmate has a prior conviction for murder pursuant to N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the welfare of a child which would constitute a crime of the second degree pursuant to N.J.S.2C:24-4, or stalking which would constitute a crime of the third degree pursuant to P.L.1992, c.209 (C.2C:12-10); or

(c) the inmate has a prior diagnosis of psychosis.

The inmate shall disclose any information concerning any history of civil commitment.

The preincarceration records of the inmate contained in the report shall include any psychological reports prepared in connection with any court proceedings.

(2) At the time of sentencing, the prosecutor shall notify any victim injured as a result of a crime of the first or second degree or the nearest relative of a murder victim of the opportunity to present a written or videotaped statement for the parole report to be considered at the parole hearing or to testify to the parole board concerning his harm at the time of the parole hearing. Each victim or relative shall be responsible for notifying the board of his intention to submit such a statement and to provide an appropriate mailing address.

The report may include a written or videotaped statement concerning the continuing nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim, the extent of any loss of earnings or ability to work suffered by the victim and the continuing effect of the crime upon the victim's family. At the time public notice is given that an inmate is being considered for parole pursuant to this section, the board shall also notify any victim or nearest relative who has previously contacted the board of the availability to provide a written or videotaped statement for inclusion in the parole report or to present testimony at the parole hearing.

The board shall notify such person at his last known mailing address.

c. A copy of the report filed pursuant to subsection a. of this section, excepting those documents which have been classified as confidential pursuant to rules and regulations of the board or the Department of Corrections, shall be served on the inmate at the time it is filed with the board panel. The inmate may file with the board panel a written statement

regarding the report, but shall do so within 105 days prior to the primary parole eligibility date.

d. Upon receipt of the public notice pursuant to section 1 of P.L.1979, c.441 (C.30:4-123.45), a county prosecutor may request from the parole board a copy of the report on any adult inmate prepared pursuant to subsection a. of this section, which shall be expeditiously forwarded to the county prosecutor by the parole board by mail, courier, or other means of delivery. Upon receipt of the report, the prosecutor has 10 working days to review the report and notify the parole board of the prosecutor's comments, if any, or notify the parole board of the prosecutor's intent to provide comments. If the county prosecutor does not provide comments or notify the parole board of the prosecutor's intent to provide comments within the 10 working days, the parole board may presume that the prosecutor does not wish to provide comments and may proceed with the parole consideration. Any comments provided by a county prosecutor shall be delivered to the parole board by the same method by which the county prosecutor received the report. The confidentiality of the contents in a report which are classified as confidential shall be maintained and shall not be disclosed to any person who is not authorized to receive or review a copy of the report containing the confidential information.

e. Any provision of this section to the contrary notwithstanding, the board shall by rule or regulation modify the scope of the required reports and time periods for rendering such reports with reference to county penal institutions.

2. Section 11 of P.L.1979, c.441 (C.30:4-123.55) is amended to read as follows:

C.30:4-123.55 Review of reports, risk assessment, inmate's statement; certification, denial of parole; hearing.

11. a. Prior to the parole eligibility date of each adult inmate, a designated hearing officer shall review the reports required by section 10 of P.L.1979, c.441 (C.30:4-123.54), and shall determine whether there is a basis for denial of parole in the preparole report, any risk assessment prepared in accordance with the provisions of subsection e. of section 8 of P.L.1979, c.441 (C.30:4-123.52), or the inmate's statement, or an indication, reduced to writing, that additional information providing a basis for denial of parole would be developed or produced at a hearing. If the hearing officer determines that there is no basis in the preparole report, the risk assessment, or the inmate's statement for denial of parole and that there is no additional relevant information to be developed or produced at a hearing, he shall at least 60 days prior to the inmate's parole eligibility date

recommend in writing to the assigned member of the board panel that parole release be granted.

b. If the assigned member of the board panel or in the case of an inmate sentenced to a county penal institution, the assigned member concurs in the hearing officer's recommendation, he shall certify parole release pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59) as soon as practicable after the eligibility date and so notify the inmate and the board. In the case of an inmate sentenced to a county penal institution the board shall certify parole release or deny parole as provided by this section, except with regard to time periods for notice and parole processing which are authorized by or otherwise adopted pursuant to subsection g. of section 7 of P.L.1979, c.441 (C.30:4-123.51). If the designated hearing officer does not recommend release on parole or if the assigned member does not concur in a recommendation of the designated hearing officer in favor of release, then the parole release of an inmate in a county penal institution shall be treated under the provisions of law otherwise applicable to an adult inmate. In the case of an inmate sentenced to a county penal institution, the performance of public service for the remainder of the term of the sentence shall be a required condition of parole, where appropriate.

c. If the hearing officer or the assigned member determines that there is a basis for denial of parole, or that a hearing is otherwise necessary, the hearing officer or assigned member shall notify the appropriate board panel and the inmate in writing of his determination, and of a date for a parole consideration hearing. The board panel shall notify the victim of the crime, if the crime for which the inmate is incarcerated was a crime of the first or second degree, or the victim's nearest relative if the crime was murder, as appropriate, who was previously contacted by the board and who has indicated his intention to the board to testify at the hearing, of the opportunity to testify or submit written or videotaped statements at the hearing. Said hearing shall be conducted by the appropriate board panel at least 30 days prior to the eligibility date. At the hearing, which shall be informal, the board panel shall receive as evidence any relevant and reliable documents or videotaped or in person testimony, including that of the victim of the crime or the members of the family of a murder victim if the victim or a family member so desires. If a victim of a crime or the relative of a murder victim chooses not to testify personally at the hearing, the victim or relative may elect to present testimony to a senior hearing officer designated by the board panel. The senior hearing officer shall notify the victim of the right to have this testimony videotaped. The senior hearing officer shall prepare a report, transcript or videotape, if applicable, of the testimony for presentation to the board panel at the hearing. All such evidence not classified as confidential pursuant to rules and regulations of the board or the Department

of Corrections shall be disclosed to the inmate and the inmate shall be permitted to rebut such evidence and to present evidence on his own behalf. The decision of the board panel shall be based solely on the evidence presented at the hearing.

d. At the conclusion of the parole consideration hearing, the board panel shall either (1) certify the parole release of the inmate pursuant to section 15 of this act as soon as practicable after the eligibility date and so notify the inmate and the board, or (2) deny parole and file with the board within 30 days of the hearing a statement setting forth the decision, the particular reasons therefor, except information classified as confidential pursuant to rules and regulations of the board or the Department of Corrections, a copy of which statement shall be served upon the inmate together with notice of his right to appeal to the board.

e. Upon request by the hearing officer or the inmate, the time limitations contained in section 10 of P.L.1979, c.441 (C.30:4-123.54) and this section may be waived by the appropriate board panel for good cause.

f. Notwithstanding the provision of any other law to the contrary, if an inmate incarcerated for murder is recommended for parole by the assigned board member or the appropriate board panel, parole shall not be certified until a majority of the full parole board, after conducting a hearing, concurs in that recommendation. The board shall notify the victim's family of that hearing and family members shall be afforded the opportunity to testify in person or to submit written or videotaped statements. The provisions of this subsection shall not apply to an inmate who has his parole revoked and is returned to custody pursuant to the provisions of section 19 of P.L.1979, c.441 (C.30:4-123.63).

3. This act shall take effect immediately.

Approved December 29, 1999.

CHAPTER 305

AN ACT concerning registration of historic motor vehicles and amending P.L.1964, c.195.

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

1. Section 2 of P.L.1964, c.195 (C.39:3-27.4) is amended to read as follows:

C.39:3-27.4 Historic motor vehicles; registration, license plates, display.

2. Any owner of an historic motor vehicle who is a resident of this State may register such motor vehicle under the provisions of this act. Application for registering an historic vehicle shall be on forms prescribed by the director. Upon proper application and payment of the prescribed fee, the director shall issue a special nonconventional registration and special license plate for each historic motor vehicle registered in this State. Such registration and license plate shall be valid during the period of time that the vehicle is owned by the registrant. The fee for such registration and license plate shall be $25.00. The license plate shall bear the word "historic" and shall be of such design and colors as the director may determine. Notwithstanding the provisions of R.S.39:3-33 or any other law to the contrary, an owner of a vehicle registered as an historic vehicle, or any vehicle manufactured before 1945, shall not be required to display more than one special license plate issued for that vehicle, which plate shall be displayed on the rear of the vehicle.

2. This act shall take effect immediately.

Approved January 4, 2000.

CHAPTER 306

AN ACT concerning penalties for unlawful use of body vests and amending P.L.1983, c.152.

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

1. Section 1 of P.L.1983, c.152 (C.2C:39-13) is amended to read as follows:

C.2C:39-13 Unlawful use of body vests.

1. Unlawful use of body vests. A person is guilty of a crime if he uses or wears a body vest while engaged in the commission of, or an attempt to commit, or flight after committing or attempting to commit murder, manslaughter, robbery, sexual assault, burglary, kidnaping, criminal escape or assault under N.J.S.2C:12-1b. Use or wearing a body vest while engaged in the commission of, or an attempt to commit, or flight after committing or attempting to commit a crime of the first degree is a crime of the second degree. Otherwise it is a crime of the third degree.

As used in this section, "body vest" means bullet-resistant body armor which is intended to provide ballistic and trauma protection.

2. This act shall take effect immediately.

Approved January 4, 2000.

CHAPTER 307

AN ACT concerning the sale or barter of dog or cat fur or hair and products made therefrom and concerning the sale or barter of dog or cat flesh and products made therefrom for human consumption, supplementing Title 4 of the Revised Statutes, and amending R.S.4:22-26.

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

C.4:22-25.3 Sale, barter of products made from dog or cat fur; prohibited.

1. Any person who sells, barters, or offers for sale or barter, at wholesale or retail, the fur or hair of a domestic dog or cat or any product made in whole or in part from the fur or hair of a domestic dog or cat commits a crime of the fourth degree, provided that the person knew or reasonably should have known that the fur or hair was from a domestic dog or cat or that the product was made in whole or in part from the fur or hair of a domestic dog or cat. This section shall not apply to the sale or barter, or offering for sale or barter, of the fur or hair of a domestic dog or cat cut at a commercial grooming establishment or at a veterinary office or clinic or for scientific research purposes.

As used in this section, "domestic dog or cat" means a dog (*Canis familiaris*) or cat (*Felis catus* or *Felis domesticus*) that is generally recognized in the United States as being a household pet and shall not include coyote, fox, lynx, bobcat, or any other wild canine or feline species.

C.4:22-25.4 Sale, barter of dog or cat flesh or products for human consumption; disorderly persons offense.

2. Any person who sells, barters, or offers for sale or barter, at wholesale or retail, for human consumption, the flesh of a domestic dog or cat or any product made in whole or in part from the flesh of a domestic dog or cat commits a disorderly persons offense, provided that the person knew or reasonably should have known that the flesh was from a domestic dog or cat or the product was made in whole or in part from the flesh of a domestic dog or cat. Notwithstanding the provisions of Title 2C of the New Jersey

Statutes to the contrary, any person found guilty of violating this section shall be subject to a fine of not less than $100 and a term of imprisonment of not less than 30 days.

As used in this section, "domestic dog or cat" means a dog (*Canis familiaris*) or cat (*Felis catus* or *Felis domesticus*) that is generally recognized in the United States as being a household pet and shall not include coyote, fox, lynx, bobcat, or any other wild canine or feline species.

3. R.S.4:22-26 is amended to read as follows:

Penalty for acts constituting cruelty in general.

4:22-26. A person who shall:

a. Overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, or cruelly beat or otherwise abuse or needlessly mutilate or kill a living animal or creature;

b. Cause or procure to be done by his agent, servant, employee or otherwise an act enumerated in subsection a. of this section;

c. Inflict unnecessary cruelty upon a living animal or creature of which he has charge or custody either as owner or otherwise, or unnecessarily fail to provide it with proper food, drink, shelter or protection from the weather;

d. Receive or offer for sale a horse that is suffering from abuse or neglect, or which by reason of disability, disease, abuse or lameness, or any other cause, could not be worked, ridden or otherwise used for show, exhibition or recreational purposes, or kept as a domestic pet without violating the provisions of this article;

e. Keep, use, be connected with or interested in the management of, or receive money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting or baiting a living animal or creature;

f. Be present and witness, pay admission to, encourage, aid or assist in an activity enumerated in subsection e. of this section;

g. Permit or suffer a place owned or controlled by him to be used as provided in subsection e. of this section;

h. Carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhuman manner;

i. Use a dog or dogs for the purpose of drawing or helping to draw a vehicle for business purposes;

j. Impound or confine or cause to be impounded or confined in a pound or other place a living animal or creature, and shall fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water;

k. Abandon a maimed, sick, infirm or disabled animal or creature to die in a public place;

l. Willfully sell, or offer to sell, use, expose, or cause or permit to be sold or offered for sale, used or exposed, a horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the health or life of human beings or animals, or who shall, when any such disease is beyond recovery, refuse, upon demand, to deprive the animal of life;

m. Own, operate, manage or conduct a roadside stand or market for the sale of merchandise along a public street or highway; or a shopping mall, or a part of the premises thereof; and keep a living animal or creature confined, or allowed to roam in an area whether or not the area is enclosed, on these premises as an exhibit; except that this subsection shall not be applicable to: a pet shop licensed pursuant to P.L.1941, c.151 (C.4:19-15.1 et seq.); a person who keeps an animal, in a humane manner, for the purpose of the protection of the premises; or a recognized breeders' association, a 4-H club, an educational agricultural program, an equestrian team, a humane society or other similar charitable or nonprofit organization conducting an exhibition, show or performance;

n. Keep or exhibit a wild animal at a roadside stand or market located along a public street or highway of this State; a gasoline station; or a shopping mall, or a part of the premises thereof;

o. Sell, offer for sale, barter or give away or display live baby chicks, ducklings or other fowl or rabbits, turtles or chameleons which have been dyed or artificially colored or otherwise treated so as to impart to them an artificial color;

p. Use any animal, reptile, or fowl for the purpose of soliciting any alms, collections, contributions, subscriptions, donations, or payment of money except in connection with exhibitions, shows or performances conducted in a bona fide manner by recognized breeders' associations, 4-H clubs or other similar bona fide organizations;

q. Sell or offer for sale, barter, or give away living rabbits, turtles, baby chicks, ducklings or other fowl under two months of age, for use as household or domestic pets;

r. Sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl, or rabbits, turtles or chameleons under two months of age for any purpose not prohibited by subsection q. of this section and who shall fail to provide proper facilities for the care of such animals;

s. Artificially mark sheep or cattle, or cause them to be marked, by cropping or cutting off both ears, cropping or cutting either ear more than one inch from the tip end thereof, or half cropping or cutting both ears or either ear more than one inch from the tip end thereof, or who shall have or keep in his possession sheep or cattle, which he claims to own, marked contrary to this subsection unless they were bought in market or of a stranger;

t. Abandon a domesticated animal;

u. For amusement or gain, cause, allow, or permit the fighting or baiting of a living animal or creature;

v. Own, possess, keep, train, promote, purchase, or knowingly sell a living animal or creature for the purpose of fighting or baiting that animal or creature;

w. Gamble on the outcome of a fight involving a living animal or creature;

x. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, the fur or hair of a domestic dog or cat or any product made in whole or in part from the fur or hair of a domestic dog or cat, unless such fur or hair for sale or barter is from a commercial grooming establishment or a veterinary office or clinic or is for use for scientific research; or

y. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, for human consumption, the flesh of a domestic dog or cat or any product made in whole or in part from the flesh of a domestic dog or cat --

Shall forfeit and pay a sum not to exceed $250, except in the case of a violation of subsection t. a mandatory sum of $500, and $1,000 if the violation occurs on or near a roadway, and in the case of a violation of subsection x. or y. a sum not to exceed $1,000 for each domestic dog or cat fur or fur or hair product or domestic dog or cat carcass or meat product, to be sued for and recovered, with costs, in a civil action by any person in the name of the New Jersey Society for the Prevention of Cruelty to Animals.

4. This act shall take effect immediately.

Approved January 4, 2000.

CHAPTER 308

AN ACT concerning the windshields and windows of certain motor vehicles 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.39:3-75.1 Certain tinting materials on windshields, windows of motor vehicles, permitted for medical reasons.

1. Notwithstanding the provisions of any other law to the contrary, the owner or lessee of a motor vehicle that is driven by or is used to regularly transport a person who has a medical condition involving ophthalmic or dermatologic photosensitivity may apply to the director for permission to have the windshield and windows of that vehicle covered by or treated with

a product or material that increases its light reflectance or reduces its light transmittance.

The application shall be in a form and manner prescribed by the director and shall include, but not be limited to, a written certification by a certified ophthalmologist or a physician with a plenary license to practice medicine and surgery in this State or a bordering state that the person for whom the application is submitted has a medical condition involving ophthalmic or dermatologic photosensitivity. For the purposes of this act, medical conditions involving ophthalmic or dermatologic photosensitivity shall include:

a. polymorphous light eruption;
b. persistent light reactivity;
c. actinic reticuloid;
d. porphyrins;
e. solar urticaria;
f. lupus erythematosus; and
g. such other photosensitive disorders or conditions as the director shall determine.

C.39A:3-75.2 Rules, regulations.

2. The director, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations to effectuate the purposes of this act. The rules and regulations shall include, but shall not be limited to:

a. Standards and specifications governing the types of materials and products that may be applied to a motor vehicle windshield and windows under this act. These standards and specifications shall include the color of the materials or products, the maximum allowable percentage of total light reflectance of the materials or products, the maximum allowable percentage of the light transmittance and ultraviolet transmittance of the materials or products, and such other matters as the director shall deem appropriate and necessary. In establishing the standards and specifications, the director shall consider, to the greatest extent possible, the safety of law enforcement officers, who during the performance of their duties may find it necessary to inspect or otherwise observe the interior of a motor vehicle having a windshield and windows to which an approved material or product is applied.

b. The issuance of a certificate or card to each approved applicant authorizing the approved covering or treatment. The certificate or card shall be valid for a period of not more than 48 months and shall be exhibited to any law enforcement officer, when so requested, and to a designated motor vehicle examiner whenever the motor vehicle is inspected.

c. Standards and specifications governing the installation and application of approved materials and products, including the affixation of

an appropriate label, in a manner and form prescribed by the director, on each windshield and window to which an approved material or product is applied. The label may identify the name and the location of the installer and the name of the manufacturer of the material or product applied.

d. The registration of persons in the business of installing or applying approved materials and products, including the establishment of a fee to cover the costs of that registration.

C.39:3-75.3 Violations, fines.

3. a. A person who violates the provisions of subsection b. of section 2 of P.L.1999, c.308 (C.39:3-75.2) shall be subject to a fine not exceeding $100; provided, however, if a person charged with such a violation can exhibit a certificate or card which was valid on the day he was charged to the judge of the municipal court before whom he is summoned to answer the charge, the judge may dismiss the charge. The judge, however, may impose court costs.

b. A person who violates the provisions of the regulations adopted pursuant to subsection c. or d. of section 2 of P.L.1999, c.308 (C.39:3-75.2) shall be subject to a fine not to exceed $1,000 for a first offense and not to exceed $5,000 for a second or subsequent offense.

4. This act shall take effect on the first day of the 13th month following enactment, except that section 2 shall take effect immediately.

Approved January 4, 2000.

CHAPTER 309

AN ACT concerning general public assistance and supplementing P.L.1947, c.156 (C.44:8-107 et seq.).

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

C.44:8-140.1 Civil, criminal penalties for fraudulent receipt of benefits or payments for general public assistance.

1. A person who willfully obtains benefits to which he is not entitled and a provider who willfully receives payments to which he is not entitled under the "Work First New Jersey General Public Assistance Act," P.L.1947, c.156 (C.44:8-107 et seq.), shall be subject to the applicable civil and criminal penalties contained in the "New Jersey Medical Assistance and Health Services Act," P.L.1968, c.413 (C.30:4D-1 et seq.).

2. This act shall take effect immediately

Approved January 4, 2000.

CHAPTER 310

AN ACT concerning pupil transportation, amending P.L.1996, c.138 and supplementing chapter 39 of Title 18A of the New Jersey Statutes.

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

1. Section 25 of P.L.1996, c.138 (C.18A:7F-25) is amended to read as follows:

C.18A:7F-25 Calculation of State aid for transportation.

25. a. Each school district's and county vocational school district's State aid for transportation shall consist of base aid (BA) and an incentive factor (IF) determined as follows:

BA = (BA1 x IF) + BA2

where

BA1=CP1 x P1+CD1 x P1 x D1;

BA2=CP2 x P2 + CD2 x P2 x D2;

P1 is the total number of regular education public pupils and regular nonpublic pupils eligible for transportation pursuant to N.J.S.18A:39-1, excluding preschool pupils except in districts that qualify for early childhood aid pursuant to section 16 of this act, and of special education pupils eligible for transportation pursuant to N.J.S.18A:46-23 with no special transportation requirements, who are resident in the district as of the last school day prior to October 16 of the prebudget year;

D1 is the average home-to-school mileage for P1 pupils;

P2 is the total number of special education pupils eligible for transportation pursuant to N.J.S.18A:46-23 with special transportation requirements who are resident in the district as of the last school day prior to October 16 of the prebudget year;

D2 is the average home-to-school mileage for P2 pupils; and

CP1, CD1, CP2 and CD2 are cost coefficients with values set forth in subsection b. of this section.

IF is the incentive factor, which modifies base aid paid for pupils transported on regular vehicles according to each district's percentile rank in regular vehicle capacity utilization. Students within the district who

receive courtesy busing services shall be included in the calculation of the district's regular vehicle capacity utilization if the courtesy busing services are provided to a student who would otherwise be required to walk to and from school along a route designated as a hazardous route by the school district pursuant to section 2 of P.L.1999, c.310 (C.18A:39-1.5). For the school year 1997-98, IF = 1. The Governor shall submit to the Legislature at least 60 days prior to the 1998 budget address proposed transportation incentive factors applicable to the 1998-99 school year and thereafter along with supporting data. The incentive factors shall be deemed approved by the Legislature unless a concurrent resolution is passed within 60 days of the date of submission.

b. For 1997-98, the cost coefficients in subsection a. of this section shall have the following values:

CP1 = $ 280.24;
CD1 = $ 28.75;
CP2 = $1,192.69; and
CD2 = $ 80.12.

For 1998-99, the coefficients shall be inflated by the CPI.

In subsequent years, the coefficients shall be revised by the commissioner on a biennial basis and similarly adjusted by the CPI in intervening years.

c. For the 1997-1998 school year, each district's base aid shall be prorated such that the overall distribution of base aid does not exceed that distributed Statewide in the 1996-1997 school year.

C.18A:39-1.5 Adoption of policy regarding transportation of students who walk along hazardous routes.

2. a. A school district that provides courtesy busing services shall adopt a policy regarding the transportation of students who must walk to and from school along hazardous routes. The policy shall include a list of hazardous routes in the district requiring the courtesy busing of students and the criteria used in designating the hazardous routes. In adopting its policy, the school district may consider, but shall not be limited to, the following criteria:

(1) Population density;
(2) Traffic volume;
(3) Average vehicle velocity;
(4) Existence or absence of sufficient sidewalk space;
(5) Roads and highways that are winding or have blind curves;
(6) Roads and highways with steep inclines and declines;
(7) Drop-offs that are in close proximity to a sidewalk;
(8) Bridges or overpasses that must be crossed to reach the school;
(9) Train tracks or trestles that must be crossed to reach the school; and
(10) Busy roads or highways that must be crossed to reach the school.

b. A school district shall work in conjunction with municipal officials in determining the criteria necessary for the designation of a hazardous route.

3. This act shall take effect immediately.

Approved January 4, 2000.

CHAPTER 311

AN ACT concerning the use of needles and other sharp devices in health care facilities and supplementing Title 26 of the Revised Statutes.

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

C.26:2H-5.10 Findings, declarations relative to use of needles, sharp devices in health care facilities.

1. The Legislature finds and declares that:

a. The use of conventional needles results in increased risk of HIV infection and hepatitis B and C to health care workers;

b. Each year, from 150 to 200 health care workers die and many suffer chronic and debilitating diseases due to needle stick injuries;

c. Equipment exists to prevent most injuries that result from needle stick injuries but overall concern with cutting health care costs has impeded the widespread use of advanced, safer technology; and

d. Newer, safer needle technology should be adopted in health care facilities.

C.26:2H-5.11 Definitions relative to use of needles, sharp devices in health care facilities.

2. As used in this act:

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

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

"Needle stick injury" means the parenteral introduction into the body of a health care worker of blood or other potentially infectious material by a needle or other sharp device during the worker's performance of health care duties in a health care facility.

C.26:2H-5.12 Integrated safety features required on needles, etc.

3. a. No later than 12 months after the date of enactment of this act, the commissioner shall require that a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) use only needles and other sharp devices with integrated safety features, which needles and other sharp

devices have been cleared or approved for marketing by the federal Food and Drug Administration and are commercially available for distribution.

b. By a date established by the commissioner by regulation, but no later than 36 months after the date of enactment of this act, the requirements of subsection a. of this section shall also apply to pre-filled syringes, as that term is defined by the commissioner by regulation pursuant to this act.

c. No later than six months after the date of enactment of this act, the commissioner shall develop evaluation criteria for use by an evaluation committee established pursuant to subsection a. of section 4 of this act in selecting needles and other sharp devices for use by a health care facility.

d. In the event that there is no cleared or approved for marketing product with integrated safety features for a specific patient use, the licensed health care facility shall continue to use the appropriate needle or other sharp device that is available, including any needle or other sharp device with non-integrated, add-on safety features, until such time as a product with integrated safety features is cleared or approved for marketing and is commercially available for that specific patient use.

e. No later than six months after the date of enactment of this act, the commissioner shall develop and make available to health care facilities a standardized form that shall be used by health care professionals and the health care facility's evaluation committee for applying for a waiver and in reviewing a request for a waiver, respectively, and for reporting the use of a needle or other sharp device without integrated safety features in an emergency situation by a health care professional, pursuant to the provisions of subsection d. of section 4 of this act.

C.26:2H-5.13 Responsibilities of health care facility.

4. A health care facility shall:

a. Establish an evaluation committee in which at least half of the members are direct-care health care workers who shall select needles and other sharp devices from each class of needle or other sharp device for which the commissioner has developed evaluation criteria pursuant to subsection c. of section 3 of this act;

b. Provide for education and training, as appropriate, in the use of designated needles and other sharp devices;

c. Develop a mechanism to continually review and evaluate newly introduced needles and other sharp devices available in the marketplace for use in a health care facility;

d. Establish a waiver procedure for health care professionals wherein a health care professional practicing at the health care facility may request the evaluation committee to grant the professional a waiver from the requirements of subsection a. or b. of section 3 of this act for a specific

product that will be used for a specific medical procedure that shall be performed on a specific class of patients. The evaluation committee shall grant a waiver if it determines that use of a needle or other sharp device with integrated safety features potentially may have a negative impact on patient safety or the success of a specific medical procedure.

A health care professional may use a needle or other sharp device without integrated safety features in an emergency situation, without obtaining a waiver from the evaluation committee, if the professional determines that use of a needle or other sharp device with integrated safety features potentially may have a negative impact on patient safety or the success of a specific medical procedure, and the professional notifies the evaluation committee, in writing, within five days of the date the needle or other sharp device was used of the reasons why that needle or other sharp device was necessary.

The use of a needle or other sharp device that does not meet the requirements of subsection a. or b. of section 3 of this act shall be permitted under this act if it is used in accordance with the requirements of this subsection;

e. Record needle stick injuries in a Sharps Injury Log or an OSHA 200 Log, and shall include in the log a description of the injury, including the type and brand name of the needle or other sharp device involved in the injury; and

f. Report to the department quarterly, in a form and manner prescribed by the department: (1) all entries of an injury in a Sharps Injury Log or an OSHA 200 Log; and (2) all waivers granted to health care professionals and the reasons therefor, and all emergency uses by health care professionals of needles and other sharp devices without integrated safety features and the reasons therefor, pursuant to subsection d. of this section.

C.26:2H-5.14 Review of health care facilities reports, recommendations.

5. The department shall review the reports submitted by health care facilities pursuant to section 4 of this act on a quarterly basis and shall make recommendations to the respective health care facility for reducing the incidence of needle stick injury, when appropriate.

C.26:2H-5.15 Annual report to Legislature.

6. The commissioner shall report annually to the Senate and General Assembly Health Committees on the implementation of this act. The report shall include the number of needle stick injuries, the type and brand names of the needles or other sharp devices involved in the injuries, the number of waivers that were granted and the number of emergency uses of needles or other sharp devices without integrated safety features. The report shall include such recommendations for legislative action as the commissioner deems appropriate to ensure that the purposes of this act are realized.

C.26:2H-5.16 Rules, regulations.

7. The commissioner, pursuant to the "Administrative Procedure Act," P.L.1968, c.413 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

8. This act shall take effect immediately.

Approved January 4, 2000.

CHAPTER 312

AN ACT establishing the Intergenerational Child Care Incentive Pilot Program.

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

1. The Legislature finds and declares that: although New Jersey has experienced a growth of employer-based child care facilities, there is still a large, unmet need for additional child care services for the increasing numbers of working parents in the State; New Jersey should provide incentives to encourage the establishment of innovative employer-community partnerships; and through the use of volunteer networks, particularly among retirees who have invaluable skills and talents they can share with our youngest citizens, the State can encourage intergenerational child care programs in retirement communities throughout New Jersey.

2. The Commissioner of Human Services shall establish a three-year Intergenerational Child Care Incentive Pilot Program in the Division of Family Development in the Department of Human Services.

The program shall be designed to involve: providers of continuing care and assisted living services interested in developing child care programs at their facilities to serve the children of the facilities' employees and children from the surrounding communities; volunteer networks of retired teachers, nurses and other qualified persons who reside at the continuing care retirement communities and assisted living facilities to participate in the child care program; employees at these facilities who need child care services; community leaders; local businesses interested in establishing collaborative partnerships with the continuing care retirement communities and assisted living facilities in developing the child care centers to offer child care services to their employees; and children eligible for subsidized child care.

3. The Commissioner of Human Services shall review child care center proposals submitted by continuing care retirement communities, regulated by the Department of Community Affairs pursuant to P.L.1986, c.103 (C.52:27D-330 et seq.) and assisted living facilities, licensed by the Department of Health and Senior Services, interested in participating in the program as sponsors, and in consultation with the New Jersey Economic Development Authority, hereinafter referred to as the "authority," evaluate low-interest loan proposals for the Intergenerational Child Care Incentive Pilot Program within six months of the effective date of this act.

4. a. To implement the Intergenerational Child Care Incentive Pilot Program, the authority may make funds available to assist in funding qualified loan proposals submitted to the program. The proposals shall be funded with monies from any sources of funds or programs administered by the authority in such amounts as the authority determines is necessary to effectively implement the program.

b. The amount of a low-interest loan available to an eligible program shall not exceed $50,000.

5. Volunteers in the continuing care retirement communities and assisted living facilities in which the pilot programs are located may participate in a training program established by the Commissioner of Human Services for the Neighborhood-Based Child Care Incentive Demonstration Program, established pursuant to P.L.1999, c.245, or the commissioner may refer them to other volunteer training programs.

6. The Commissioner of Human Services shall apply for and accept any grant of money from the federal government, private foundations or other sources, which may be available for the Intergenerational Child Care Incentive Pilot Program and for volunteer training.

7. No later than six months before the expiration of this act, the Commissioner of Human Services shall report to the Legislature and the Governor on the effectiveness of the program and present recommendations for expanding the program, as appropriate.

8. In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Human Services, in consultation with the New Jersey Economic Development Authority, shall adopt rules and regulations necessary to effectuate the purposes of this act.

9. This act shall take effect immediately and expire on the first day of the 37th month after enactment.

Approved January 4, 2000.

CHAPTER 313

AN ACT concerning criminal offenses involving counterfeit marks and amending P.L.1997, c.57.

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

1. Section 1 of P.L.1997, c.57 (C.2C:21-32) is amended to read as follows:

C.2C:21-32 Short title; definitions relative to counterfeit marks; offenses.

1. a. This act shall be known and may be cited as the "New Jersey Trademark Counterfeiting Act."

b. As used in this act:

(1) "Counterfeit mark" means a spurious mark that is identical with or substantially indistinguishable from a genuine mark that is registered on the principal register in the United States Patent and Trademark Office or registered in the New Jersey Secretary of State's office or a spurious mark that is identical with or substantially indistinguishable from the words, names, symbols, emblems, signs, insignias or any combination thereof, of the United States Olympic Committee or the International Olympic Committee; and that is used or is intended to be used on, or in conjunction with, goods or services for which the genuine mark is registered and in use.

(2) "Retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.

c. A person commits the offense of counterfeiting who, with the intent to deceive or defraud some other person, knowingly manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses with intent to sell or distribute within, or in conjunction with commercial activities within New Jersey, any item, or services, bearing, or identified by, a counterfeit mark.

A person who has in his possession or under his control more than 25 items bearing a counterfeit mark shall be presumed to have violated this section.

d. (1) An offense set forth in this act shall be punishable as a crime of the fourth degree if:

the offense involves fewer than 100 items bearing a counterfeit mark;

the offense involves a total retail value of less than $1,000.00 for all items bearing, or services identified by, a counterfeit mark; or

the offense involves a first conviction under this act.

(2) An offense set forth in this act shall be punishable as a crime of the third degree if:

the offense involves 100 or more but fewer than 1,000 items bearing a counterfeit mark;

the offense involves a total retail value of $1,000.00 or more but less than $15,000.00 of all items bearing, or services identified by, a counterfeit mark; or

the offense involves a second conviction under this act.

(3) An offense set forth in this act shall be punishable as a crime of the second degree if:

the offense involves 1,000 or more items bearing a counterfeit mark;

the offense involves a total retail value of $15,000.00 or more of all items bearing, or services identified by a counterfeit mark; or

the offense involves a third or subsequent conviction under this act.

In addition, any person convicted under this act, notwithstanding the provisions of N.J.S.2C:43-3, shall be fined by the court an amount up to threefold the retail value of the items or services involved, providing that the fine imposed shall not exceed the following amounts: for a crime of the fourth degree, $100,000.00; for a crime of the third degree, $250,000.00; and for a crime of the second degree, $500,000.00.

e. All items bearing a counterfeit mark, and all personal property, including but not limited to, any items, objects, tools, machines, equipment, instrumentalities or vehicles of any kind, employed or used in connection with a violation of this act, shall be subject to forfeiture in accordance with the procedures set forth in chapter 64 of Title 2C of the New Jersey Statutes.

f. For purposes of this act:

(1) the quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses;

(2) any State or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.

g. Conviction for an offense under this act does not preclude the defendant's liability for the civil remedy available pursuant to section 2 of P.L.1987, c.454 (C.56:3-13.16).

2. This act shall take effect immediately.

Approved January 4, 2000.

CHAPTER 314

AN ACT revising the farm use sales tax exemption, and amending P.L.1980, c.105.

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

1. Section 27 of P.L.1980, c.105 (C.54:32B-8.15) is amended to read as follows:

C.54:32B-8.15 Exemption from taxation for certain wrapping supplies.

27. Sales or use of wrapping paper, wrapping twine, bags, cartons, tape, rope, labels, nonreturnable containers, reusable milk containers, and all other wrapping supplies when such use is incidental to the delivery of any personal property and containers for use in a "farming enterprise" as defined pursuant to section 28 of P.L.1980, c.105 (C.54:32B-8.16) are exempt from the tax imposed under the Sales and Use Tax Act.

2. Section 28 of P.L.1980, c.105 (C.54:32B-8.16) is amended to read as follows:

C.54:32B-8.16 Tangible personal property, etc. for use on farms, exceptions; terms defined.

28. a. Receipts from sales of tangible personal property and production and conservation services to a farmer for use and consumption directly and primarily in the production, handling and preservation for sale of agricultural or horticultural commodities at the farming enterprise of that farmer are exempt from the tax imposed under the "Sales and Use Tax Act."

b. The exemptions provided by subsection a. of this section shall not apply to sales of:

(1) automobiles;

(2) energy; or

(3) materials used to construct a building or structure, other than a silo, greenhouse, grain bin, or manure handling equipment.

c. For the purposes of this section:

"Agricultural or horticultural commodities" means tangible personal property produced through the raising of plants or animals useful to people, including but not limited to: forages and sod crops; livestock; grains and feed crops; dairy animals and products; poultry and poultry products; game animals and fur-bearing animals; honey and other apiary products; the

products of aquaculture; trees and forest products; fruits, nuts and berries; vegetables; and nursery, floral, ornamental and greenhouse products; and

"Farming enterprise" means a facility used primarily for the raising of agricultural or horticultural commodities for sale, including but not limited to truck farms, ranches, orchards, nurseries, greenhouses or other similar facilities.

3. This act shall take effect immediately and apply to sales made on or after January 1, 2000

Approved January 6, 2000.

CHAPTER 315

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, 1999 and regulating the disbursement thereof," approved June 30, 1998 (P.L.1998, c. 45).

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.1998, c.45, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES
10 Department of Agriculture
40 Community Development and Environmental Management
49 Agricultural Resources, Planning, and Regulation

02-3320 Plant Pest and Disease Control $130,000
Special Purpose:
Honeybee Research ..... ($100,000)
Honeybee Inspection Program Expansion .... ($30,000)

2. This act shall take effect immediately.

Approved January 6, 2000.

CHAPTER 316

AN ACT concerning the governance of higher education and amending P.L.1994, c.48.

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

1. Section 13 of P.L.1994, c.48 (C.18A:3B-13) is amended to read as follows:

C.18A:3B-13 New Jersey Commission on Higher Education.

13. a. There is established the New Jersey Commission on Higher Education which shall consist of 11 members: six public members, to be appointed by the Governor with the advice and consent of the Senate without regard for political affiliation; two public members to be appointed by the Governor, one upon the recommendation of the President of the Senate and one upon the recommendation of the Speaker of the General Assembly; the chairperson of the New Jersey Presidents' Council, ex officio; one faculty member from an institution of higher education to be appointed by the Governor with the advice and consent of the Senate; and the chairperson of the Board of Higher Education Student Assistance Authority, ex officio, or a designee from the public members of the authority. The public members shall reflect the diversity of the State. Notwithstanding the above, for a period of four years from July 1, 1994 the commission shall consist of 16 members, as follows: 10 public members, appointed by the Governor with the advice and consent of the Senate without regard for political affiliation, six of whom shall have experience as a current member of the governing board of an institution of higher education; four public members to be appointed by the Governor, two upon the recommendation of the President of the Senate and two upon the recommendation of the Speaker of the General Assembly; the chairperson of the New Jersey Presidents' Council, ex officio; and the chairperson of the Board of the Higher Education Student Assistance Authority, ex officio, or a designee from the public members of the authority. The executive director of the commission shall be an ex officio, non-voting member of the commission. In addition, the Governor shall appoint two students in attendance at public or independent institutions of higher education in the State from recommendations submitted by student government associations of New Jersey colleges and universities, who shall serve for a one-year term on the commission as voting members.

b. Public members who are not experienced as governing board members shall serve for a term of six years from the date of their appointment and until their successors are appointed and qualified; except that of the initial appointees who are not serving on the governing board of an institution: one shall serve a term of one year; one shall serve a term of two years; one shall serve a term of three years; one shall serve a term

of four years; two shall serve a term of five years; and two shall serve a term of six years. A public member who does not have experience as a current member of a governing board shall serve until the member's successor is appointed and qualified.

The faculty member of the commission shall serve for a term of one year from the date of appointment and the selection of that member shall be rotated among the following higher education sectors although not necessarily in the order listed: the senior public research universities, the State colleges/universities, the county colleges, and the independent institutions. The faculty member shall serve until his successor is appointed and qualified.

Any vacancy shall be filled in the same manner as the original appointment but only for the balance of the unexpired term. The commission members shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties. No commission member shall be appointed for more than two consecutive six-year terms.

c. The Governor shall make the necessary appointments within 15 days of the effective date of this act. The commission shall hold its first meeting within 30 days of the appointment and qualification in office of its members, at which time the Governor shall appoint, for a two-year term, the chairman of the commission from among those public members not serving on the board of trustees of an institution. Upon the completion of the chairman's term, and every two years thereafter, the commission shall elect, from among those public members who are not serving on the board of trustees of an institution, a chairman who shall serve a two-year term. The chairman may be removed by the Governor for cause after an opportunity to be heard.

d. The commission shall be established in the Executive Branch of the State Government and for the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is allocated in but not of the Department of State, but notwithstanding this allocation, the commission shall be independent of any supervision or control by the department or by any board or officer thereof. The commission shall submit its budget request directly to the Division of Budget and Accounting in the Department of the Treasury.

e. The commission shall appoint an executive director and such other personnel as may be deemed necessary. The executive director and professional staff shall serve at the commission's pleasure and shall receive such compensation as provided by law.

f. The Attorney General shall provide legal representation to the commission.

2. This act shall take effect immediately.

Approved January 6, 2000.

CHAPTER 317

AN ACT concerning the interception of official communications and amending P.L.1991, c.432.

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

1. Section 1 of P.L.1991, c.432 (C.2C:33-21) is amended to read as follows:

C.2C:33-21 Interception or use of official communications.

1. Any person who intercepts any message or transmission made on or over any police, fire or emergency medical communications system, or any person who is the recipient of information so intercepted, and who uses the information obtained thereby to facilitate the commission of or the attempt to commit a crime or a violation of any law of this State, or uses the same in a manner which interferes with the discharge of police or firefighting operations or provision of medical services by first aid, rescue or ambulance squad personnel, shall be guilty of a crime of the fourth degree.

2. This act shall take effect immediately.

Approved January 6, 2000.

CHAPTER 318

AN ACT concerning junior firemen and amending N.J.S.40A:14-96 and N.J.S.40A:14-98.

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

1. N.J.S.40A:14-96 is amended to read as follows:

Membership in Junior Firemen's Auxiliary, minimum age.

40A:14-96. No person shall be eligible for membership in the Junior Firemen's Auxiliary who is less than 14 or more than 21 years of age. Persons between the ages of 14 and 21 shall be required to obtain permission to join the auxiliary from their parents or guardian. Such permission shall be in writing and acknowledged or proved in the manner required by law for deeds to real estate to be recorded.

2. N.J.S.40A:14-98 is amended to read as follows:

Rules, regulations governing Junior Firemen's Auxiliary.

40A:14-98. The governing body of the municipality or the board of commissioners of the fire district shall, before authorizing the establishment of any Junior Firemen's Auxiliary, formulate rules and regulations to govern the activities of the auxiliary. The rules and regulations shall provide for the training of the auxiliary for eventual membership in the volunteer fire department of the municipality or fire district or in any such volunteer fire company or companies affording fire protection therein, and shall further provide that no junior fireman shall be required to perform duties which would expose him to the same degree of hazard as a regular member of a volunteer fire company. Activities of junior firemen under 16 years of age shall be limited to (1) attending meetings of the Junior Firemen's Auxiliary; (2) receiving instruction; (3) participating in training that does not involve fire, smoke, toxic or noxious gas, or hazardous materials or substances; and (4) observing firefighting activities, while under supervision.

3. This act shall take effect immediately

Approved January 6, 2000.

CHAPTER 319

AN ACT concerning certain rules of evidence and civil process, supplementing Title 2A of the New Jersey Statutes and repealing various sections of the statutory law.

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

C.2A:15-30.1 Service of process on business entity; substituted service.

1. a. If a business entity, foreign or domestic, is required to register with a State official or agency to transact business in this State and is required to register an address or an agent in this State for the service of process, process in any action in any court of this State directed to the business may be served at the address or on the agent registered.

b. If a business entity, foreign or domestic, is required to register with a State official or agency to transact business in this State and is required to register an address or an agent in this State for the service of process, process in any action in any court of this State directed to the business may be served on the State official or agency, if:

(1) The business entity has failed to register or re-register as required by law; or

(2) The business entity has failed to maintain a registered address or a registered agent in this State for service of process, as required by law.

c. The official or agency upon which substituted service has been made, within two days after service, shall notify the business entity to which the process was directed, by a letter to its registered office, if any, or to any officer of the entity known to the official or agency. A copy of the process or other paper served shall be enclosed with the letter.

d. Service of process as provided in subsection (a) shall be as effective in any action as if the business entity had entered its general appearance in the action.

Repealer.

2. The following sections are repealed:
N.J.S.2A:15-20 and N.J.S.2A:15-21;
Section 1 of P.L. 1970, c.219 (C.2A:15-21.1);
N.J.S.2A:15-22 through N.J.S.2A:15-39;
N.J.S.2A:16-43;
N.J.S.2A:81-1;
N.J.S.2A:81-8;
N.J.S.2A:81-12 through N.J.S.2A:81-14;
N.J.S.2A:82-2;
N.J.S.2A:82-8 through N.J.S.2A:82-12;
N.J.S.2A:82-14 through N.J.S.2A:82-16;
N.J.S.2A:82-25 through N.J.S.2A:82-37;
Sections 1 through 16 of P.L.1960, c.52 (C.2A:84A-1 through C.2A:84A-16);
Section 50 of P.L.1960, c.52 (C.2A:84A-46);
R.S.4:20-20;
Section 11 of P.L.1951, c.264 (C.27:23-35);
Section 3 of P.L.1948, c.342 (C.39:4-138.2);
Section 115 of P.L.1951, c.23 (C.39:4-201.2);
R.S. 45:9-20;and
R.S. 56:3-18.

3. This act shall take effect immediately.

Approved January 6, 2000.

CHAPTER 320

AN ACT concerning school-based drug and alcohol abuse counseling programs and amending P.L.1997, c.362.

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

1. Section 1 of P.L.1997, c.362 (C.18A:40A-7.1) is amended to read as follows:

C.18A:40A-7.1 Confidentiality of certain information provided by pupil; exceptions.

1. a. Except as provided by section 3 of P.L.1971, c.437 (C.9:6-8.10), if a public or private elementary or secondary school pupil who is participating in a school-based drug and alcohol abuse counseling program provides information during the course of a counseling session in that program which indicates that the pupil's parent or guardian or other person residing in the pupil's household is dependent upon or illegally using a substance as that term is defined in section 2 of P.L.1987, c.387 (C.18A:40A-9), that information shall be kept confidential and may be disclosed only under the circumstances expressly authorized under subsection b. of this section.

b. The information provided by a pupil pursuant to subsection a. of this section may be disclosed:

(1) subject to the pupil's written consent, to another person or entity whom the pupil specifies in writing in the case of a secondary school pupil, or to a member of the pupil's immediate family or the appropriate school personnel in the case of an elementary school pupil;

(2) pursuant to a court order;

(3) to a person engaged in a bona fide research purpose, except that no names or other information identifying the pupil or the person with respect to whose substance abuse the information was provided, shall be made available to the researcher; or

(4) to the Division of Youth and Family Services or to a law enforcement agency, if the information would cause a person to reasonably suspect that the elementary or secondary school pupil or another child may be an abused or neglected child as the terms are used in R.S.9:6-1, or as the terms are defined in section 2 of P.L.1971, c.437 (C.9:6-8.9), or section 1 of P.L.1974, c.119 (C.9:6-8.21).

c. Any disclosure made pursuant to paragraph (1) or (2) of subsection b. of this section shall be limited to that information which is necessary to carry out the purpose of the disclosure, and the person or

entity to whom the information is disclosed shall be prohibited from making any further disclosure of that information without the pupil's written consent. The disclosure shall be accompanied by a written statement advising the recipient that the information is being disclosed from records the confidentiality of which is protected by P.L.1997, c.362 (C.18A:40A-7.1 et seq.), and that this law prohibits any further disclosure of this information without the written consent of the person from whom the information originated. Nothing in this act shall be construed as prohibiting the Division of Youth and Family Services or a law enforcement agency from using or disclosing the information in the course of conducting an investigation or prosecution. Nothing in this act shall be construed as authorizing the violation of any federal law.

d. The prohibition on the disclosure of information provided by a pupil pursuant to subsection a. of this section shall apply whether the person to whom the information was provided believes that the person seeking the information already has it, has other means of obtaining it, is a law enforcement or other public official, has obtained a subpoena, or asserts any other justification for the disclosure of this information.

2. This act shall take effect immediately.

Approved January 6, 2000.

CHAPTER 321

AN ACT concerning underground storage tank loans for school districts, and supplementing P.L.1997, c.235 (C.58:10A-37.1 et seq.).

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

C.58:10A-37.5a Underground storage tank loans for school districts.

1. Notwithstanding the provisions of N.J.S.18A:20-4.2 to the contrary, a board of education of a school district may determine, by resolution, to apply to borrow money from the Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund established pursuant to section 3 of P.L.1997, c.235 (C.58:10A-37.3). Upon adoption of the resolution, the board of education may apply for a loan from the fund and the New Jersey Economic Development Authority may provide financial assistance to the board of education pursuant to the provisions of P.L.1997, c.235 (C.58:10A-37.1 et seq.).

2. This act shall take effect immediately.

Approved January 6, 2000.

CHAPTER 322

AN ACT concerning heating oil tanks, and amending P.L.1986, c.102 and P.L.1991, c.123.

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

1. Section 2 of P.L.1986, c.102 (C.58:10A-22) is amended to read as follows:

C.58:10A-22 Definitions.

2. As used in this act:

a. "Commissioner" means the Commissioner of the Department of Environmental Protection;

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

c. "Discharge" means the intentional or unintentional release by any means of hazardous substances from an underground storage tank into the environment;

d. "Facility" means one or more underground storage tanks;

e. "Hazardous substances" means motor fuels and those elements and compounds, including petroleum products which are liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), which are defined as hazardous substances 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 wastes adopted by the United States Environmental Protection Agency pursuant to section 3001 of the "Resource Conservation and Recovery Act of 1976," Pub.L.94-580 (42 U.S.C. s.6921), the list of hazardous substances adopted by the United States Environmental Protection Agency pursuant to section 311 of the "Federal Water Pollution Control Act Amendments of 1972," Pub.L.92-500 (33 U.S.C. s.1321), the list of toxic pollutants designated by Congress or the Environmental Protection Agency pursuant to section 307 of that act (33 U.S.C. s.1317), and any substance defined as a hazardous substance pursuant to section 101(14) of the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," Pub.L.96-510 (42 U.S.C. s.9601);

f. "Leak" means the release of a hazardous substance from an underground storage tank into a space created by a method of secondary containment wherein it can be detected by visual inspection or a monitoring system before it enters the environment;

g. "Monitoring system" means a system capable of detecting leaks or discharges, or both, other than an inventory control system, used in conjunction with an underground storage tank, or a facility, conforming to criteria established pursuant to section 5 of this act;

h. "Nonoperational storage tank" means any underground storage tank in which hazardous substances are not contained, or from which hazardous substances are not dispensed;

i. "Operator" means any person in control of, or having responsibility for, the daily operation of a facility;

j. "Owner" means any person who owns a facility, or in the case of a nonoperational storage tank, the person who owned the nonoperational storage tank immediately prior to the discontinuation of its use;

k. "Person" means any individual, partnership, company, corporation, consortium, joint venture, commercial or any other legal entity, the State of New Jersey, or the United States Government;

l. "Residential building" means a single and multi-family dwelling, nursing home, trailer, condominium, boarding house, apartment house, or other structure designed primarily for use as a dwelling;

m. "Secondary containment" means an additional layer of impervious material creating a space wherein a leak of hazardous substances from an underground storage tank may be detected before it enters the environment;

n. "Substantially modify" means construction at, or restoration, refurbishment or renovation of, an existing facility which increases or decreases the in-place storage capacity of the facility or alters the physical configuration or impairs or affects the physical integrity of the facility or its monitoring systems;

o. "Test" or "testing" means the testing of underground storage tanks in accordance with standards adopted by the department;

p. "Underground storage tank" means any one or combination of tanks, including appurtenant pipes, lines, fixtures, and other related equipment, used to contain an accumulation of hazardous substances, the volume of which, including the volume of the appurtenant pipes, lines, fixtures and other related equipment, is 10% or more below the ground. "Underground storage tank" shall not include:

(1) Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

(2) Tanks used to store heating oil for on-site consumption in a nonresidential building with a capacity of 2,000 gallons or less;

(3) Tanks used to store heating oil for on-site consumption in a residential building;

(4) Septic tanks installed in compliance with regulations adopted by the department pursuant to "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.);

(5) Pipelines, including gathering lines, regulated under the "Natural Gas Pipeline Safety Act of 1968," Pub.L.90-481 (49 U.S.C. s.1671 et seq.), the "Hazardous Liquid Pipeline Safety Act of 1979," Pub.L.96-129 (49 U.S.C. s.2001 et seq.), or intrastate pipelines regulated under State law;

(6) Surface impoundments, pits, ponds, or lagoons, operated in compliance with regulations adopted by the department pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.);

(7) Storm water or wastewater collection systems operated in compliance with regulations adopted by the department pursuant to the "Water Pollution Control Act";

(8) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;

(9) Tanks situated in an underground area, including, but not limited to, basements, cellars, mines, drift shafts, or tunnels, if the storage tank is situated upon or above the surface of the floor, or storage tanks located below the surface of the ground which are equipped with secondary containment and are uncovered so as to allow visual inspection of the exterior of the tank; and

(10) Any pipes, lines, fixtures, or other equipment connected to any tank exempted from the provisions of this act pursuant to paragraphs (1) through (9) of this subsection;

q. "Wellhead protection area" means an aquifer area described in a plan view around a well, from within which groundwater flows to the well and through which groundwater pollution, if it occurs, may pose a significant threat to the water quality of the well. The wellhead protection area is delimited by the use of time-of-travel and hydrologic boundaries;

r. "Unregulated heating oil tank" means any one or combination of tanks, including appurtenant pipes, lines, fixtures, and other related equipment, used to contain an accumulation of heating oil for on-site consumption in a residential building, or those tanks with a capacity of 2,000 gallons or less used to store heating oil for on-site consumption in a nonresidential building, the volume of which, including the volume of the appurtenant pipes, lines, fixtures and other related equipment, is 10% or more below the ground.

2. Section 1 of P.L.1991, c.123 (C.58:10A-24.1) is amended to read as follows:

C.58:10A-24.1 No tank services on underground storage tank; exceptions.

1. a. Except as provided in subsection b. of this section, a person shall not perform, except in accordance with the provisions of this act, tank services on an underground storage tank at an underground storage tank site required for purposes of complying with the provisions of P.L.1986, c.102 (C.58:10A-21 et seq.), including, but not limited to, tank testing, tank installation, tank removal, tank repair, installation of monitoring systems, and subsurface evaluations for corrective action, closure, and corrosivity. Except as provided in subsection b. of this section, a person shall not perform, except in compliance with the provisions of this act, tank testing, tank installation, tank removal, tank closure, or subsurface evaluations for corrective action, closure or corrosivity on an unregulated heating oil tank. Routine maintenance performed on appurtenant pipes, lines, fixtures, and other related equipment on an unregulated heating oil tank may be performed by a person who is not certified pursuant to section 3 of P.L.1991, c.123 (C.58:10A-24.3).

b. Subsection a. of this section shall not apply to a person performing tank closure on an underground storage tank located on a farm or an unregulated heating oil tank located on a farm. A person performing tank closure on an underground storage tank located on a farm or an unregulated heating oil tank located on a farm shall comply with the guidelines and the criteria established pursuant to subsection c. of this section. For the purposes of this section, "farm" shall mean land that qualifies for a special tax assessment pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), or any land less than five acres in area that would otherwise qualify for that farmland assessment and that has produced agricultural or horticultural products with a wholesale value of $10,000 or more annually for at least the two successive years immediately preceding the year in which the tank removal is performed.

c. Within 90 days of the effective date of P.L.1997, c.430, the department shall implement guidelines establishing a protocol for the performance of tank closures on a farm. Within 18 months of the effective date of P.L.1997, c.430, the Department of Environmental Protection, in consultation with the Department of Agriculture and the State Soil Conservation Committee, shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt criteria for the performance of tank closures on farms. Both the guidelines and the criteria shall be developed with the objectives of reducing the cost and increasing the efficiency of the process of tank closure while also ensuring environmental protection and public safety.

3. Section 2 of P.L.1991, c.123 (C.58:10A-24.2) is amended to read as follows:

C.58:10A-24.2 Services on underground storage tanks by certified persons; exceptions.

2. a. A business firm shall not engage in the business of performing services on underground storage tanks at underground storage tank sites for purposes of complying with the requirements of P.L.1986, c.102 (C.58:10A-21 et seq.), or tank testing, tank installation, tank removal, tank closure, or subsurface evaluations for corrective action, closure or corrosivity on an unregulated heating oil tank, unless the business firm has been certified in accordance with section 3 of P.L.1991, c.123 (C.58:10A-24.3), by certification of the owner, or, in the case of partnership, a partner in the firm, or, in the case of a corporation, an executive officer of the corporation.

b. Except as provided pursuant to subsection b. of section 1 of P.L.1991, c.123 (C.58:10A-24.1), any service performed on an underground storage tank at an underground storage tank site for the purpose of complying with the provisions of P.L.1986, c.102 (C.58:10A-21 et seq.), or tank testing, tank installation, tank removal, tank closure, or subsurface evaluations for corrective action, closure or corrosivity on an unregulated heating oil tank, shall be performed by, or under the immediate on-site supervision of, a person certified by the department in accordance with section 3 of P.L.1991, c.123 (C.58:10A-24.3).

c. A business firm or other person performing well drilling or pump installation services at the site of an underground storage tank or an unregulated heating oil tank who is licensed to perform such services pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11), shall not be required to be certified pursuant to section 3 of P.L.1991, c.123 (C.58:10A-24.3), or to perform those services under the supervision of a person certified thereunder.

d. Professional engineers licensed pursuant to P.L.1938, c.342 (C.45:8-27 et seq.) shall be exempt from the certification requirements of section 3 of P.L.1991, c.123 (C.58:10A-24.3) and from the payment of a recertification or renewal fee required pursuant to section 4 of that act (C.58:10A-24.4), but shall be required to obtain a certification card issued by the department at no charge and to make the card available for inspection by a State or local official when performing tank services on an underground storage tank at an underground storage tank site or on an unregulated heating oil tank. Professional engineers exempt pursuant to this subsection shall be required to attend a department approved training course on the department's rules and regulations concerning underground storage tanks within one year of certification or recertification.

e. A plumbing contractor, as defined pursuant to section 2 of P.L.1968, c.362 (C.45:14C-2), engaged in the installation, repair, testing, or closure of a waste oil underground storage tank shall be exempt from the certification requirements of section 3 of P.L.1991, c.123 (C.58:10A-24.3) and from payment of a recertification or renewal fee required pursuant to section 4 of that act (C.58:10A-24.4), but shall be required to obtain a certification card issued by the department at no charge and to make the card available for inspection by a State or local official when performing tank services on an underground storage tank. Plumbing contractors exempt pursuant to this subsection shall be required to attend a department approved training course on the department's rules and regulations concerning underground storage tanks within one year of certification or recertification. A plumbing contractor engaged in the installation, repair, testing, or closure of an unregulated heating oil tank or an underground storage tank that is not a waste oil tank shall be required to comply with section 3 of P.L.1991, c.123 (C.58:10A-24.3).

4. Section 3 of P.L.1991, c.123 (C.58:10A-24.3) is amended to read as follows:

C.58:10A-24.3 Examinations for certification to perform services on underground storage tanks.

3. a. The department shall establish and conduct examinations for certifying that a person is qualified to perform services on underground storage tanks at underground storage tank sites for purposes of complying with the provisions of P.L.1986, c.102 (C.58:10A-21 et seq.) and for tank testing, tank installation, tank removal, tank closure, or subsurface evaluations for corrective action, closure or corrosivity on unregulated heating oil tanks. Application to the department for examination for certification shall be made in a manner and on such forms as may be prescribed by the department. The department may prescribe training or continuing education, experience or other requirements as a condition for taking a certification examination, or for recertification. The filing of an application shall be accompanied by a nonrecoverable application fee of $35.00 to cover the costs of processing the application and conducting examinations. No person shall be certified by the department unless he or she satisfactorily completes the examination and satisfies any other requirements of this act, or of the department adopted pursuant thereto.

b. Notwithstanding the provisions of subsection a. of this section, any person who files, within 300 days of the effective date of this act, an application for certification under this subsection, and demonstrates to the department that he or she has adequately performed services on underground storage tanks at underground storage tank sites for at least five

consecutive years immediately preceding the filing of the application, shall be certified without examination upon payment of an application and certification fee. Within one year of certification, a person certified pursuant to this subsection shall submit to the department evidence of attendance at a department approved training course on the department's rules and regulations concerning underground storage tanks. One year from the effective date of this act, no person applying for certification pursuant to this subsection shall perform services requiring certification until certified by the department.

c. A person certified pursuant to subsection b. of this section shall comply with the examination and other requirements adopted by the department pursuant to subsection a. of this section as a precondition for filing for a renewal of a certification issued pursuant to subsection b. of this section.

d. The department may establish a general certification for tank services and on-site supervisory responsibilities, and such other classes of certification for particular tank services or for on-site supervisory responsibilities as it deems appropriate, and may establish separate training, examination and working experience requirements therefor. The department shall establish a separate certification for tank testing, tank installation, tank removal, tank closure, and subsurface evaluations for corrective action, closure or corrosivity on unregulated heating oil tanks with separate training and examination requirements therefor. Any person certified to perform services on underground storage tanks at underground storage tank sites for purposes of complying with the provisions of P.L.1986, c.102 (C.58:10A-21 et seq.) shall not be required to obtain a separate certification to perform work on unregulated heating oil tanks.

5. Section 4 of P.L.1991, c.123 (C.58:10A-24.4) is amended to read as follows:

C.58:10A-24.4 Certification, renewal.

4. a. Certification shall be for a three-year period. Renewal of a certification, or recertification, shall be made to the department at least 60 days prior to the expiration date of the certification, and shall be accompanied by evidence of attendance at a department approved training course, within the preceding 12 months, on the department's rules and regulations concerning underground storage tanks or on tank testing, tank installation, tank removal, tank closure, or subsurface evaluations for corrective action, closure or corrosivity on unregulated heating oil tanks. Certification shall not be transferable. No certification or recertification shall be issued until a certification fee of $250.00 has been paid in full to the department. Application and certification fees shall be in an amount

sufficient to cover the costs to the department of administering and enforcing the provisions of this act and may be adjusted by the department through the adoption of rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). A person shall have 90 days from the expiration date of a certification to renew an expired certification, after which date the person shall be required to apply for a new certification. The 90-day grace period shall not entitle a person to perform any services for which certification is required.

b. As a condition of certification or recertification, a business firm shall be required to provide the department with evidence of financial responsibility for the performance of services provided pursuant to P.L.1986, c.102 (C.58:10A-21 et seq.), for the performance of tank testing, tank installation, tank removal, tank closure, or subsurface evaluations for corrective action, closure or corrosivity on unregulated heating oil tanks, and for the cleanup or mitigation of a hazardous substance discharge resulting from the performance of such services. Financial responsibility shall be in an amount to be determined by the department but in no case less than $250,000. Financial responsibility may be in the form of insurance, a surety bond, letter of credit, or other security posted with the department, or self-insurance, as may be prescribed by the department. If the financial responsibility is in the form of insurance, a surety bond, or similar device, the business firm shall promptly notify the department of any cancellation or change in coverage. Financial responsibility in the amount and form required by the department shall be maintained for the term of certification by the business firm.

A copy of the certification shall be conspicuously displayed for public review in the business office of a firm engaged in tank testing, tank installation, tank removal, tank closure, or subsurface evaluations for corrective action, closure or corrosivity on unregulated heating oil tanks or engaged in providing services for underground storage tanks at underground storage tank sites. If a firm maintains a business office at more than one location, the certification shall be conspicuously displayed at each location.

6. Section 5 of P.L.1991, c.123 (C.58:10A-24.5) is amended to read as follows:

C.58:10A-24.5 Denial, revocation, etc. of certification.

5. a. The department may deny, suspend, revoke, or refuse to renew a certification for good cause, including:

(1) a violation, or abetting another to commit a violation, of any provision of this act, or of P.L.1986, c.102 (C.58:10A-21 et seq.), or rule or regulation adopted, or order issued under either act;

(2) making a false statement on an application for certification or other information required by the department pursuant to this act, or P.L.1986, c.102;

(3) misrepresentation or the use of fraud in obtaining certification or performing tank testing, tank installation, tank removal, tank closure, or subsurface evaluations for corrective action, closure or corrosivity on an unregulated heating oil tank or performing underground storage tank services.

b. Before suspending, revoking, or refusing to renew a certification, the department shall afford the applicant or certificate holder an opportunity to be heard in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. Suspension, revocation, or refusal to renew a certification shall not bar the department from pursuing against the applicant or certificate holder any other lawful remedy available to the department.

d. Any business firm or person whose certification is revoked shall be ineligible to apply for certification for three years from the date of the revocation.

e. If the department has reason to believe that a condition exists that poses an imminent threat to the public health, safety or welfare, it may order the certificate holder to cease operations pending the outcome of the hearing.

C.58:10A-24.7 Guidelines, rules, regulations.

7. The Department of Environmental Protection shall, within 120 days of the effective date of this section, establish guidelines to implement the provisions of this act, and shall, within 180 days of the effective date of this section, establish rules and regulations for such implementation.

8. Section 7 of this act shall take effect immediately and the remainder of this act shall take effect 180 days after enactment.

Approved January 6, 2000.

CHAPTER 323

AN ACT establishing the Senator Wynona Lipman Chair in Political Leadership at the Center for the American Woman and Politics at the Eagleton Institute of Politics, supplementing chapter 72 of Title 18A of the New Jersey Statutes and making an appropriation.

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

C.18A:72N-1 Senator Wynona Lipman Chair in Women's Political Leadership.

1. There is established at the Center for the American Woman and Politics at the Eagleton Institute of Politics at Rutgers, The State University, a distinguished chair which shall be known as the Senator Wynona Lipman Chair in Women's Political Leadership. The chair shall be a permanent faculty chair which shall be initially held on a rotating basis by a scholar or practitioner who is involved in issues related to the development of political leadership.

C.18A:72N-2 Selection of scholar, practitioner to fill chair.

2. Subject to available appropriations, the Center for the American Woman and Politics at the Eagleton Institute of Politics at Rutgers, The State University shall select an outstanding scholar or practitioner to fill the chair under such terms and conditions as may be agreed upon.

C.18A:72N-3 Utilization of funds appropriated.

3. The Center for the American Woman and Politics at the Eagleton Institute of Politics at Rutgers, The State University may utilize funds appropriated for the purposes of this act for the provision of equipment, supplies, clerical and research assistants and such other appropriate support as is necessary for the holder of the chair.

4. There is appropriated from the General Fund to the Department of State $100,000 to effectuate the purposes of this act.

5. This act shall take effect immediately.

Approved January 6, 2000.

CHAPTER 324

AN ACT concerning State college boards of trustees and amending N.J.S. 18A:64-3.

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

1. N.J.S. 18A:64-3 is amended to read as follows:

Board of trustees.

18A:64-3. The composition and size of the board of trustees shall be determined by the board; however, each board shall have not less than

seven nor more than 15 members. The members shall be citizens of the State appointed by the Governor; except that the Governor may appoint up to three alumni of the institution who are not citizens of the State to serve as members of the board. Members shall be appointed with the advice and consent of the Senate. Each board of trustees shall recommend potential new members to the Governor. The terms of office of appointed members shall be for six years beginning on July 1 and ending on June 30. Each member shall serve until his successor shall have been appointed and qualified and vacancies shall be filled in the same manner as the original appointments for the remainders of the unexpired terms. Any member of a board of trustees may be removed by the Governor for cause upon notice and opportunity to be heard.

2. This act shall take effect immediately.

Approved January 6, 2000.

CHAPTER 325

AN ACT concerning the conduct of certain professionals and supplementing chapter 40A of Title 2C of the New Jersey Statutes and chapter 29B of Title 17 of the Revised Statutes.

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

C.2C:40A-4 Solicitation of professional employment, certain; regulated; terms defined; grade of offense.

1. a. No person shall solicit professional employment from an accident or disaster victim or an accident or disaster victim's relative concerning an action for personal injury or wrongful death involving that accident or disaster victim for a period of 30 days after the date on which the accident or disaster occurred.

b. Subsection a. of this section shall not apply if the accident or disaster victim, or his relative, as the case may be, had a previous professional business relationship with the professional.

c. Subsection a. of this section shall not apply to recommendations or referrals by past or present clients or patients, friends, relatives or other individuals relying on the reputation of the professional, provided the recommendation or referral is not made for value.

d. Subsection a. of this section shall not apply to any solicitation through advertising which is not directed to the victim or victims of a specific accident or disaster.

e. Subsection a. of this section shall not apply to emergency medical care.

f. For the purposes of this section:

"Professional employment" means services rendered by a physician, chiropractor or other health care professional.

"Solicit" means to contact a person with a request or plea, which is made in person, by telephone or other electronic medium.

g. A person who violates the provisions of this section, and who acts with intent to accept money or something of value for his services, shall be guilty of a crime of the third degree.

C.2C:40A-5 Additional penalty for attorneys; grade of offense.

2. In addition to any other sanction that may be imposed by the Supreme Court, an attorney who violates the Rules of Professional Conduct promulgated by the Supreme Court of New Jersey by contacting an accident or disaster victim or an accident or disaster victim's relative, using means other than written communication, to solicit professional employment on the attorney's own behalf, and who acts with intent to accept money or something of value for his services, shall be guilty of a crime of the third degree.

C.17:29B-15 Enforceability of insurance release, waiver of rights under certain circumstances.

3. a. No insurance release or waiver of rights by a claimant to compensation for personal injury or wrongful death arising from an accident or disaster executed within 30 days after the date on which the accident or disaster occurred shall be enforceable unless the claimant, prior to execution of the release or waiver, receives a written disclosure informing the claimant that he may seek legal representation, and further informing the claimant of his rights pursuant to this act.

The written disclosure shall be clearly readable, in 12-point bold type and shall include the following:

> **"New Jersey law guarantees to accident and disaster victims the right to review and cancel an insurance release or waiver of rights to compensation for personal injury or wrongful death arising from an accident or disaster if the insurance release or waiver is signed by the claimant within the 30-day period immediately following the accident or disaster. Under State law you have 10 days from the day you sign the insurance release or waiver of rights to file a notice of cancellation with the insurer or agent of the insurer that accepted your release**

or waiver of rights to compensation. You also may seek the advice of an attorney to review the waiver or release and to represent you if you so choose. Notice of cancellation shall be sent by certified mail to the insurer's or agent's last known address and shall be effective if received by the 10th day following the signing of the release or waiver."

b. An insurance release or waiver of rights by a claimant to compensation for personal injury or wrongful death arising from an accident or disaster, and executed within the 30-day period following the accident or disaster, may be reviewed by the claimant or the claimant's attorney and may be rescinded within the 10-day period following the execution of the waiver or release by the claimant. Any consideration or thing of value which has passed between the parties prior to rescission of a release or waiver shall be returned. An insurer may withhold payment of the proceeds from settlements made within the 30-day period until the 10-day waiting period has expired.

c. The rights and remedies accorded by the provisions of this section shall be in addition to and cumulative of any other rights and remedies under law and nothing herein shall be construed to deny, abrogate or impair any such right or remedy.

4. This act shall take effect on the 90th day after enactment.

Approved January 6, 2000.

CHAPTER 326

AN ACT concerning handicapped parking and amending P.L.1949, c.280.

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

1. Section 1 of P.L.1949, c.280 (C.39:4-204) is amended to read as follows:

C.39:4-204 Handicapped person defined.

1. The term "handicapped person" as employed herein shall include any person who has lost the use of one or more limbs as a consequence of paralysis, amputation, or other permanent disability or who is permanently disabled as to be unable to ambulate without the aid of an assisting device or whose mobility is otherwise limited as certified by a

physician with a plenary license to practice medicine and surgery; a podiatrist licensed to practice in this State or a bordering state; a physician stationed at a military or naval installation located in this State who is licensed to practice in any state; or, a chiropractic physician licensed to practice in this State or a bordering state.

2. Section 3 of P.L.1949, c.280 (C.39:4-206) is amended to read as follows:

C.39:4-206 Vehicle identification card.

3. The director shall issue to such applicant, also, a placard of such size and design as shall be determined by the director in consultation with the Division of Vocational Rehabilitation Services in the Department of Labor and the Office of Disability Services in the Department of Human Services, indicating that a handicapped person identification card has been issued to the person designated therein, which shall be displayed in such manner as the director shall determine on the motor vehicle used to transport the handicapped person, when the vehicle is parked overtime or in special parking places established for use by handicapped persons.

Notwithstanding any provision of P.L.1949, c.280 (C.39:4-204 et seq.) to the contrary, the chief of police of each municipality in this State shall issue a temporary placard of not more than six months' duration to any person who has temporarily lost the use of one or more limbs or is temporarily disabled as to be unable to ambulate without the aid of an assisting device or whose mobility is otherwise temporarily limited, as certified by a physician with a plenary license to practice medicine and surgery; a podiatrist licensed to practice in this State or a bordering state; a physician stationed at a military or naval installation located in this State who is licensed to practice in any state; or a chiropractic physician licensed to practice in this State or a bordering state. Each temporary handicapped placard issued under the provisions of this section shall set forth the date on which it shall become invalid.

The temporary placard shall be granted upon written certification by a physician with a plenary license to practice medicine and surgery or a podiatrist licensed to practice in this State or a bordering state or a physician stationed at a military or naval installation located in this State who is licensed to practice in any state that the person meets the conditions constituting temporary disability as provided in this section. This certification shall be provided on a standard form to be developed by the director in consultation with local chiefs of police and representatives of the handicapped. The form shall contain only those conditions constituting temporary disability as are provided in this section. The physical

presence of the handicapped person shall not be required for the issuance of a temporary handicapped placard.

The placard may be renewed one time at the discretion of the issuing authority for a period of not more than six months' duration. The placard shall be displayed on the motor vehicle used by the temporarily handicapped person and shall give the person the right to park overtime or to use special parking places established for use by handicapped persons in any municipality of this State.

The fee for the issuance of such temporary or permanent placard issued pursuant to this section shall be $4.00 and payable to the Director of the Division of Motor Vehicles.

The director may, in addition, issue license plates bearing the national wheelchair symbol for:

a. Not more than two motor vehicles owned, operated or leased by a handicapped person or by any person furnishing transportation on his behalf; or

b. Any two motorcycles owned, operated or leased by a handicapped person.

The fee for the issuance of such plates shall be $10.00 for each vehicle.

3. This act shall take effect immediately.

Approved January 6, 2000.

CHAPTER 327

AN ACT concerning permits issued to control deer damage to cultivated lands and amending R.S.23:4-42.

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

1. R.S.23:4-42 is amended to read as follows:

Killing deer, season, permit to kill on cultivated land.

23:4-42. a. Except as provided in subsection b. of this section, no person shall hunt for, pursue, shoot at, take, kill, wound or attempt to take, kill or wound a deer of any description prohibited by the provisions of the State Fish and Game Code, or hunt for, pursue, shoot at, take, kill, wound or attempt to take, kill or wound any wild deer at any time except during the period permitted by the State Fish and Game Code, or kill in any one year more than the number of deer permitted by the State Fish and Game Code.

b. The owner or lessee of any land, a portion of which is under cultivation, or the authorized agents of the owner or lessee having on their person a written permit issued by the division and countersigned by the owner or lessee may kill any deer that may be found on that land during the period covered by the permit. If requested by the owner or lessee of the land, the period covered by the permit issued to the owner or lessee, or authorized agent thereof, shall also include the entire months of February and March. The carcass of a deer killed under such permit shall become the property of the division and may be removed and disposed of in the manner it directs. For the purpose of this section, "land under cultivation" shall mean (1) pasture fields that are seeded with cultivated grass or that have been so seeded within the prior 12 months, or (2) land on which planted crops are growing or were growing within the prior 12 months. The division may require the owner or lessee of the land to provide evidence of deer damage within the prior 12 months as a condition of issuing a permit pursuant to this subsection.

2. This act shall take effect immediately.

Approved January 6, 2000.

CHAPTER 328

AN ACT concerning the tax regulation and sale of reimported cigarettes, amending P.L.1948, c.65, P.L.1977, c.188, P.L.1968, c.351 and P.L.1952, c.247.

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

1. Section 405 of P.L.1948, c.65 (C.54:40A-15) is amended to read as follows:

C.54:40A-15 Distributors to affix stamps.

405. a. Distributors to affix stamps.

Unless stamps have been previously affixed, the stamps required by this act shall be affixed to packages of cigarettes and canceled by the licensed distributor within twenty-four hours of the receipt of all unstamped cigarettes, exclusive of Saturdays, Sundays and legal holidays, and prior to any and all deliveries except deliveries to points outside the State, deliveries by manufacturers to licensed distributors and those

deliveries which this State is prohibited from taxing under the Constitution or the statutes of the United States.

b. Cigarette packages to which stamps shall not be affixed.

A distributor shall not affix a stamp to a package of cigarettes if the package:

(1) does not comply with the "Federal Cigarette Labeling and Advertising Act," 15 U.S.C.s.1331 et seq., for the placement of labels, warnings or any other information for a package of cigarettes to be sold within the United States;

(2) is labeled "For Export Only," "U.S. Tax Exempt," "For use Outside U.S.," or other wording indicating that the manufacturer did not intend that the product be sold in the United States;

(3) has been altered by adding or deleting wording, labels, or warnings described in paragraph (1) or paragraph (2) of this subsection;

(4) has been imported into the United States after January 1, 2000 in violation of 26 U.S.C.s.5754;

(5) in any way violates federal trademark or copyright laws.

2. Section 406 of P.L.1948, c.65 (C.54:40A-16) is amended to read as follows:

C.54:40A-16 Nonacceptance of unstamped, illegally stamped cigarettes.

406. Wholesale dealers and retail dealers shall not accept deliveries of unstamped or illegally stamped cigarettes.

Wholesale dealers and retail dealers shall not accept deliveries of unstamped or illegally stamped cigarettes. All packages of cigarettes shall be examined by wholesale and retail dealers immediately upon their receipt and they shall immediately return any and all unstamped and illegally stamped cigarettes to the vendor or consignor thereof or to a common carrier for return to such vendor or consignor. Unless substantial evidence to the contrary be shown, the possession of any unstamped or illegally stamped cigarettes by a wholesale or retail dealer shall be prima facie evidence that such cigarettes were possessed in violation of the provisions of this act. The director may, however, in the director's discretion and subject to such conditions as the director may prescribe, authorize wholesale dealers and retail dealers to acquire and have in their possession cigarettes bearing cigarette revenue stamps of other states, provided such cigarettes are intended for sale or other disposition in those states.

3. Section 602 of P.L.1948, c.65 (C.54:40A-25) is amended to read as follows:

C.54:40A-25 Possessing cigarettes not bearing required revenue stamps.

602. Possessing cigarettes not bearing required revenue stamps.

Any wholesale dealer or retail dealer who violates the provisions of section four hundred six of this act, and any consumer who fails to report and remit the tax due as provided by section two hundred five of this act, shall be liable to a penalty of not more than twenty-five dollars ($25) for each individual carton of unstamped or illegally stamped cigarettes in the dealer's possession, which penalty shall be sued for and recovered in the same manner as provided for the penalties imposed by section six hundred one of this act.

4. Section 605 of P.L.1948, c.65 (C.54:40A-28) is amended to read as follows:

C.54:40A-28 Sale of cigarettes without required stamp, violations, fine.

605. Any person who sells cigarettes without the stamp or stamps required by this act being affixed thereto or cigarettes stamped in violation of subsection b. of section 405 of P.L.1948, c.65 (C.54:40A-15) shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or imprisoned for not more than one year, or both, at the discretion of the court.

5. Section 2 of P.L.1977, c.188 (C.54:40A-28.1) is amended to read as follows:

C.54:40A-28.1 Possession of cigarettes without proper stamp, violations, fine.

2. Any person, other than a licensee permitted under this act to possess any unstamped cigarettes, who possesses 2,000 but fewer than 20,000 cigarettes without the stamp or stamps required by this act being affixed thereto or stamped in violation of subsection b. of section 405 shall be a disorderly person, and upon conviction thereof, shall be fined not more than $500 or imprisoned for not more than six months, or both, at the discretion of the court; and any such person who possesses 20,000 or more cigarettes without the stamp or stamps required by this act being affixed thereto or stamped in violation of subsection b. of section 405 of P.L.1948, c.65 (C.54:40A-15) shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than $1,000 or imprisoned for not more than one year, or both, at the discretion of the court.

6. Section 607 of P.L.1948, c.65 (C.54:40A-30) is amended to read as follows:

C.54:40A-30 Unstamped cigarettes subject to confiscation.

607. Unstamped cigarettes subject to confiscation.

a. All cigarettes, subject to the tax imposed by this act, to which stamps have not been affixed, as required by this act, and all cigarettes stamped in violation of subsection b. of section 405 of P.L.1948, c.65 (C.54:40A-15) found in any place in this State are declared to be prima facie contraband goods and may be seized by the director, the director's agents or employees, or by any peace officer of this State, when directed by the director so to do, without a warrant.

b. The director may upon satisfactory proof direct the return of any unstamped confiscated cigarettes when the director shall have reason to believe that the owner thereof has not willfully or intentionally evaded any tax imposed by this act. Any unstamped cigarettes seized under the provisions of this act shall be disposed of according to law. Any purchaser of such cigarettes shall be required to affix stamps as required by this act.

c. The director shall destroy any seized cigarettes that have been stamped in violation of subsection b. of section 405 of P.L.1948, c.65 (C.54:40A-15); provided however that as an alternative the director may resell such cigarettes to the manufacturer, but such cigarettes shall be resold only for export or destruction.

d. The seizure and sale of any cigarettes under the provisions of this section shall not relieve any person from a fine, imprisonment or other penalty for violation of any of the provisions of this act. The director, the director's agents, employees, and any peace officer of this State, when directed so to do, shall not in any way be responsible in any court for the seizure or the confiscation of any unstamped or illegally stamped packages of cigarettes.

7. Section 9 of P.L.1968, c. 351 (C.54:40A-32.1) is amended to read as follows:

C.54:40A-32.1 Cigarette vending machines, certain circumstances, seized, sealed.

9. Any cigarette vending machine not bearing a proper license or identification, or which is found to contain unstamped packages of cigarettes, or cigarettes bearing counterfeit impressions, or cigarettes stamped in violation of subsection b. of section 405 of P.L.1948, c.65 (C.54:40A-15), may be seized or sealed by the director, the director's agents or employees or by any peace officer of this State, when directed by the director so to do. If the owner or the owner's agent destroys or removes said seal, that individual may, upon conviction, be subject to a penalty of not more than $250. Any vending machine containing unstamped or counterfeit stamped cigarettes may be declared forfeited to the director.

8. Section 3 of P.L.1952, c.247 (C.56:7-20) is amended to read as follows:

C.56:7-20 Violations by retailer, wholesaler, distributor.

3. It shall be unlawful and a violation of this act:

a. For any retailer, wholesaler or distributor with intent to injure competitors or destroy or substantially lessen competition--

(1) to advertise, offer to sell, or sell, at retail or wholesale, cigarettes at less than cost to such retailer or wholesaler, as the case may be,

(2) to offer a rebate in price, to give a rebate in price, to offer a concession of any kind, or to give a concession of any kind or nature whatsoever in connection with the sale of cigarettes;

b. For any retailer, wholesaler or distributor--

(1) to induce or attempt to induce or to procure or attempt to procure the purchase of cigarettes at a price less than "cost to wholesaler" as defined in this act,

(2) to induce or attempt to induce or to procure or attempt to procure any rebate or concession of any kind or nature whatsoever in connection with the purchase of cigarettes,

(3) to sell, with or without a stamp, cigarette packages described in subsection b. of section 405 of P.L.1948, c.65 (C.54:40A-15);

c. Any retailer, wholesaler or distributor who violates the provisions of this section is a disorderly person and shall be prosecuted and punished by a fine of not more than $1,000 for each offense, in accordance with the provisions of Title 2C of the New Jersey Statutes.

d. Evidence of advertisement, offering to sell or sale of cigarettes by any retailer, wholesaler or distributor at less than cost to him, or evidence of any offer of a rebate in price or the giving of a rebate in price or an offer of a concession or the giving of a concession of any kind or nature whatsoever in connection with the sale of cigarettes or the inducing or attempt to induce or the procuring or the attempt to procure the purchase of cigarettes at a price less than cost to the wholesaler, retailer or distributor shall be prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.

9. Section 609 of P.L.1948, c.65 (C.54:40A-32) is amended to read as follows:

C.54:40A-32 Records; possession and transportation of unstamped cigarettes; seizure and confiscation of vessel or vehicles.

609. Records; possession and transportation of unstamped cigarettes; seizure and confiscation of vessel or vehicles. Every person who shall transport cigarettes not stamped as required by this act or stamped in

violation of subsection b. of section 405 of P.L.1948, c.65 (C.54:40A-15) upon the public highways, waterways, roads or streets of this State shall have in his actual possession invoices or delivery tickets for such cigarettes which shall show the true name and complete and exact address of the consignor or seller, the true name and complete and exact address of the consignee or purchaser, the quantity and brands of the cigarettes transported and in addition shall show separately the true name and complete and exact address of the person who has or shall assume the payment of the New Jersey State tax or the tax, if any, of the State or foreign country at the point of ultimate destination, provided that any common carrier which has issued a bill of lading for a shipment of cigarettes and is without notice to itself or to any of its agents or employees that said cigarettes are not stamped as required by this act shall be deemed to have complied with this act and the vehicle or vessel in which said cigarettes are being transported shall not be subject to confiscation hereunder. In the absence of such invoices, delivery tickets or bills of lading, as the case may be, the cigarettes so transported, the vehicle, or vessel in which the cigarettes are being transported and any paraphernalia or devices used in connection with the unstamped cigarettes or cigarettes stamped in violation of subsection b. of section 405 of P.L.1948, c.65 (C.54:40A-15), are declared to be contraband goods and may be seized by the director, his agents or employees or by any peace officer of the State when directed by the director, his agents or employees so to do, without a warrant. The director shall immediately thereafter institute a proceeding for the confiscation thereof in the Superior Court or the municipal court within the jurisdiction of which the seizure is made. The owner or any person having a security interest in any such vehicle may secure release of the same by depositing with the clerk of the court, in which such proceeding is pending, a bond with good and sufficient sureties in an amount to be fixed by the court, conditioned upon the return of said vehicle to the director upon demand after completion of said proceeding. The court may proceed in a summary manner and may direct confiscation to the director; provided, however, anything to the contrary notwithstanding, that the owner or any person claiming to be the holder of a mortgage, conditional sales contract or other security interest in any vehicle or vessel, the disposition of which is provided for above, may present his petition so alleging and be heard, and in the event it appears to the court that the property was unlawfully used by a person other than the owner or such claimant, and if such owner or claimant acquired ownership or his security interest in good faith and without knowledge that the vehicle or vessel was going to be so used, the court shall either waive forfeiture in favor of such owner or claimant and order the vehicle or vessel returned

or delivered to such owner or claimant, or if it is found that the value thereof exceeds the amount of the claim, the court shall order payment of the amount of the claim out of the proceeds of the sale. Every transporter who violates the provisions of this act is a disorderly person, and shall, in addition to such penalties as attached thereto, be liable to a penalty equal to the amount of tax due on any unstamped cigarettes transported by him, which penalty shall be sued for and recovered in the same manner as provided for the penalties imposed by section 601 of the act to which this act is amendatory (C.54:40A-24).

10. This act shall take effect immediately.

Approved January 6, 2000.

CHAPTER 329

AN ACT to assist law enforcement agencies in recovering abducted children, supplementing chapter 17B of Title 52 of the Revised Statutes and making an appropriation.

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

C.52:17B-194 Findings, determinations relative to child abduction.

1. a. The Legislature finds and determines that:

Child abduction is an unconscionable and horrendous crime;

Parents, and all concerned adults, must be ever alert and vigilant to protect children, who by nature are unsuspecting and trusting, from those who would prey on them;

Despite all the attention and care, reports of child abductions and missing children seem to be on the rise;

Experts and law enforcement officials agree that the most critical moments in the search for an abducted child are the hours immediately after the disappearance, so critical, in fact, that one FBI official has asserted that if an abducted child is not found within two to four hours the chance of recovering that child alive is not good;

The ability to instantly create high quality photos and posters of a missing child and to disseminate them quickly throughout the community, the region, the State and even the nation is one of the most effective tools available to law enforcement agencies engaged in child recovery operations; and

Technology is now available which enables law enforcement agencies to mount fast, effective and coordinated responses to reports of missing or abducted children.

b. The Legislature declares that:

One of society's greatest responsibilities is to protect children;

With an estimated 2,300 child abductions occurring every day in the United States, this crime constitutes one of the primary threats to child safety and to the sense of security and well-being every family deserves and should rightfully expect; and

It is, therefore, altogether fitting and proper, and within the public interest, to establish a State aid program to assist law enforcement agencies in New Jersey in acquiring the technological tools necessary to combat child abductions and to mount fast, effective and coordinated responses to reports of missing or abducted children.

C.52:17B-195 Organization, establishment of technology center.

2. a. The Division of State Police in the Department of Law and Public Safety shall organize and establish a technology center to coordinate and assist law enforcement agencies in their responses to reports of missing children and in their efforts to recover abducted children.

The technology utilized in the center shall be of a type endorsed by the National Center for Missing and Exploited Children and shall embody, but not be limited to:

(1) a system to send and receive highly recognizable color and black and white photographic images of missing and abducted children;

(2) a forced delivery system that provides for the spontaneous, automatic reception of photographic images of missing and abducted children by all participating law enforcement agencies and forces;

(3) demonstrably user-friendly components which law enforcement officers can quickly and easily become proficient in using; and

(4) ready compatibility with existing systems.

b. The governing body of any municipality which has a law enforcement agency or force and wishes to secure access to the State Police technology center in order to participate in that centralized program to coordinate and assist law enforcement agencies in their responses to reports of missing children and in their efforts to recover abducted children may apply to the Attorney General for State aid to purchase the appropriate computer technology, both hardware and software, to access the State Police technology center and participate in the program. Application shall be made in a manner and form prescribed by the Attorney General.

c. The Attorney General shall adopt guidelines to effectuate the purposes of this act.

3. Notwithstanding any other law to the contrary, there is appropriated to the Department of Law and Public Safety from the undesignated surplus balances in the Safe Neighborhoods Services Fund, created pursuant to P.L.1993, c.220 (C.52:17B-163), the amount of $3,500,000 to effectuate the purposes of this act. To the extent that undesignated surplus balances in the Safe Neighborhoods Services Fund are insufficient to support the amount appropriated, the appropriation shall be made from the General Fund. Of the amount appropriated, the sum of $325,000 is allocated to the Division of State Police for the purchase of equipment, as the Attorney General shall designate, necessary to implement the provisions of subsection a. of section 2 of this act.

4. This act shall take effect immediately.

Approved January 7, 2000.

CHAPTER 330

AN ACT concerning the prevention of osteoporosis, supplementing chapter 2R of Title 26 of the Revised Statutes and making an appropriation.

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

C.26:2R-3.1 Preparation, distribution of informational pamphlet on osteoporosis.

1. The Department of Health and Senior Services shall prepare an informational pamphlet which describes the causes and nature of osteoporosis as well as methods which may be used to prevent and treat osteoporosis, including nutrition, diet, physical exercise and medications. The department shall make a supply of these pamphlets available to all pharmacies registered with the New Jersey Board of Pharmacy for distribution to the public.

2. There is appropriated $25,000 from the General Fund to the Department of Health and Senior Services to carry out the purposes of this act.

3. This act shall take effect immediately.

Approved January 10, 2000.

CHAPTER 331

AN ACT concerning lost or abandoned property and supplementing Title 46 of the Revised Statutes.

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

C.46:30C-1 Definitions relative to lost, abandoned property.

1. As used in this act:

a. "Abandoned property" is property of which the owner has intentionally given up possession under circumstances evincing intent to give up ownership.

b. "Lost property" is property the possession of which has been parted with casually, involuntarily or unintentionally; or which has been mislaid, left or forgotten.

c. A "finder" is a person who acquires legal possession by exercising physical control over abandoned or lost property.

C.46:30C-2 Assumption of ownership.

2. A finder of abandoned property may assume ownership of it.

C.46:30C-3 Reasonable efforts to return property to owner.

3. A finder of lost property shall make reasonable efforts to return the property to its owner. Reasonable efforts to return the property depend on the nature of the property, the circumstances in which it is found and the obtainable information concerning its owner. Reasonable efforts may include:

a. Attempts to notify the owner of the lost property, or the owner of the premises where found,

b. Delivery to the owner or person in charge of the premises where the property was found, or

c. Delivery to the local police, or to a lost-and-found facility for the premises where the property was found.

C.46:30C-4 Claiming of lost property.

4. a. A person may claim lost property only after making reasonable efforts to return the property to its owner.

b. If the owner of the lost property does not reclaim it within 120 days of the commencement of reasonable efforts to return it:

(1) The owner of the premises where the property was found may claim title to buried or hidden lost property or to lost property which a trespasser found;

(2) The finder of the property may claim title to lost property in other cases.

c. If the owner of the premises or finder does not claim the lost property, and an action is not pending to determine rights to the property:

(1) Marketable property shall be sold by the clerk of the municipality in which it is located and the proceeds, less costs of sale shall be transmitted to the administrator of the "Uniform Unclaimed Property Act (1981)" (R.S.46:30B-1 et seq.), for deposit in the Unclaimed Personal Property Trust Fund established pursuant to the provisions of R.S.46:30B-74;

(2) Non-marketable property may be treated as abandoned.

C.46:30C-5 Inapplicability of act.

5. a. This act does not apply to property:

(1) Subject to the provisions of the "Uniform Unclaimed Property Act (1981)" (R.S.46:30B-1 et seq.).

(2) The acquisition or ownership of which requires a license, or property the ownership of which can be transferred only by document title.

b. This act does not supersede statutes regulating abandoned and unclaimed motor vehicles pursuant to the provisions of P.L. 1964, c.81 (C.39:10A-1 et seq.) or abandoned vessels pursuant to the provisions of P.L. 1975, c.369 (C.12:7C-7 et seq.).

6. This act shall take effect immediately.

Approved January 10, 2000.

CHAPTER 332

AN ACT concerning certain health maintenance organization enrollees and supplementing 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.26:2J-4.21 Health maintenance organizations to provide continuing nursing home care, certain.

1. a. A certificate of authority to establish and operate a health maintenance organization in this State shall not be issued or continued by the Commissioner of Health and Senior Services on or after the effective date of this act unless the health maintenance organization offers health care services in conformance with the provisions of subsection b. of this section.

b. If an enrollee is a resident of a skilled nursing facility, continuing care retirement community or a retirement community which operates a

skilled nursing facility on the premises of the community, regardless of whether the health maintenance organization is under contract with the skilled nursing facility or the skilled nursing facility at the continuing care retirement community or retirement community, the enrollee's primary care physician shall refer the enrollee to the skilled nursing facility or the community's Medicare-certified skilled nursing unit, as applicable, rather than to a skilled nursing facility separate from the facility or the community of origin, if:

(1) the skilled nursing facility or the continuing care retirement community or retirement community with a skilled nursing facility has the capacity to provide the services the enrollee needs;

(2) the primary care physician, in consultation with the enrollee or a representative of the enrollee's family, determines that the referral is in the best interest of the enrollee;

(3) the skilled nursing facility or the continuing care retirement community or retirement community with a skilled nursing facility agrees to be reimbursed at the same contract rate negotiated by the health maintenance organization with similar providers for the same services and supplies in the same geographic area; and

(4) the skilled nursing facility or the continuing care retirement community or retirement community with a skilled nursing facility meets all applicable State licensing and certification requirements

c. For the purposes of this act, "continuing care retirement community" means a continuing care facility operating under a certificate of authority issued by the Department of Community Affairs pursuant to P.L.1986, c.103 (C.52:27D-330 et seq.), and "retirement community" means a retirement community which is registered with the Department of Community Affairs pursuant to P.L.1977, c.419 (C.45:22A-21 et seq.).

2. This act shall take effect immediately.

Approved January 10, 2000.

CHAPTER 333

AN ACT concerning pension funds of certain boards of education in certain first-class counties and amending 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:66-107 is amended to read as follows:

Contributions to pension fund.

18A:66-107. The contributions to the pension fund shall be as follows:

a. There shall be deducted from every payment of salary of all employees who are members of the fund 3% of the amount of such salary.

b. Each board of education shall be obligated for contributions to the fund of a proportionate amount of the total contributions required from all employing boards of education, as determined by the actuary, which shall be sufficient to: (1) provide for the pension credits being accrued by the members, after taking into account contributions being made by the members, and (2) provide for the payment of the unfunded accrued liability in annual payments. Such obligations shall be provided for by each board in its annual appropriation for the support and maintenance of the public schools.

c. The amount to be appropriated by each board under subsection b. of this section shall be determined by applying the percentage certified by the actuary as determined under said subsection.

d. The treasurer or other chief fiscal officer of each board of education shall pay to the fund on the first day of each month: (1) the total of the amounts of contributions which, during the preceding month, were deducted from the salaries of the employees of that board under subsection a. of this section, and (2) the pro rata portion of the amount of employer contributions of the board, as that amount is determined under subsection b. of this section, which is applicable to that board with respect to the preceding month. If the full payment required under this subsection is not made within 30 days after it becomes due, interest at the rate of 1% for each whole or fractional month of lateness shall begin to run against the unpaid balance of that payment on the first day after that thirtieth day.

2. Section 10 of P.L.1983, c.216 (C.18A:66-109.1) is amended to read as follows:

C.18A:66-109.1 Loans from retirement system.

10. Any member who has at least three years of service to his credit for which he has contributed as a member may borrow from the retirement system an amount equal to not more than 50% of the amount of his accumulated deductions, but not less than $50.00; provided that the amount so borrowed, together with interest thereon, can be repaid by additional deductions from compensation, not in excess of 25% of the member's compensation, made at the same time compensation is paid to the member. The amount so borrowed, together with the interest at the

rate of 4% per annum on any unpaid balance thereof, shall be repaid to the retirement system in equal installments by deduction from the compensation of the member at the time the compensation is paid or in such lump sum amount sufficient to repay the balance of the loan, but the rate at which any installment is deducted shall be at least equal to the member's rate of contribution to the retirement system and at least sufficient to repay the amount borrowed, with interest thereon. Not more than two loans may be granted to any member in any calendar year. Notwithstanding any other law affecting the salary or compensation of any person or persons to whom this act applies or shall apply, the additional deductions required to repay the loan shall be made.

Loans shall be made to a member from his accumulated deductions. The interest earned on those loans shall be treated in the same manner as interest earned from investments of the retirement system.

In the event a member retires without having repaid the full amount borrowed, then the retirement benefits to which he would otherwise be entitled shall be paid, less a deduction for the loan repayment. Subject to the approval of the board upon application by the retiree, the deduction from periodic benefits for a loan repayment may be reduced or otherwise adjusted, provided however that this deduction shall equal the lesser of the amount paid prior to the retirement or 20% of the periodic retirement benefit, whichever is less.

In the case of a pensioner who dies before the outstanding balance of the loan and interest thereon has been recovered, the remaining balance shall be repaid from the proceeds of any other benefits payable on the account of the pensioner, either in the form of monthly payments due to his beneficiaries or in the form of lump sum payments payable for pension or group life insurance.

3. N.J.S.18A:66-110 is amended to read as follows:

Manner of payment.

18A:66-110. Pensions shall be paid from the fund in the manner following:

a. A member of the pension fund who was a member on or before June 26, 1962 and who has or shall hereafter have credit in the pension fund for 30 years or more as an employee of a board of education in a county wherein the fund has been established and maintained shall, upon application to the board of trustees of the pension fund, be retired by such board of trustees and shall thereupon receive annually from the fund, for and during the remainder of his or her life, by way of pension, an amount equal to one-forty-fifth of the average annual compensation received in

any three years of creditable service providing the largest possible benefit multiplied by the number of years for which he or she has credit in the pension fund, the amount to be determined by resolution of the board.

b. Upon the retirement of a member who has reached the age of 60 years, the person so retired shall be entitled to receive during his or her life, by way of pension, one-forty-fifth of the average annual compensation received in any three years of creditable service providing the largest possible benefit multiplied by the number of years for which he or she has credit in the pension fund, the amount to be determined by resolution of the board. Upon the receipt of proper proof of death of a member who has retired on a service retirement allowance, there shall be paid to such person, if living, as he shall have nominated by written designation duly executed and filed with the board of trustees, otherwise to the executor or administrator of the member's estate an amount equal to one-half of the highest annual compensation received by the member in any year of creditable service.

c. A member of the fund who has credit therein for 10 years, who shall become incapacitated, either mentally or physically, and who cannot perform the regular duties of employment, or who is found unfit for the performance of his or her duties, upon the application of his employer or upon his own application or the application of someone acting in his behalf, shall be retired by the board of trustees of the pension fund and thereupon shall receive annually from the fund a retirement allowance as described in subsection b. of this section if he has reached or passed age 60 and if he is under age 60, an amount equal to nine-tenths of one-forty-fifth of the average annual compensation received in any three years of creditable service providing the largest possible benefit multiplied by the number of years of creditable service; provided, however, that in no event shall the pension be based upon less than 17 years nor more than 30 years of service unless the member would have had less than 17 years of service at age 60, in which event he shall be given credit for the years to age 60; however, a member who has not attained age 70 who shall become incapacitated, either mentally or physically, as a direct result of a traumatic event occurring in the performance of his or her duties of such employee, shall, upon the application of his employer or upon his own application or the application of someone acting in his behalf, be retired by the board of trustees of the pension fund, and, thereupon, if a report of the accident, in a form acceptable to the board of trustees of the pension fund, is filed with the said board of trustees within 60 days next following the accident and the application for retirement is filed with the said board of trustees within two years of the date of the accident, shall receive annually from the fund an amount equal to two-thirds of the annual salary being received by such employee on the date of the accident. The board

of trustees may waive strict compliance with the time limits within which a report of the accident and an application for retirement must be filed with the board if it is satisfied: (1) that a report of the accident from which the disability is claimed to have resulted was filed with the employing board of education with reasonable promptitude and in no event later than 60 days after the accident, and (2) the applicant shall show that his failure to file a report with the board of trustees or to file his application for retirement within the time limited by law was due to mistake, inadvertence, ignorance of fact or law, inability, or to the fraud, misrepresentation or deceit of any person, or to a delay in the manifestation of the incapacity, or to any other reasonable cause or excuse, and (3) that the application for retirement was filed in good faith and the circumstances justify its favorable consideration.

The trustees of the pension fund shall have the power to determine whether or not any employee is permanently and totally disabled, and whether or not a disability of an employee is the direct result of a traumatic event occurring at some definite time and place in the performance of his or her duties as such employee. The claimant shall have the right to present physicians, witnesses or other testimony in his or her behalf before the board of trustees. The chairman, or any other member of the board of trustees, may administer oaths to any physician or other persons called before the trustees regarding the employee's disability. The board of trustees shall decide, by resolution, whether the applicant is entitled to the benefit of this article.

Permanent and total disability resulting from a cardiovascular, pulmonary or muscular-skeletal condition which was not a direct result of a traumatic event occurring in the performance of duty shall be deemed an ordinary disability.

Once in each year, the board of trustees may, and upon the member's application shall, require any member retired for a disability, who is under the age of 60, to undergo medical examination by a physician or physicians designated by the board of trustees. The examination shall be made at the residence of the pensioner or any other place mutually agreed upon. If the physician or physicians thereupon report and certify to the board of trustees that the disabled pensioner is not permanently and totally incapacitated, either mentally or physically, for the performance of duty, and the board finds that said member is engaged in a gainful occupation, or could be engaged in a gainful occupation, and if the board concurs in the report, then the amount of the pension shall be reduced to an amount which, when added to the amount then being earned by him or her or an amount which he or she could earn if gainfully employed, shall not exceed the amount of compensation received by him or her at the time of his or her retirement, including any cost of living adjustment. If subse-

quent examination of such pensioner shows that his or her earnings have changed since the date of his or her last examination, then the amount of the pension shall be further altered, but the new pension shall not exceed the amount of the pension originally granted, nor shall the new pension, when added to the amount then being earned by the pensioner, exceed the salary or compensation received by him or her at the time of his or her retirement, including any cost of living adjustment.

d. At the time of retirement, any member may elect to receive his or her benefits in a retirement allowance payable throughout life, or he or she may, on retirement, elect to convert the benefits, otherwise payable to him or her, into a retirement allowance of the equivalent actuarial value computed on the basis of such mortality tables as shall be adopted by the board of trustees, in accordance with one of the optional forms following:

Option 1. A reduced retirement allowance, payable during life, with a provision that in the case of death, before the total pension payments have equaled the actuarial value computed as aforesaid, the balance shall be paid to his or her surviving designated beneficiary, duly acknowledged and filed with the board of trustees; and if none, then to the executor or administrator of his or her estate.

Option 2. A reduced retirement allowance, payable during the retired member's life, with the provision that after his or her death it will continue during the life of and be paid to his or her designated beneficiary, if such person survives him or her.

Option 3. A reduced retirement allowance, payable during the retired member's life, with the provision that after his or her death, an allowance at one-half of the rate of his or her reduced allowance will be continued during the life of and be paid to his or her designated beneficiary, if such person survives him or her.

Option 4. A reduced retirement allowance, payable during the retired member's life, with some other benefit payable after his or her death, provided the benefit is approved by the board of trustees.

No optional selection shall be effective in case a member dies within 30 days after retirement and such a member shall be considered an active member at the time of death until the first payment on account of any benefit becomes normally due.

The board of trustees shall, from time to time and as often as they deem it necessary, employ an actuary, who shall recommend, and the board shall keep in convenient form, such data as shall be necessary for actuarial valuations of the various funds created by this article. At least once in every five-year period, or more frequently as determined by the board of trustees, the actuary shall make an actuarial investigation into the mortality, service and salary experience of the members and beneficiaries

of the retirement system, and shall make a valuation of the assets and liabilities of the various funds thereof, and upon the basis of such investigation the board of trustees shall:

(a) Adopt for the retirement system such mortality, service and other tables as shall be deemed necessary.

(b) Certify the rate of contribution which shall be made by each board of education to the pension fund as provided by this article.

4. N.J.S.18A:66-113 is amended to read as follows:

Deferred retirement allowance.

18A:66-113. A member of the pension fund who has 10 years of service credit in the pension fund and who separates voluntarily or involuntarily before attaining the age of 60 years, and not by removal for cause on charges of misconduct or delinquency, may elect to receive a deferred retirement allowance beginning at the age of 60 years, equal to one-forty-fifth of the average annual compensation received by him during any three years of creditable service providing the largest possible benefit multiplied by the number of years of credited service, with optional privileges as provided for in subsection d. of section 18A:66-110.

Such member shall advise the board of trustees of his election of such a deferred retirement allowance in writing, and shall complete such forms as shall be specified by the board of trustees in its administration of this section.

Subsequent to making such an election, but prior to attaining age 60, a member may later elect to withdraw all payments which he has made to the pension fund together with simple interest at the rate of 4% per annum figured on such employee contributions. Upon such withdrawal of contributions, no further benefits shall be payable on behalf of said employee by the pension fund. If such a member should die before attaining the age of 60 years, all payments which he has made, together with simple interest at the rate of 4% per annum figured on such employee's contributions to the fund from the date of membership, shall be paid to such person, if living, as he shall have nominated by written designation duly executed and filed with the board of trustees, otherwise to the executor or administrator of the member's estate.

Any member who, having elected to receive a deferred retirement allowance, again becomes an employee covered by the retirement system while under the age of 60 shall thereupon be reenrolled. He shall be credited with all service as a member standing to his credit at the time of his election to receive a deferred retirement allowance.

5. Section 4 of P.L.1971, c.382 (C.18A:66-113.1) is amended to read as follows:

C.18A:66-113.1 Early retirement.

4. Should a member resign after having established 25 years of creditable service before reaching age 60, he may elect "early retirement," provided that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive in lieu of any other payment provided for in section 18A:66-113 retirement allowance of one-forty-fifth of his average annual compensation received in any three years of creditable service providing the largest possible benefit for each year of service credited reduced by one-quarter of 1% for each month that the member lacks of being age 55.

6. This act shall take effect immediately.

Approved January 10, 2000.

CHAPTER 334

AN ACT concerning the removal and restraint of persons who commit or are charged with certain offenses and supplementing Title 2C of the New Jersey Statutes.

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

C.2C:35-5.4 Short title.

1. This act shall be known and may be cited as the "Drug Offender Restraining Order Act of 1999."

C.2C:35-5.5 Findings, declarations relative to removal, restraint of certain drug offenders.

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

a. By the enactment of the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et seq., the Legislature recognized that the unlawful manufacture, distribution, possession and use of controlled dangerous substances poses a serious and pervasive threat to the health, safety and welfare of the citizens of this State.

b. In particular, the unlawful manufacture and distribution of controlled dangerous substances can undermine the quality of life enjoyed by all persons who live or work in a neighborhood where such unlawful activity occurs.

c. Persons who engage in unlawful drug activity serve as negative role models for the young, enlist others to join in illicit enterprises, attract violent criminals who prey upon the innocent, and drive away law-abiding citizens, thus having an adverse impact upon legitimate businesses.

d. Displacing those who engage in the unlawful manufacture and distribution of controlled dangerous substances from the situs of their offenses will disrupt drug trafficking by forcing offenders to abandon familiar and comfortable surroundings and requiring them to rely on more cumbersome techniques for conducting street-level transactions. Restraining orders will also protect the public by separating drug offenders from their known markets for sales and purchases of controlled dangerous substances.

C.2C:35-5.6 Definitions relative to removal, restraint of certain drug offenders.

3. Definitions.

As used in this act:

a. "Person" means any person charged with or convicted of a criminal offense or any juvenile charged with delinquency or adjudicated delinquent for an act which, if committed by an adult, would be a criminal offense.

b. "Place" includes any premises, residence, business establishment, location or specified area including all buildings and all appurtenant land, in which or at which a criminal offense occurred or is alleged to have occurred or is affected by the criminal offense with which the person is charged.

c. "Criminal offense" means an offense that involves the manufacturing, distributing, selling or possessing with intent to distribute a controlled dangerous substance or the unlawful possession or use of an assault firearm as defined in subsection w. of N.J.S.2C:39-1.

C.2C:35-5.7 Issuance of order by court.

4. a. When a person is charged with a criminal offense and the person is released from custody before trial on bail or personal recognizance, or is released to the custody of a parent, guardian, custodian or public or private agency, the court, as a condition of release and except as provided in subsection c. of this section, shall issue an order prohibiting the person from entering any place defined by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6).

b. When a person is convicted of or adjudicated delinquent for any criminal offense, the court, in addition to any other disposition authorized by law and except as provided in subsection c. of this section, shall issue an order prohibiting the person from entering any place defined by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6).

c. The court may forego issuing a restraining order only if the defendant establishes by clear and convincing evidence that:

(1) the defendant lawfully resides at or has legitimate business on or near the place, or otherwise legitimately needs to enter the place. In such

an event, the court shall not issue an order pursuant to this section unless the court is clearly convinced that the need to bar the person from the place in order to protect the public safety and the rights, safety and health of the residents and persons working in the place outweighs the person's interest in returning to the place. If the balance of the interests of the person and the public so warrants, the court may issue an order imposing conditions upon the person's entry at, upon or near the place; or

(2) the issuance of an order would cause undue hardship to innocent persons and would constitute a serious injustice which overrides the need to protect the rights, safety and health of persons residing in or having business in the place.

d. A restraining order issued pursuant to subsection a. or b. of this section shall describe the place from which the person has been barred and any conditions upon the person's entry into the place, with sufficient specificity to enable the person to guide his conduct accordingly and to enable a law enforcement officer to enforce the order. When appropriate, the court may append to the order a map depicting the place. The person shall be given a copy of the restraining order and any appended map and shall acknowledge in writing the receipt thereof.

e. The court shall provide notice of the restraining order to the local law enforcement agency where the arrest occurred and to the county prosecutor. In addition, when the order prohibits a person charged with a criminal offense from entering at, upon or near any building, business premises, school or other public, private or commercial premises, the court may cause notice of the restraining order to be transmitted to the owner of such property and to the owner's agent, or, in the case of a school or any government-owned property, to the appropriate administrator, and to any tenant association representing the residents of the affected area. Notwithstanding the provisions of section 1 of P.L.1982, c.79 (C.2A:4A-60), the local law enforcement agency may post a copy of any orders issued pursuant to this section upon one or more of the principal entrances of the place or in any other conspicuous location. Such posting shall be for the purpose of informing the public, and the failure to post a copy of the order shall in no way excuse any violation of the order.

f. When a juvenile has been adjudicated delinquent for an act which, if committed by an adult, would be a criminal offense, in addition to an order required by subsection b. of this section or any other disposition authorized by law, the court may order the juvenile and any parent, guardian or any family member over whom the court has jurisdiction to take such actions or obey such restraints as may be necessary to facilitate the rehabilitation of the juvenile or to protect public safety or to safeguard or enforce the rights of residents of the place. The court may commit the

juvenile to the care of the Department of Human Services under the responsibility of the Division of Youth and Family Services until such time as the juvenile reaches the age of 18 or until the order of removal and restraint expires, whichever first occurs, or to such alternative residential placement as is practicable.

g. An order issued pursuant to subsection a. of this section shall remain in effect until the case has been adjudicated or dismissed, or for not less than two years, whichever is less. An order issued pursuant to subsection b. of this section shall remain in effect for such period of time as shall be fixed by the court but not longer than the maximum term of imprisonment or incarceration allowed by law for the underlying offense or offenses. When the court issues a restraining order pursuant to subsection b. of this section and the person is also sentenced to any form of probationary supervision or participation in the Intensive Supervision Program, the court shall make continuing compliance with the order an express condition of probation or the Intensive Supervision Program. When the person has been sentenced to a term of incarceration, continuing compliance with the terms and conditions of the order shall be made an express condition of the person's release from confinement or incarceration on parole.

h. The court shall immediately notify the appropriate law enforcement agency in writing whenever an application is made to stay or modify an order issued pursuant to this act. If the court does not issue a restraining order, the sentence imposed by the court for a criminal offense as defined in subsection b. of this section shall not become final for ten days in order to permit the appeal of the court's findings by the prosecution.

i. Nothing in this section shall be construed in any way to limit the authority of the court to take such other actions or to issue such orders as may be necessary to protect the public safety or to safeguard or enforce the rights of others with respect to the place.

j. Notwithstanding any other provision of this section, the court may permit the person to return to the place to obtain personal belongings and effects and, by court order, may restrict the time and duration and provide for police supervision of such a visit.

C.2C:35-5.8 Violations, penalties.

5. Violation of any order issued pursuant to this act shall subject the person to civil contempt, criminal contempt, revocation of bail, probation or parole, or any combination of these sanctions and any other sanctions authorized by law. A law enforcement officer may arrest an adult or take into custody a juvenile when an officer has probable cause to believe that

the person has violated the terms of any removal and restraining order issued pursuant to section 4 of P.L.1999, c.334 (C.2C:35-5.7).

6. This act shall take effect immediately.

Approved January 10, 2000.

CHAPTER 335

AN ACT concerning adulteration of consumable substances and amending N.J.S.2C:12-2.

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

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

Reckless endangerment.

2C:12-2. a. A person who purposely or knowingly does any act, including putting up a false light, which results in the loss or destruction of a vessel commits a crime of the third degree.

b. A person commits a crime of the fourth degree if he:

(1) Manufactures or sells a golf ball containing acid or corrosive fluid substance; or

(2) Purposely or knowingly offers, gives or entices any person to take or accept any treat, candy, gift, food, drink or other substance that is intended to be consumed which is poisonous, intoxicating, anesthetizing, tranquilizing, disorienting, deleterious or harmful to the health or welfare of such person, without the knowledge of the other person as to the identity and effect of the substance, except that it is a crime of the third degree if the actor violates the provisions of this paragraph with the purpose to commit or facilitate the commission of another criminal offense.

Notwithstanding the term of imprisonment provided under N.J.S. 2C:43-6, and the provisions of subsection e. of N.J.S.2C:44-1, if a person is convicted of a crime of the fourth degree under paragraph (2) of this subsection, the sentence imposed shall include a fixed minimum sentence of not less than six months during which the defendant shall not be eligible for parole. If a person is convicted of a crime of the third degree under paragraph (2) of this subsection, the sentence imposed shall include a fixed minimum sentence of not less than eighteen months during which the defendant shall not be eligible for parole. The court may not suspend

or make any other noncustodial disposition of that person. Notwithstanding the provisions of N.J.S.2C:1-8 or any other provision of law, a conviction arising under this subsection shall not merge with a conviction for any offense that the defendant intended to commit or facilitate, when the defendant violated the provisions of this section, nor shall any such other conviction merge with a conviction under this section. Notwithstanding the provisions of N.J.S.2C:44-5 or any other provision of law, the sentence for a crime of the third degree imposed pursuant to this paragraph shall be ordered to be served consecutively to that imposed for a conviction of the offense that the defendant intended to commit or facilitate when the defendant violated the provisions of this subsection.

2. This act shall take effect immediately.

Approved January 10, 2000.

CHAPTER 336

AN ACT concerning the sale of cats and dogs, supplementing P.L.1960, c.39 (C.56:8-1 et seq.) and amending P.L.1941, c. 151.

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

C.56:8-92 Short title.

1. This act shall be known and may be cited as the "Pet Purchase Protection Act."

C.56:8-93 Definitions relative to sales of cats and dogs.

2. As used in sections 1 through 5 of this act:

"Animal" means a cat or dog;

"Consumer" means a person purchasing a cat or dog;

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

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

"Pet dealer" means any person engaged in the ordinary course of business in the sale of cats or dogs to the public for profit or any person who sells or offers for sale more than five cats or dogs in one year;

"Pet shop" means a pet shop as defined in section 1 of P.L.1941, c.151 (C.4:19-15.1);

"Quarantine" means to hold in segregation from the general population any cat or dog because of the presence or suspected presence of a contagious or infectious disease;

"Unfit for purchase" means any disease, deformity, injury, physical condition, illness or defect which is congenital or hereditary and severely affects the health of the animal, or which was manifest, capable of diagnosis or likely contracted on or before the sale and delivery of the animal to the consumer. The death of an animal within 14 days of its delivery to the consumer, except by death by accident or as a result of injuries sustained during that period, shall mean the animal was unfit for purchase; and

"Veterinarian" means a veterinarian licensed to practice in the State of New Jersey.

C.56:8-94 Construction of act.

3. No provision of this act shall be construed in any way to alter, diminish, replace, or revoke the requirements for pet dealers that are not pet shops or the rights of a consumer purchasing an animal from a pet dealer that is not a pet shop, as may be provided elsewhere in law or any rule or regulation adopted pursuant thereto. Except as provided in section 4 and section 5 of P.L.1999, c.336 (C.56:8-95 and C.56:8-96), any provision of law pertaining to pet shops, or rule or regulation adopted pursuant thereto, shall continue to apply to pet shops. No provision of this act shall be construed in any way to alter, diminish, replace, or revoke any recourse or remedy that is otherwise available to a consumer purchasing a cat or a dog from a pet shop under any other law.

C.56:8-95 Noncompliance by pet shop considered deceptive practice.

4. a. Notwithstanding the provisions of any rule or regulation adopted pursuant to Title 56 of the Revised Statutes as such provisions are applied to pet shops, and without limiting the prosecution of any other practices which may be unlawful pursuant to Title 56 of the Revised Statutes, it shall be a deceptive practice for any owner or operator of a pet shop, or employee thereof, to sell animals within the State without complying with the provisions and requirements of this section.

b. Within five days prior to the offering for sale of any animal, the owner or operator of a pet shop, or employee thereof, shall have the animal examined by a veterinarian licensed to practice in the State. The name and address of the examining veterinarian, together with the findings made and treatment, if any, ordered as a result of the examination, shall be noted on the animal history and health certificate for each animal as required by regulations adopted pursuant to Title 56 of the Revised Statutes. If fourteen days have passed since the last veterinarian examination of the animal, the owner or operator of the pet shop, or

employee thereof, shall have the animal reexamined by a veterinarian licensed to practice in the State as provided for in subsection g. of this section, except as otherwise provided in that subsection.

c. Each cage in a pet shop shall have a label identifying the sex and breed of each animal kept in the cage, the date and place of birth of each animal, and the name and address of the veterinarian attending to the animal and the date of the initial examination of the animal.

d. The owner or operator of a pet shop, or employee thereof, shall quarantine any animal diagnosed as suffering from a contagious or infectious disease, illness, or condition and may not sell such an animal until such time as a veterinarian licensed to practice in the State treats the animal and determines that such animal is free of clinical signs of infectious disease or that the animal is fit for sale. All animals required to be quarantined pursuant to this subsection shall be placed in a quarantine area, separated from the general animal population of the pet shop.

e. The owner or operator of a pet shop, or designated employee thereof, may inoculate and vaccinate animals prior to purchase only upon the order of a veterinarian. No owner or operator of a pet shop, or employee thereof, may represent, directly or indirectly, that the owner or operator of the pet shop, or any employee thereof, other than a veterinarian, is qualified to, directly or indirectly, diagnose, prognose, treat, or administer for, prescribe any treatment for, operate concerning, manipulate or apply any apparatus or appliance for addressing, any disease, pain, deformity, defect, injury, wound or physical condition of any animal after purchase of the animal, for the prevention of, or to test for, the presence of any disease, pain, deformity, defect, injury, wound or physical condition in an animal after its purchase. These prohibitions include, but are not limited to, the giving of inoculations or vaccinations after purchase, the diagnosing, prescribing and dispensing of medication to animals and the prescribing of any diet or dietary supplement as treatment for any disease, pain, deformity, defect, injury, wound or physical condition.

f. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall provide each owner or operator of a pet shop with notification forms, to be signed by the owner or operator of the pet shop, or employee thereof, and the consumer at the time of purchase of an animal. The notification form shall provide the following:

(1) The full text of the rights and responsibilities provided for in subsection h. of this section;

(2) The full text and description of the recourse to which the consumer is entitled pursuant to subsection i. of this section;

(3) The statement that it is the responsibility of the consumer to obtain such certification within the required amount of time provided by subsection h. of this section;

(4) The full text of the rights and responsibilities of the owner or operator of the pet shop, and the employees thereof, and the consumer provided in subsection l. of this section; and

(5) The notification, reporting and enforcement provisions provided in section 5 of P.L.1999, c.336 (C.56:8-96), including the name and address of the local health authority with jurisdiction over the pet shop.

The owner or operator of the pet shop, or an employee thereof, shall obtain the signature of the consumer on the form and shall also sign the form at the time of purchase of an animal, and shall provide the consumer with a signed copy of the form and retain a copy of the form on the pet shop premises. Copies of all such notices shall be readily available for inspection by an authorized representative of the Division of Consumer Affairs, upon request. No pet shop owner or operator, or employee thereof, may construe or use the signed notification form required pursuant to this subsection as an abdication of the right to recourse provided for in subsection i., or as a selection of recourse pursuant to subsection k. of this section.

g. The owner or operator of a pet shop, or an employee thereof, shall have any animal that has been examined more than 14 days prior to the date of purchase, reexamined by a veterinarian for the purpose of disclosing its condition, within 72 hours of the delivery of the animal to the consumer, unless the consumer has waived the right to the reexamination in writing. The owner or operator of a pet shop, or an employee thereof, shall provide a copy of the written waiver to the consumer prior to the signing of any contact or agreement to purchase the animal and the written waiver shall be in the form established by the director by regulation.

h. If at any time within 14 days after the sale and delivery of an animal to a consumer, the animal becomes sick or dies and a veterinarian certifies, within the 14 days after the date of purchase of the animal by the consumer, that the animal is unfit for purchase due to a non-congenital cause or condition, or that the animal died from causes other than an accident, the consumer is entitled to the recourse described in subsection i. of this section.

If the animal becomes sick or dies within 180 days after the date of purchase and a veterinarian certifies, within the 180 days after the date of purchase of the animal by the consumer, that the animal is unfit for sale due to a congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition, or died from such a cause or condition or sickness, the consumer shall be entitled to the recourse provided in subsection i. of this section.

It shall be the responsibility of the consumer to obtain such certification within the required amount of time provided by this subsection, unless the owner or operator of the pet shop, or the employee thereof selling the animal to the consumer, fails to provide the notice required pursuant to subsection f. of this section. If the owner or operator of the pet shop, or the employee thereof, fails to provide the required notice, the consumer shall be entitled to the recourse provided for in subsection i. of this section.

i. Only the consumer shall have the sole authority to determine the recourse the consumer wishes to select and accept, provided that the recourse selected is one of the following:

(1) The right to return the animal and receive a full refund of the purchase price, including sales tax, plus the reimbursement of the veterinary fees, including the cost of the veterinarian certification, incurred prior to the receipt by the consumer of the veterinarian certification;

(2) The right to retain the animal and to receive reimbursement for veterinary fees incurred prior to the consumer's receipt of the veterinarian certification, plus the future cost of veterinary fees to be incurred in curing or attempting to cure the animal, including the cost of the veterinarian certification;

(3) The right to return the animal and to receive in exchange an animal of the consumer's choice, of equivalent value, plus reimbursement of veterinary fees, including the cost of the veterinarian certification, incurred prior to the consumer's receipt of the veterinarian certification; or

(4) In the event of the death of the animal from causes other than an accident, the right to a full refund of the purchase price of the animal, including sales tax, or another animal of the consumer's choice of equivalent value, plus reimbursement of veterinary fees, including the cost of the veterinarian certification, incurred prior to the death of the animal.

The consumer shall be entitled to be reimbursed an amount for veterinary fees up to and including two times the purchase price, including sales tax, of the sick or dead animal. No reimbursement of veterinary fees shall exceed two times the purchase price, including sales tax, of the sick or dead animal.

j. The veterinarian shall provide to the consumer in writing and within the seven days after the consumer consults with the veterinarian any certification that is appropriate pursuant to this section upon the determination that such certification is appropriate. The certification shall include:

(1) The name of the owner;

(2) The date or dates of examination;

(3) The breed, color, sex and age of the animal;

(4) A statement of the findings of the veterinarian;

(5) A statement that the veterinarian certifies the animal to be "unfit for purchase";

(6) An itemized statement of veterinary fees incurred as of the date of certification;

(7) If the animal may be curable, an estimate of the possible cost to cure, or attempt to cure, the animal;

(8) If the animal has died, a statement establishing the probable cause of death; and

(9) The name and address of the certifying veterinarian and the date of the certification.

k. Upon the presentation of the veterinarian certification required in subsection j. of this section to the pet shop, the consumer shall select the recourse to be provided and the owner or operator of the pet shop, or the employee thereof, shall confirm the selection of recourse in writing. The confirmation of the selection shall be signed by the owner or operator of the pet shop, or an employee thereof, and the consumer and a copy of the signed confirmation shall be given to the consumer and retained by the owner or operator of the pet shop, or employee thereof, on the pet shop premises. The confirmation of the selection shall be in the form established by the director by regulation.

l. The owner or operator of the pet shop, or an employee thereof, shall comply with the selection of recourse by the consumer no later than 10 days after the receipt of the veterinarian certification and the signed confirmation of selection of recourse form. In the event the owner or operator of the pet shop, or an employee thereof, wishes to contest the selection of recourse of the consumer, the owner or operator of the pet shop, or an employee thereof, shall notify the consumer and the director in writing within the five days after the receipt of the veterinarian certification and the signed confirmation of selection of recourse form. After notification to the consumer and the director of the division, the owner or operator of the pet shop, or an employee thereof, may require the consumer to produce the animal for examination by a veterinarian chosen by the owner or operator of the pet shop, or employee thereof, at a mutually convenient time and place, except if the animal has died and was required to be cremated for public health reasons. The director shall set, upon receipt of such notice of contest on the part of the owner or operator of the pet shop, or an employee thereof, a hearing date and hold a hearing, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and the Uniform Administrative Procedure Rules adopted pursuant thereto, to determine whether the recourse selected by the consumer should be allowed. The consumer and the owner or operator of the pet shop, or employee thereof, shall be entitled to any appeal of the decision resulting from the hearing as may be provided for under the law, or any rule or regulation adopted pursuant thereto, but upon the exhaustion of such remedies and recourse,

the consumer and the owner or operator of the pet shop shall comply with the final decision rendered.

m. Any owner or operator of a pet shop, or employee thereof, shall be guilty of a deceptive practice if the owner or operator, or employee thereof, secures or attempts to secure a waiver of any of the provisions of this section except as specifically authorized under subsection g. of this section.

n. The owner of a pet shop shall be responsible and liable for any recourse or reimbursement due to a consumer because of violations of any provisions of this section by the owner or operator of the pet shop, or any employee thereof, or because of any document signed pursuant to this section by the owner or operator of the pet shop, or any employee thereof.

C.56:8-96 Certification from veterinarian, recourse.

5. a. Any consumer who purchases from a pet shop an animal that becomes sick or dies after the date of purchase may take the sick or dead animal to a veterinarian within the period of time required pursuant to the notification form provided upon the date of purchase, receive certification from the veterinarian of the health and condition of the animal, and pursue the recourse provided for under the circumstances indicated by the veterinarian certification, as required and provided for pursuant to section 4 of P.L.1999, c.336 (C.56:8-95).

b. Upon receipt of the certification from the veterinarian, the consumer may report the sickness or death of the animal and the pet shop where the animal was purchased to the local health authority with jurisdiction over the municipality in which the pet shop where the animal was purchased is located, and to the Director of the Division of Consumer Affairs in the Department of Law and Public Safety. The consumer shall provide a copy of the veterinarian certificate with any such report. The director shall forward to the appropriate local health authority a copy of any such report the division receives. The local health authority shall record and retain the records of any such report and documentation submitted by a consumer.

c. By the May 1 immediately following the effective date of this act, and annually thereafter, the local health authority with jurisdiction over pet shops shall review any files it has concerning reports filed pursuant to subsection b. of this section and shall recommend to the municipality in which the pet shop is located the revocation of the license of any pet shop with reports filed as follows:

(1) 15% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition;

(2) 25% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to a non-congenital cause or condition;

(3) 10% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a non-congenital cause or condition; or

(4) 5% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition.

d. By the May 1 immediately following the effective date of this act, and annually thereafter, the local health authority with jurisdiction over pet shops shall review any files it has concerning reports filed pursuant to subsection b. of this section and shall recommend to the municipality in which the pet shop is located a 90-day suspension of the license of any pet shop with reports filed as follows:

(1) 10% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition;

(2) 15% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to a non-congenital cause or condition;

(3) 5% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a non-congenital cause or condition; or

(4) 3% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition.

e. Pursuant to the authority and requirements provided in section 8 of P.L.1941, c.151 (C.4:19-15.8), the owner of the pet shop shall be afforded a hearing and, upon the recommendation by the local health authority pursuant to subsection c. or d. of this section, the local health authority, in consultation with the State Department of Health and Senior Services, shall set a date for the hearing to be held by the local health authority or the State Department of Health and Senior Services and shall notify the pet shop involved. The municipality may suspend or revoke the license, or part thereof, that authorizes the pet shop to sell cats or dogs after such hearing has been held and as provided in section 8 of P.L.1941, c.151 (C.4:19-15.8). At the hearing, the local health authority or the State Department of Health and Senior Services, whichever entity is holding

the hearing, shall receive testimony from the pet shop and shall determine if the pet shop: (1) failed to maintain proper hygiene and exercise reasonable care in safeguarding the health of animals in its custody, or (2) sold a substantial number of animals that the pet shop knew, or reasonably should have known, to be unfit for purchase.

f. No provision of subsection c. shall be construed to restrict the local health authority or the State Department of Health and Senior Services from holding a hearing concerning any pet shop in the State irrespective of the criteria for recommendation of license suspension or revocation named in subsection c. or d., or from recommending to a municipality the suspension or revocation of the license of a pet shop within its jurisdiction for other violations under other sections of law, or rules and regulations adopted pursuant thereto.

g. No action taken by the local health authority or municipality pursuant to this section or section 8 of P.L.1941, c.151 (C.4:19-15.8) shall be construed to limit or replace any action, hearing or review of complaints concerning the pet shop by the Division of Consumer Affairs in the Department of Law and Public Safety to enforce consumer fraud laws or other protections to which the consumer is entitled.

h. The requirements of this section shall be posted in a prominent place in each pet shop in the State along with the name, address and telephone number of the local health authority that has jurisdiction over the pet shop, and this information shall be provided in writing at the time of purchase to each consumer and to each licensed veterinarian contracted for services by the pet shop upon contracting the veterinarian.

i. The Director of the Division of Consumer Affairs may investigate and pursue enforcement against any pet shop reported by a consumer pursuant to subsection b. of this section.

6. Section 8 of P.L.1941, c.151 (C.4:19-15.8) is amended to read as follows:

C.4:19-15.8 Licensing of kennel, pet shop, shelter, pound.

8. a. Any person who keeps or operates or proposes to establish a kennel, a pet shop, a shelter or a pound shall apply to the clerk or other official designated to license dogs in the municipality where such establishment is located, for a license entitling him to keep or operate such establishment.

The application shall describe the premises where the establishment is located or is proposed to be located, the purpose or purposes for which it is to be maintained, and shall be accompanied by the written approval of the local municipal and health authorities showing compliance with the

local and State rules and regulations governing location of and sanitation at such establishments.

b. All licenses issued for a kennel, pet shop, shelter or pound shall state the purpose for which the establishment is maintained, and all such licenses shall expire on the last day of June of each year, and be subject to revocation by the municipality on recommendation of the State Department of Health and Senior Services or the local board of health for failure to comply with the rules and regulations of the State department or local board governing the same, after the owner has been afforded a hearing by either the State department or local board, except as provided in subsection c. of this section.

Any person holding such license shall not be required to secure individual licenses for dogs owned by such licensee and kept at such establishments; such licenses shall not be transferable to another owner or different premises.

c. The license for a pet shop shall be subject to review by the municipality, upon recommendation by the State Department of Health and Senior Services or the local health authority for failure by the pet shop to comply with the rules and regulations of the State department or local health authority governing pet shops or if the pet shop meets the criteria for recommended suspension or revocation provided under subsection c. or d. of section 5 of P.L.1999, c.336 (C.56:8-96), after the owner of the pet shop has been afforded a hearing pursuant to subsection e. of section 5 of P.L.1999, c.336 (C.56:8-96).

The municipality, based on the criteria for the recommendation of the local health authority provided under subsections c. and d. of section 5 of P.L.1999, c.336 (C.56:8-96), may suspend the license for 90 days or may revoke the license if it is determined at the hearing that the pet shop: (1) failed to maintain proper hygiene and exercise reasonable care in safeguarding the health of animals in its custody or (2) sold a substantial number of animals that the pet shop knew, or reasonably should have known, to be unfit for purchase.

d. The municipality may issue a license for a pet shop that permits the pet shop to sell pet supplies for all types of animals, including cats and dogs, and sell animals other than cats and dogs but restricts the pet shop from selling cats or dogs, or both.

e. Every pet shop licensed in the State shall submit annually and no later than May 1 of each year records of the total number of cats and dogs, respectively, sold by the pet shop each year to the municipality in which it is located, and the municipality shall provide this information to the local health authority.

C.56:8-97 Rules, regulations.

7. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), any rules or regulations as the director deems necessary for the implementation of this act.

8. This act shall take effect on the 90th day following enactment.

Approved January 10, 2000.

CHAPTER 337

AN ACT concerning public school facilities and supplementing chapter 17 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:17-49 Definitions relative to public school facilities.

1. As used in this act, "Buildings and grounds supervisor" means a person employed by a school district who performs administrative and supervisory duties relating to the structural, mechanical and physical maintenance and repair of public school facilities and who consults with contractors and school district officials to ensure proper compliance and administration of the various laws, regulations, technical practices, operations and management techniques with regard to the maintenance and repair of public school facilities or assists in planning, organizing and directing all undertakings relating to the structural, mechanical and physical maintenance and repair of public school facilities, or a combination thereof.

"Certified educational facilities manager" means a person who meets any one of the following criteria:

i. has served as a buildings and grounds supervisor in a school district continuously for the five years prior to September 1, 2002; or

ii. is a code enforcement official licensed by the Department of Community Affairs and is serving as a building and grounds supervisor on the effective date of P.L.1999, c.337 (C.18A:17-49 et seq.); or

iii. has a minimum of two years of experience in the field of buildings and grounds supervision and has graduated as a certified educational facilities manager from the New Jersey Educational Facility Management Program at Rutgers, The State University or has graduated from an equivalent program offered at either an accredited institution of higher

education or an approved post-secondary institution located within or outside of the State.

C.18A:17-50 Conditions of employing building and grounds supervisor.

2. Commencing September 1, 2002, no person shall be employed by a board of education of a school district as a buildings and grounds supervisor unless he is a certified educational facilities manager; except that when a vacancy occurs in a position in which the duties of a buildings and grounds supervisor are performed, a board may select, for a period not to exceed two years and commencing on the date of the vacancy, a person who is not a certified educational facilities manager to perform on an interim basis, the duties of a buildings and grounds supervisor.

C.18A:17-51 Applicant to provide certification documentation.

3. A board of education shall require any applicant for a permanent position as a buildings and grounds supervisor to provide documentation that he is a certified educational facilities manager.

C.18A:17-52 Rules, regulations.

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

5. This act shall take effect immediately.

Approved January 10, 2000.

CHAPTER 338

AN ACT concerning the Police and Firemen's Retirement System of New Jersey and supplementing P.L.1944, c.255 (C.43:16A-1 et seq.).

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

C.43:16A-11.13 Purchase of credit in PFRS.

1. Notwithstanding the provisions of section 4 of P.L.1944, c.255 (C.43:16A-4), any member who is separated involuntarily from the police service covered by the retirement system, and not by removal for cause or charges of misconduct or delinquency, and who subsequently becomes a police service employee covered by the retirement system may, upon filing an application with the board of trustees of the retirement system, purchase credit in the retirement system for all or a portion of the time of

the hiatus in creditable service, but not exceeding three years, as provided in this section.

The member may purchase credit for the service by paying into the annuity savings fund the amount determined by applying the factor, supplied by the actuary, applicable to his age at the time of the purchase, to his creditable salary in the last 12 months of creditable service in the position covered by the retirement system immediately preceding the involuntary separation from service. The purchase may be made in regular monthly installments or in a lump sum as the member may elect and pursuant to rules and regulations as may be promulgated by the Division of Pensions and Benefits. The member shall bear the entire cost for the additional retirement benefit attributable to the purchased credit. If, upon retirement, the member's payment for purchase of the credit is insufficient to provide for the additional retirement benefit attributable to the service, the difference may be assessed to the member, or a pro rata credit may be granted based on service purchased prior to the date of retirement, at the election of the member.

If the member retires prior to completing the purchase, he will receive pro rata credit for service purchased prior to the date of retirement, unless he makes an additional lump sum payment at that time as will be necessary to provide full credit.

2. This act shall take effect immediately.

Approved January 10, 2000.

CHAPTER 339

AN ACT concerning health insurance benefits for health wellness examinations and counselling, amending P.L.1993, c.327 and making an appropriation.

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

1. Section 3 of P.L.1993, c.327 (C.17:48-6i) is amended to read as follows:

C.17:48-6i Hospital service corporation, benefits for health promotion.

3. a. Every hospital service corporation contract that provides hospital and medical expense benefits and is delivered, issued, executed or

renewed in this State pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of P.L.1999, c.339, shall provide benefits to any subscriber or other person covered thereunder for expenses incurred in a health promotion program through health wellness examinations and counselling, which program shall include, but not be limited to, the following tests and services:

(1) For all persons 20 years of age and older, annual tests to determine blood hemoglobin; blood pressure; blood glucose level; and blood cholesterol level or, alternatively, low-density lipoprotein (LDL) level and blood high-density lipoprotein (HDL) level;

(2) For all persons 35 years of age or older, a glaucoma eye test every five years;

(3) For all persons 40 years of age or older, an annual stool examination for presence of blood;

(4) For all persons 45 years of age or older, a left-sided colon examination of 35 to 60 centimeters every five years;

(5) For all women 20 years of age or older, a pap smear pursuant to the provisions of section 2 of P.L.1995, c.415 (C.17:48-6o);

(6) For all women 40 years of age or older, a mammogram examination pursuant to the provisions of section 1 of P.L.1991, c.279 (C.17:48-6g);

(7) For all adults, recommended immunizations; and

(8) For all persons 20 years of age or older, an annual consultation with a health care provider to discuss lifestyle behaviors that promote health and well-being including, but not limited to, smoking control, nutrition and diet recommendations, exercise plans, lower back protection, weight control, immunization practices, breast self-examination, testicular self-examination and seat belt usage in motor vehicles.

Notwithstanding the provisions of this subsection to the contrary, if a physician or other health care provider recommends that it would be medically appropriate for a covered person to receive a different schedule of tests and services than that provided for under this subsection, the hospital service corporation shall provide payment for the tests or services actually provided, within the limits of the amounts listed in subsection b. of this section.

b. Every individual or group health care contract offered for sale in this State by a hospital service corporation pursuant to subsection a. of this section shall provide payment for the benefits set forth in subsection a. of this section in an amount which shall not exceed: $125 a year for each person between the ages of 20 to 39, inclusive; $145 a year for each man age 40 and over; and $235 a year for each woman age 40 and over; except that for persons 45 years of age or older, the cost of a left-sided colon examination shall not be included in the above amount; however,

no hospital service corporation shall be required to provide payment for benefits for a left-sided colon examination in excess of $150.

c. The Commissioner of Banking and Insurance, in consultation with the Department of the Treasury, shall annually adjust the threshold amounts provided by subsection b. of this section in direct proportion to the increase or decrease in the consumer price index for all urban consumers in the New York City and Philadelphia areas as reported by the United States Department of Labor. The adjustment shall become effective on July 1 of the year in which the adjustment is made.

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

e. The provisions of this section shall not apply to a health benefits plan subject to the provisions of P.L.1992, c.161 (C.17B:27A-2 et seq.) or P.L.1992, c.162 (C.17B:27A-17 et seq.).

2. Section 4 of P.L.1993, c.327 (C.17:48A-7h)is amended to read as follows:

C.17:48A-7h Medical service corporation, benefits for health promotion.

4. a. Every medical service corporation contract that provides hospital and medical expense benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1940, c.74 (C.17:48A-1 et seq.), or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of P.L.1999, c.339, shall provide benefits to any subscriber or other person covered thereunder for expenses incurred in a health promotion program through health wellness examinations and counselling, which program shall include, but not be limited to, the following tests and services:

(1) For all persons 20 years of age and older, annual tests to determine blood hemoglobin, blood pressure, blood glucose level, and blood cholesterol level or, alternatively, low-density lipoprotein (LDL) level and blood high-density lipoprotein (HDL) level;

(2) For all persons 35 years of age or older, a glaucoma eye test every five years;

(3) For all persons 40 years of age or older, an annual stool examination for presence of blood;

(4) For all persons 45 years of age or older, a left-sided colon examination of 35 to 60 centimeters every five years;

(5) For all women 20 years of age or older, a pap smear pursuant to the provisions of section 3 of P.L.1995, c.415 (C.17:48A-7m);

(6) For all women 40 years of age or older, a mammogram examination pursuant to the provisions of section 2 of P.L.1991, c.279 (C.17:48A-7f);

(7) For all adults, recommended immunizations; and

(8) For all persons 20 years of age or older, an annual consultation with a health care provider to discuss lifestyle behaviors that promote health and well-being including, but not limited to, smoking control, nutrition and diet recommendations, exercise plans, lower back protection, weight control, immunization practices, breast self-examination, testicular self-examination and seat belt usage in motor vehicles.

Notwithstanding the provisions of this subsection to the contrary, if a physician or other health care provider recommends that it would be medically appropriate for a covered person to receive a different schedule of tests and services than that provided for under this subsection, the medical service corporation shall provide payment for the tests or services actually provided, within the limits of the amounts listed in subsection b. of this section.

b. Every individual or group basic health care contract offered for sale in this State by a medical service corporation pursuant to subsection a. of this section shall provide payment for the benefits set forth in subsection a. of this section in an amount which shall not exceed: $125 a year for each person between the ages of 20 to 39, inclusive; $145 a year for each man age 40 and over; and $235 a year for each woman age 40 and over; except that for persons 45 years of age or older, the cost of a left-sided colon examination shall not be included in the above amount; however, no medical service corporation shall be required to provide payment for benefits for a left-sided colon examination in excess of $150.

c. The Commissioner of Banking and Insurance, in consultation with the Department of the Treasury, shall annually adjust the threshold amounts provided by subsection b. of this section in direct proportion to the increase or decrease in the consumer price index for all urban consumers in the New York City and Philadelphia areas as reported by the United States Department of Labor. The adjustment shall become effective on July 1 of the year in which the adjustment is made.

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

e. The provisions of this section shall not apply to a health benefits plan subject to the provisions of P.L.1992, c.161 (C.17B:27A-2 et seq.) or P.L.1992, c.162 (C.17B:27A-17 et seq.).

3. Section 5 of P.L.1993, c.327 (C.17:48E-35.6) is amended to read as follows:

C.17:48E-35.6 Health service corporation, benefits for health promotion.

5. a. Every health service corporation contract that provides hospital and medical expense benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.), or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of P.L.1999, c.339, shall provide benefits to any subscriber or other person covered thereunder for expenses incurred in a health promotion program through health wellness examinations and counselling, which program shall include, but not be limited to, the following tests and services:

(1) For all persons 20 years of age and older, annual tests to determine blood hemoglobin, blood pressure, blood glucose level, and blood cholesterol level or, alternatively, low-density lipoprotein (LDL) level and blood high-density lipoprotein (HDL) level;

(2) For all persons 35 years of age or older, a glaucoma eye test every five years;

(3) For all persons 40 years of age or older, an annual stool examination for presence of blood;

(4) For all persons 45 years of age or older, a left-sided colon examination of 35 to 60 centimeters every five years;

(5) For all women 20 years of age or older, a pap smear pursuant to the provisions of section 1 of P.L.1995, c.415 (C.17:48E-35.12);

(6) For all women 40 years of age or older, a mammogram examination pursuant to the provisions of section 3 of P.L.1991, c.279 (C.17:48E-35.4);

(7) For all adults, recommended immunizations; and

(8) For all persons 20 years of age or older, an annual consultation with a health care provider to discuss lifestyle behaviors that promote health and well-being including, but not limited to, smoking control, nutrition and diet recommendations, exercise plans, lower back protection, weight control, immunization practices, breast self-examination, testicular self-examination and seat belt usage in motor vehicles.

Notwithstanding the provisions of this subsection to the contrary, if a physician or other health care provider recommends that it would be medically appropriate for a covered person to receive a different schedule of tests and services than that provided for under this subsection, the health service corporation shall provide payment for the tests or services actually provided, within the limits of the amounts listed in subsection b. of this section.

b. Every individual or group health care contract offered for sale in this State by a health service corporation pursuant to subsection a. of this section shall provide payment for the benefits set forth in subsection a. of this section in an amount which shall not exceed: $125 a year for each

person between the ages of 20 to 39, inclusive; $145 a year for each man age 40 and over; and $235 a year for each woman age 40 and over; except that for persons 45 years of age or older, the cost of a left-sided colon examination shall not be included in the above amount; however, no health service corporation shall be required to provide payment for benefits for a left-sided colon examination in excess of $150.

c. The Commissioner of Banking and Insurance, in consultation with the Department of the Treasury, shall annually adjust the threshold amounts provided by subsection b. of this section in direct proportion to the increase or decrease in the consumer price index for all urban consumers in the New York City and Philadelphia areas as reported by the United States Department of Labor. The adjustment shall become effective on July 1 of the year in which the adjustment is made.

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

e. The provisions of this section shall not apply to a health benefits plan subject to the provisions of P.L.1992, c.161 (C.17B:27A-2 et seq.) or P.L.1992, c.162 (C.17B:27A-17 et seq.).

4. Section 6 of P.L.1993, c.327 (C.17B:26-2.1h) is amended to read as follows:

C.17B:26-2.1h Individual health insurer, benefits for health promotion.

6. a. Every individual policy that provides hospital and medical expense 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 Banking and Insurance on or after the effective date of P.L.1999, c.339, shall provide benefits to each person covered thereunder for expenses incurred in a health promotion program through health wellness examinations and counselling, which program shall include, but not be limited to, the following tests and services:

(1) For all persons 20 years of age and older, annual tests to determine blood hemoglobin, blood pressure, blood glucose level, and blood cholesterol level or, alternatively, low-density lipoprotein (LDL) level and blood high-density lipoprotein (HDL) level;

(2) For all persons 35 years of age or older, a glaucoma eye test every five years;

(3) For all persons 40 years of age or older, an annual stool examination for presence of blood;

(4) For all persons 45 years of age or older, a left-sided colon examination of 35 to 60 centimeters every five years;

(5) For all women 20 years of age or older, a pap smear every two years;

(6) For all women 40 years of age or older, a mammogram examination pursuant to the provisions of section 4 of P.L.1991, c.279 (C.17B:26-2.1e);

(7) For all adults, recommended immunizations; and

(8) For all persons 20 years of age or older, an annual consultation with a health care provider to discuss lifestyle behaviors that promote health and well-being including, but not limited to, smoking control, nutrition and diet recommendations, exercise plans, lower back protection, weight control, immunization practices, breast self-examination, testicular self-examination and seat belt usage in motor vehicles.

Notwithstanding the provisions of this subsection to the contrary, if a physician or other health care provider recommends that it would be medically appropriate for a covered person to receive a different schedule of tests and services than that provided for under this subsection, the insurer shall provide payment for the tests or services actually provided, within the limits of the amounts listed in subsection b. of this section.

b. Every individual health care policy offered for sale in this State by an insurer pursuant to subsection a. of this section shall provide payment for the benefits set forth in subsection a. of this section in an amount which shall not exceed: $125 a year for each person between the ages of 20 to 39, inclusive; $145 a year for each man age 40 and over; and $235 a year for each woman age 40 and over; except that for persons 45 years of age or older, the cost of a left-sided colon examination shall not be included in the above amount; however, no insurer shall be required to provide payment for benefits for a left-sided colon examination in excess of $150.

c. The Commissioner of Banking and Insurance, in consultation with the Department of the Treasury, shall annually adjust the threshold amounts provided by subsection b. of this section in direct proportion to the increase or decrease in the consumer price index for all urban consumers in the New York City and Philadelphia areas as reported by the United States Department of Labor. The adjustment shall become effective on July 1 of the year in which the adjustment is made.

d. The requirements of this section shall apply only to health insurers which issue or deliver primary health insurance coverage in this State providing hospital or medical expense benefits. Primary health insurance coverage shall not include the following plans, policies, or contracts: accident only, credit, disability, long-term care, Medicare supplement coverage, CHAMPUS supplement coverage, coverage for Medicare services pursuant to a contract with the United States government, coverage for Medicaid services pursuant to a contract with the State, coverage arising out of a workers' compensation or similar law, automobile medical payment insurance, personal injury protection insurance

issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.), or hospital confinement indemnity coverage.

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

f. The provisions of this section shall not apply to a health benefits plan subject to the provisions of P.L.1992, c.161 (C.17B:27A-2 et seq.) or P.L.1992, c.162 (C.17B:27A-17 et seq.).

5. Section 7 of P.L.1993, c.327 (C.17B:27-46.1h) is amended to read as follows:

C.17B:27-46.1h Group health insurer, benefits for health promotion.

7. a. Every group policy that provides hospital and medical expense 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 Banking and Insurance on or after the effective date of P.L.1999, c.339, shall provide benefits to each person covered thereunder for expenses incurred in a health promotion program through health wellness examinations and counselling, which program shall include, but not be limited to, the following tests and services:

(1) For all persons 20 years of age and older, annual tests to determine blood hemoglobin, blood pressure, blood glucose level, and blood cholesterol level or, alternatively, low-density lipoprotein (LDL) level and blood high-density lipoprotein (HDL) level;

(2) For all persons 35 years of age or older, a glaucoma eye test every five years;

(3) For all persons 40 years of age or older, an annual stool examination for presence of blood;

(4) For all persons 45 years of age or older, a left-sided colon examination of 35 to 60 centimeters every five years;

(5) For all women 20 years of age or older, a pap smear pursuant to the provisions of section 4 of P.L.1995, c.415 (C.17B:27-46.1n);

(6) For all women 40 years of age or older, a mammogram examination pursuant to the provisions of section 5 of P.L.1991, c.279 (C.17B:27-46.1f);

(7) For all adults, recommended immunizations; and

(8) For all persons 20 years of age or older, an annual consultation with a health care provider to discuss lifestyle behaviors that promote health and well-being including, but not limited to, smoking control, nutrition and diet recommendations, exercise plans, lower back protection, weight control, immunization practices, breast self-examination, testicular self-examination and seat belt usage in motor vehicles.

Notwithstanding the provisions of this subsection to the contrary, if a physician or other health care provider recommends that it would be medically appropriate for a covered person to receive a different schedule of tests and services than that provided for under this subsection, the insurer shall provide payment for the tests or services actually provided, within the limits of the amounts listed in subsection b. of this section.

b. Every group health care policy offered for sale in this State by an insurer pursuant to subsection a. of this section shall provide payment for the benefits set forth in subsection a. in an amount which shall not exceed: $125 a year for each person between the ages of 20 to 39, inclusive; $145 a year for each man age 40 and over; and $235 a year for each woman age 40 and over; except that for persons 45 years of age or older, the cost of a left-sided colon examination shall not be included in the above amount; however, no insurer shall be required to provide payment for benefits for a left-sided colon examination in excess of $150.

c. The Commissioner of Banking and Insurance, in consultation with the Department of the Treasury, shall annually adjust the threshold amounts provided by subsection b. of this section in direct proportion to the increase or decrease in the consumer price index for all urban consumers in the New York City and Philadelphia areas as reported by the United States Department of Labor. The adjustment shall become effective on July 1 of the year in which the adjustment is made.

d. The requirements of this section shall apply only to health insurers which issue or deliver primary health insurance coverage in this State providing hospital or medical expense benefits. Primary health insurance coverage shall not include the following plans, policies, or contracts: accident only, credit, disability, long-term care, Medicare supplement coverage, CHAMPUS supplement coverage, coverage for Medicare services pursuant to a contract with the United States government, coverage for Medicaid services pursuant to a contract with the State, coverage arising out of a workers' compensation or similar law, automobile medical payment insurance, personal injury protection insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.), or hospital confinement indemnity coverage.

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

f. The provisions of this section shall not apply to a health benefits plan subject to the provisions of P.L.1992, c.161 (C.17B:27A-2 et seq.) or P.L.1992, c.162 (C.17B:27A-17 et seq.).

6. Section 8 of P.L.1993, c.327 (C.26:2J-4.6) is amended to read as follows:

C.26:2J-4.6 Health maintenance organization, benefits for health promotion.

8. a. Notwithstanding any provision of this act or any other law to the contrary, a certificate of authority to establish and operate a health maintenance organization in this State shall not be issued or continued by the Commissioner of Health and Senior Services on or after the effective date of this act unless the health maintenance organization provides health care services to any enrollee which include a health promotion program providing health wellness examinations and counselling, which program shall include, but not be limited to, the following tests and services:

(1) For all persons 20 years of age and older, annual tests to determine blood hemoglobin, blood pressure, blood glucose level, and blood cholesterol level or, alternatively, low-density lipoprotein (LDL) level and blood high-density lipoprotein (HDL) level;

(2) For all persons 35 years of age or older, a glaucoma eye test every five years;

(3) For all persons 40 years of age or older, an annual stool examination for presence of blood;

(4) For all persons 45 years of age or older, a left-sided colon examination of 35 to 60 centimeters every five years;

(5) For all women 20 years of age or older, a pap smear pursuant to the provisions of section 5 of P.L.1995, c.415 (C.26:2J-4.12);

(6) For all women 40 years of age or older, a mammogram examination pursuant to the provisions of section 6 of P.L.1991, c.279 (C.26:2J-4.4);

(7) For all adults, recommended immunizations; and

(8) For all persons 20 years of age or older, an annual consultation with a health care provider to discuss lifestyle behaviors that promote health and well-being including, but not limited to, smoking control, nutrition and diet recommendations, exercise plans, lower back protection, weight control, immunization practices, breast self-examination, testicular self-examination and seat belt usage in motor vehicles.

Notwithstanding the provisions of this subsection to the contrary, if a physician or other health care provider recommends that it would be medically appropriate for an enrollee to receive a different schedule of tests and services than that provided for under this subsection, the health maintenance organization shall provide coverage for the tests or services actually provided, within the limits of the amounts listed in subsection b. of this section.

b. A health maintenance organization shall not be required to offer services to enrollees set forth in subsection a. of this section for which the value exceeds: $125 a year for each person between the ages of 20 to 39, inclusive; $145 a year for each man age 40 and over; and $235 a year for each woman age 40 and over; except that for persons 45 years of age or

older, the value of a left-sided colon examination shall not be included in the above amount; however, no health maintenance organization shall be required to provide services to enrollees for a left-sided colon examination with a value in excess of $150.

c. The Commissioner of Health and Senior Services, in consultation with the Department of the Treasury, shall annually adjust the threshold amounts provided by subsection b. of this section in direct proportion to the increase or decrease in the consumer price index for all urban consumers in the New York City and Philadelphia areas as reported by the United States Department of Labor. The adjustment shall become effective on July 1 of the year in which it is reported.

d. Nothing in this act shall be construed to require that a health maintenance organization take any actions which conflict with the health benefits, underwriting and rating standards established by the federal government pursuant to subchapter XI of Pub.L.93-222 (42 U.S.C. s.300e et seq.).

e. This section shall apply to all health maintenance organization contracts in which the right to change the enrollee charge has been reserved.

f. The provisions of this section shall not apply to a health benefits plan subject to the provisions of P.L.1992, c.161 (C.17B:27A-2 et seq.) or P.L.1992, c.162 (C.17B:27A-17 et seq.).

7. Section 9 of P.L.1993, c.327 (C.26:1A-36.13) is amended to read as follows:

C.26:1A-36.13 Health Wellness Promotion Advisory Board.

9. a. There is created a Health Wellness Promotion Advisory Board which shall consist of three members, each of whom has a background in epidemiology and a demonstrated professional expertise in services, issues or programs relating to health wellness promotion, who are residents of the State, one of whom shall be appointed by the Governor, one by the President of the Senate and one by the Speaker of the General Assembly.

b. The terms of office of the members of the board shall be three years. Vacancies shall be filled for an unexpired term only in the manner provided for the original appointment.

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

d. The Commissioner of Health and Senior Services shall designate an officer or employee of the Department of Health and Senior Services to act as secretary of the board who shall not be a member of the board.

e. The board, for the purpose of transacting its business, shall meet at least once every six months at times and places fixed by the board. At its

first meeting each year it shall organize and elect a chair from its members. Special meetings may also be held at times as the board may fix, or at the call of the chair or the Commissioner of Health and Senior Services. A timely written notice of the time, place and purpose of any special meeting shall be mailed by the secretary to all members of the board.

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

g. The board shall advise and make recommendations to the Legislature pertaining to any revisions of medical testing and services that are deemed by the board to be appropriate for health promotion and that will encourage health care consumers to engage in healthy lifestyle behaviors which will result in a reduction of the long-term costs of providing health care. In deciding whether a recommendation should be made to add an additional medical test or service to those currently required by this act, the board shall consider the benefits as well as the cost to provide such a medical test or service. To assist the board in its consideration, the board shall select two organizations which have established expertise in the areas of epidemiology, sensitivity, specificity and predictive value of screening, disease protection, and health promotion tests. No additional test or service shall be added to those required under this act unless: (1) both organizations selected by the board agree that the medical test or counselling service will improve the quality of life, prolong good quality life, or reduce mortality; and (2) the board, subsequent to the agreement of both organizations, recommends that such additional test or service be made.

h. The board shall also appoint a committee which includes representatives of health care professions, including, but not limited to, physicians, nurses, chiropractors, dentists, dietitians, physician assistants, pharmacists and optometrists, and other interested persons to advise the board regarding medical testing and services that are deemed to be appropriate for health promotion and that will encourage health care consumers to engage in healthy lifestyle behaviors. The board shall determine the number, composition and terms of office of the committee members, and may establish such procedural and administrative requirements as it deems appropriate for the committee.

i. The board shall report annually to the Governor and the Legislature its findings and recommendations concerning the issues enumerated in subsection g. of this section.

8. Section 10 of P.L.1993, c.327 (C.26:1A-36.14) is amended to read as follows:

C.26:1A-36.14 Regulations.

10. The Commissioner of Banking and Insurance, after consultation with the Health Wellness Promotion Advisory Board, established pursuant to section 9 of P.L.1993, c.327 (C.26:1A-36.13), shall, within 180 days of the effective date of P.L.1999, c.339, promulgate regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes of P.L.1999, c.339.

9. There is appropriated $95,000 to the Department of Health and Senior Services for allocation to the Health Wellness Promotion Advisory Board established pursuant to section 9 of P.L.1993, c.327 (C.26:1A-36.13), to evaluate implementation of the provisions of this act and to ensure awareness and utilization of the health promotion program by covered persons and health care providers.

10. This act shall take effect on the 90th day after enactment.

Approved January 10. 2000.

CHAPTER 340

AN ACT concerning the disposition of personal property abandoned by tenants, supplementing chapter 18 of Title 2A of the New Jersey Statutes, chapter 10 of Title 39 of the Revised Statutes and amending P.L.1973, c.137.

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

C.2A:18-72 Disposal of remaining personal property abandoned by tenant.

1. A landlord of commercial or residential property, in the manner provided by P.L.1999, c.340 (C.2A:18-72 et al.), may dispose of any tangible goods, chattels, manufactured or mobile homes or other personal property left upon a premises by a tenant after giving notice as required by section 2 of P.L.1999, c.340 (C.2A:18-73), only if the landlord reasonably believes under all the circumstances that the tenant has left the property upon the premises with no intention of asserting any further claim to the premises or the property and:

a. A warrant for removal has been executed and possession of the premises has been restored to the landlord; or

b. The tenant has given written notice that he or she is voluntarily relinquishing possession of the premises.

C.2A:18-73 Notice to tenant prior to disposition.

2. To dispose of a tenant's property under this act, a landlord shall first give written notice to the tenant, which shall be sent by certified mail, return receipt requested or by receipted first class mail addressed to the tenant, at the tenant's last known address (which may be the address of the premises) and at any alternate address or addresses known to the landlord, in an envelope endorsed "Please Forward."

"Receipted first class mail" for purposes of this section means first class mail for which a certificate of mailing has been obtained by the sender but does not include certified or registered mail.

When the property subject to disposal is a manufactured or mobile home, a copy of the notice required pursuant to this section shall also be sent to the Director of the Division of Motor Vehicles and to any lienholders with security interests in the property which have been recorded with the Division of Motor Vehicles.

C.2A:18-74 Contents of notice.

3. The notice required under section 2 of P.L.1999, c.340 (C.2A:17-73) shall state as follows:

a. That the property is considered abandoned and must be removed from the premises or from the place of safekeeping, if the landlord has stored the property as provided in section 4 of P.L.1999, c.340 (C.2A:17-75), by a date as follows;

(i) for all property other than manufactured or mobile homes not less than 30 days after delivery of the notice, or not less than 33 days after the date of mailing, whichever comes first, or

(ii) for property which consists solely of manufactured or mobile homes, not less than 75 days after the delivery of the notice, or not less than 78 days after the date of mailing, whichever comes first,

or the property will be sold or otherwise disposed of; and

b. That if the abandoned property is not removed:

(i) The landlord may sell the property at a public or private sale; or

(ii) The landlord may destroy or otherwise dispose of the property if the landlord reasonably determines that the value of the property is so low that the cost of storage and conducting a public sale would probably exceed the amount that would be realized from the sale; or

(iii) The landlord may sell items of value and destroy or otherwise dispose of the remaining property.

c. That in the case of a residential tenant, if the tenant claims the property within the time provided in the notice, the landlord must make

the property available for removal by the tenant without payment by the tenant of any unpaid rent.

C.2A:18-75 Storing abandoned property.

4. After notifying a tenant as required by sections 2 and 3 of P.L.1999, c.340 (C.2A:18-73 and C.2A:18-74), a landlord shall store all goods, chattels, manufactured or mobile homes and other personal property of the tenant in a place of safekeeping and shall exercise reasonable care for the property, except that the landlord may promptly dispose of perishable food and shall allow an animal control agency or humane society to remove any abandoned pets or livestock. A landlord may store a tenant's manufactured dwelling or residential vehicle on the space previously rented, elsewhere on the premises or in a safe location off the premises. A landlord shall be entitled to reasonable storage charges and costs incidental to storage. A landlord may store property in a commercial storage facility, in which case the storage cost shall include the actual storage charge plus the reasonable cost of removal of the property to the place of storage.

C.2A:18-76 Conditions under which the property is considered abandoned.

5. a. If a tenant responds in writing or orally to the landlord, on or before the day specified in the required notice, that the tenant intends to remove the property from the premises, or from the place of safekeeping if the landlord has stored the property as provided in section 4 of P.L.1999, c.340 (C.2A:18-75), and does not do so within the time specified in the notice or within 15 days after the written response, whichever is later, the tenant's property shall be conclusively presumed to be abandoned.

b. If a lienholder responds in writing to the landlord concerning a security interest in any manufactured or mobile home, and the lienholder indicates an intent to remove the property from the premises, or from the place of safekeeping, or to pay rent as a condition of leaving the property on the premises, but fails to remove the property or make rental payments within the time specified in the notice or within 15 days after the written response, whichever is later, then the landlord may proceed as if the lienholder had not responded.

c. If no response is received from a tenant or lienholder within the time period provided under section 3 of P.L.1999, c.340 (C.2A:18-74), then the tenant's property shall be conclusively presumed to be abandoned.

C.2A:18-77 Tenant's reimbursement for storage costs.

6. Upon removal of his property, a tenant shall reimburse the landlord for the reasonable cost of storage for the period the property was in the landlord's safekeeping, including the reasonable cost of removal of the property to a place of storage. A landlord shall not be entitled to

reimbursement for storage and removal costs which are greater than the fair market value of such costs in the locale of the rental property. A landlord shall not be responsible for any loss to a tenant resulting from storage of property in compliance with this act unless the loss was caused by the landlord's deliberate or negligent act or omission.

C.2A:18-78 Disposal of property, options.

7. Property that has been conclusively presumed to be abandoned may be disposed of in any of the following ways:

a. The landlord may sell the property at a public or private sale;

b. The landlord may destroy or otherwise dispose of the property if the landlord reasonably determines that the value of the property is so low that the cost of storage and conducting a public sale would probably exceed the amount that would be realized from the sale; or

c. The landlord may sell certain items and destroy or otherwise dispose of the remaining property, in accordance with subsections a. and b. of this section.

A public or private sale authorized by this section shall be conducted in accordance with the provisions of section 12A:9-504 of the "Uniform Commercial Code" (C.12A:9-504).

C.39:10-15.1 Certificate of ownership, manufactured home.

8. If a manufactured home is sold or otherwise disposed of pursuant to P.L.1999, c.340 (C.2A:18-72 et al.), the Director of the Division of Motor Vehicles shall issue, upon proof of purchase, a certificate of ownership to the purchaser, with no encumbrances listed thereon.

C.2A:18-79 Immunity.

9. Nothing in P.L.1999, c.340 (C.2A:18-72 et al.) shall diminish the right of a landlord of a nonresidential property to use distraint when authorized by law.

10. Section 1 of P.L.1973, c.137 (C.39:4-56.6) is amended to read as follows:

C.39:4-56.6 Abandonment of vehicle on private property; removal by owner of property; costs; sale of vehicle.

1. No person shall park or leave unattended a vehicle on private property without the consent of the owner or other person in control or possession of the property or for a period in excess of that for which consent was given, except in the case of emergency or disablement of the vehicle in which case the owner or operator thereof shall arrange for the expeditious removal of the vehicle. This section shall not apply to manufactured or mobile homes left unattended and for which there exists or existed a rental agreement to occupy a space on the property.

The owner or other person in control or possession of the property on which a vehicle is parked or left unattended in violation of this section may remove or hire

another person to remove and store the vehicle. It shall be the obligation of the owner of the vehicle to pay the reasonable costs for the removal and for any storage which may result from such removal before he shall be entitled to recover the possession of the vehicle. If the owner of the vehicle refuses to pay such costs or fails to make any claim for the return of the vehicle within 90 days after such removal, the vehicle may be sold at public auction in accordance with the provisions of N.J.S.2A:44-20 through N.J.S. 2A:44-31.

C.2A:18-80 Deductions from sale proceeds.

11. A landlord may deduct from the proceeds of any sale the reasonable costs of notice, storage and sale and any unpaid rent and charges not covered by a security deposit. After deducting these amounts, the landlord shall remit to the tenant the remaining proceeds, if any, together with an itemized accounting. If the tenant, after due diligence, cannot be found the remaining proceeds shall be deposited into the Superior Court and, if not claimed within 10 years, shall escheat to the State.

C.2A:18-81 Compliance with act constitutes complete defense.

12. Compliance in good faith with all the requirements of this act shall constitute a complete defense in any action brought by a tenant against a landlord for loss or damage to personal property disposed of pursuant to this act.

C.2A:18-82 Noncompliance with act; tenant's recovery.

13. If a landlord seizes and retains a tenant's personal property without complying with this act, the tenant shall be relieved of any liability for reimbursement to the landlord for storage and removal costs and shall be entitled to recover up to twice the actual damages sustained by the tenant.

C.2A:18-83 Applicability of act.

14. This act shall not be applicable to any unclaimed property which must be disposed of in accordance with the "Uniform Unclaimed Property Act (1981)," P.L.1989, c.58 (R.S.46:30B-1 et seq.).

C.2A:18-84 Nonapplicability to motor vehicles.

15. This act shall not be applicable to abandoned motor vehicles.

16. This act shall take effect immediately.

Approved January 10, 2000.

CHAPTER 341

AN ACT requiring health benefits coverage for annual mammograms for women age 40 and over and amending P.L.1991, c.279.

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

1. Section 1 of P.L.1991, c.279 (C.17:48-6g) is amended to read as follows:

C.17:48-6g Hospital service corporation contract, mammogram examination benefits.

1. No group or individual hospital service corporation contract providing hospital or medical expense benefits shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, unless the contract provides benefits to any subscriber or other person covered thereunder for expenses incurred in conducting one baseline mammogram examination for women who are at least 35 but less than 40 years of age; and one mammogram examination every year for women age 40 and over. These benefits shall be provided to the same extent as for any other sickness under the contract.

2. Section 2 of P.L.1991, c.279 (C.17:48A-7f) is amended to read as follows:

C.17:48A-7f Medical service corporation contract, mammogram examination benefits.

2. No group or individual medical service corporation contract providing hospital or medical expense benefits shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, unless the contract provides benefits to any subscriber or other person covered thereunder for expenses incurred in conducting one baseline mammogram examination for women who are at least 35 but less than 40 years of age; and one mammogram examination every year for women age 40 and over. These benefits shall be provided to the same extent as for any other sickness under the contract.

3. Section 3 of P.L.1991, c.279 (C.17:48E-35.4) is amended to read as follows:

C.17:48E-35.4 Health service corporation contract, mammogram examination benefits.

3. No group or individual health service corporation contract providing hospital or medical expense benefits shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, unless the contract provides benefits to any subscriber or other person covered thereunder for expenses incurred in conducting one baseline

mammogram examination for women who are at least 35 but less than 40 years of age; and one mammogram examination every year for women age 40 and over. These benefits shall be provided to the same extent as for any other sickness under the contract.

4. Section 4 of P.L.1991, c.279 (C.17B:26-2.1e) is amended to read as follows:

C.17B:26-2.1e Individual health insurance policy, mammogram examination benefits.

4. No individual health insurance policy providing hospital or medical expense benefits shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, unless the policy provides benefits to any named insured or other person covered thereunder for expenses incurred in conducting one baseline mammogram examination for women who are at least 35 but less than 40 years of age; and one mammogram examination every year for women age 40 and over. These benefits shall be provided to the same extent as for any other sickness under the policy.

5. Section 5 of P.L.1991, c.279 (C.17B:27-46.1f) is amended to read as follows:

C.17B:27-46.1f Group health insurance policy, mammogram examination benefits.

5. No group health insurance policy providing hospital or medical expense benefits shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, unless the policy provides benefits to any named insured or other person covered thereunder for expenses incurred in conducting one baseline mammogram examination for women who are at least 35 but less than 40 years of age; and one mammogram examination every year for women age 40 and over. These benefits shall be provided to the same extent as for any other sickness under the policy.

6. Section 6 of P.L.1991, c.279 (C.26:2J-4.4) is amended to read as follows:

C.26:2J-4.4 Health maintenance organization, mammogram examination benefits.

6. Notwithstanding any provision of law to the contrary, a certificate of authority to establish and operate a health maintenance organization in this State shall not be issued or continued by the Commissioner of Health and Senior Services on or after the effective date of this act unless the health

maintenance organization provides health care services to any enrollee for the conduct of one baseline mammogram examination for women who are at least 35 but less than 40 years of age; and one mammogram examination every year for women age 40 and over. These health care services shall be provided to the same extent as for any other sickness.

7. This act shall take effect on the 90th day after enactment.

Approved January 10, 2000.

CHAPTER 342

AN ACT concerning taxes on hazardous substances and amending P.L.1976, c.141.

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

1. Section 9 of P.L.1976, c.141 (C.58:10-23.11h) is amended to read as follows:

C.58:1-23.11h Imposition of tax; measurement; amount; return; filing; failure to file; penalty; presumptive evidence; powers of director.

9. a. There is hereby levied upon each owner or operator of one or more major facilities a tax to insure compensation for cleanup costs and damages associated with any discharge of hazardous substances to be paid by the transferee; provided, however, that in the case of a major facility which operates as a public storage terminal for hazardous substances owned by others, the owner of the hazardous substance transferred to such major facility or his authorized agent shall be considered to be the transferee or transferor, as the case may be, for the purposes of this section and shall be deemed to be a taxpayer for purposes of this act. Where such person has failed to file a return or pay the tax imposed by this act within 60 days after the due date thereof, the director shall forthwith take appropriate steps to collect same from the owner of the hazardous substance. In the event the director is not successful in collecting said tax, then on notice to the owner or operator of the public storage terminal of said fact said owner or operator shall not release any hazardous substance owned by the taxpayer. The director may forthwith proceed to satisfy any tax liability of the taxpayer by seizing, selling or otherwise disposing of said hazardous substance to satisfy the taxpayer's tax liability and to take any further steps permitted by law for

its collection. For the purposes of this act, public storage terminal shall mean a public or privately owned major facility operated for public use which is used for the storage or transfer of hazardous substances. The tax shall be measured by the number of barrels or the fair market value, as the case may be, of hazardous substances transferred to the major facility; provided, however, that the same barrel, including any products derived therefrom, subject to multiple transfers from or between major facilities shall be taxed only once at the point of the first transfer.

When a hazardous substance other than petroleum which has not been previously taxed is transferred from a major in-State facility to a facility which is not a major facility, the transferor shall be liable for tax payment for said transfer.

b. (1) The tax shall be $0.0150 per barrel transferred and in the case of the transfer of hazardous substances other than petroleum or petroleum products, the tax shall be the greater of $0.0150 per barrel or 1.0% of the fair market value of the product plus $0.0025 per barrel; provided, however, that with respect to transfers of hazardous substances other than petroleum or petroleum products which are or contain any precious metals to be recycled, refined, or rerefined in this State, which are transferred into this State subsequent to being recycled, refined or rerefined, or which are or contain elemental phosphorus, the tax shall be $0.0150 per barrel of the hazardous substance; and provided further, however, that the total aggregate tax due for any individual taxpayer which has paid the tax in the 1986 tax year shall not exceed 125% of the tax due and payable by that taxpayer during the 1986 tax year plus an additional $0.0025 per barrel; except that for a hazardous substance which is directly converted to, and comprises more than 90% by weight of, a non-hazardous final product, the taxpayer shall pay no more than 100% of the tax due and payable in the 1986 tax year plus an additional $0.0025 per barrel. For the purposes of applying the 125% of tax due limitation, a successor in interest pursuant to a reorganization, as defined pursuant to section 368(a)(1)(D) of the Internal Revenue Code of 1986, 26 U.S.C. s.368, on or before October 1, 1997 shall be entitled to the predecessor taxpayer's limitation. In computing 125% of the tax due and payable by the taxpayer during the 1986 tax year, for taxes due after January 1, 1996 from an owner or operator including the successor in interest pursuant to a reorganization as defined in this paragraph of one or more major facilities who has continuously since 1986 filed a combined tax return for more than one major facility but who prior to January 1, 1996 has entirely closed and decommissioned one or more of those major facilities, a taxpayer shall include 1986 taxes arising from major facilities which (1) caused the taxpayer to incur a tax liability in 1986, and (2) continue to cause the taxpayer to incur a tax liability during the current tax year. For transfers

which are or contain elemental phosphorus, in computing the 125% of the taxes due and payable by the taxpayer during the 1986 tax year, a taxpayer, which shall include any subsequent owner or operator of a major facility which transfers elemental phosphorus, shall calculate the tax at $0.015 per barrel. For the purposes of this section, "precious metals" means gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium and copper. In the event of a major discharge or series of discharges of petroleum or petroleum products resulting in reasonable claims against the fund exceeding the existing balance of the fund, the tax shall be levied at the rate of $0.04 per barrel of petroleum or petroleum products transferred, until the revenue produced by such increased rate equals 150% of the total dollar amount of all pending reasonable claims resulting from the discharge of petroleum or petroleum products; provided, however, that such rate may be set at less than $0.04 per barrel transferred if the administrator determines that the revenue produced by such lower rate will be sufficient to pay outstanding reasonable claims against the fund within one year of such levy. For the purposes of determining the existing balance of the fund, the administrator shall not include any amount in the fund collected from the $0.0025 per barrel increase in the tax imposed pursuant to P.L.1990, c.78 and dedicated for hazardous substance discharge prevention in accordance with paragraph (2) of this subsection.

Interest received on moneys in the fund shall be credited to the fund.

(2) An amount of $0.0025 per barrel collected from the proceeds of the tax imposed pursuant to this subsection shall be deposited into the New Jersey Spill Compensation Fund and dedicated for the purposes of P.L.1990, c.78 and for other authorized purposes designed to prevent the discharge of a hazardous substance.

c. (1) Every taxpayer and owner or operator of a public storage terminal for hazardous substances shall on or before the 20th day of the month following the close of each tax period render a return under oath to the director on such forms as may be prescribed by the director indicating the number of barrels of hazardous substances transferred and where appropriate, the fair market value of the hazardous substances transferred to or from the major facility, and at said time the taxpayer shall pay the full amount of the tax due.

(2) Every taxpayer or owner or operator of a major facility or vessel which transfers a hazardous substance, as defined in this act, and who is subject to the tax under subsection a. shall within 20 days after the first such transfer in any fiscal year register with the director on such form as shall be prescribed by him.

d. If a return required by this act is not filed, or if a return when filed is incorrect or insufficient in the opinion of the director, the amount of tax

due shall be determined by the director from such information as may be available. Notice of such determination shall be given to the taxpayer liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 30 days after receiving notice of such determination, shall apply to the director for a hearing, or unless the director on his own motion shall redetermine the same. After such hearing the director shall give notice of his determination to the person to whom the tax is assessed.

e. Any taxpayer who shall fail to file his return when due or to pay any tax when the same becomes due, as herein provided, shall be subject to such penalties and interest as provided in the "State Tax Uniform Procedure Law," R.S.54:48-1 et seq. If the Division of Taxation determines that the failure to comply with any provision of this section was excusable under the circumstances, it may remit such part or all of the penalty as shall be appropriate under such circumstances.

f. (1) (Deleted by amendment, P.L.1987, c.76.)

(2) (Deleted by amendment, P.L.1987, c.76.)

g. In addition to the other powers granted to the director in this section, he is hereby authorized and empowered:

(1) To delegate to any officer or employee of his division such of his powers and duties as he may deem necessary to carry out efficiently the provisions of this section, and the person or persons to whom such power has been delegated shall possess and may exercise all of said powers and perform all of the duties delegated by the director;

(2) To prescribe and distribute all necessary forms for the implementation of this section.

h. The tax imposed by this act shall be governed in all respects by the provisions of the "State Tax Uniform Procedure Law," R.S.54:48-1 et seq., except only to the extent that a specific provision of this act may be in conflict therewith.

i. (Deleted by amendment, P.L.1986, c.143.)

2. This act shall take effect immediately.

Approved January 10, 2000.

CHAPTER 343

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, 2000 and regulating the disbursement thereof," approved June 28, 1999 (P.L.1999, c.138).

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.1999, c.138, there is appropriated out of the General Fund the following sum for the purpose specified:

STATE AID
34 DEPARTMENT OF EDUCATION
30 EDUCATIONAL, CULTURAL AND INTELLECTUAL DEVELOPMENT
31 Direct Educational Services and Assistance -- State Aid

03-5120 Miscellaneous Grants-In-Aid $75,000
State Aid:
East Rutherford Boro School District --
Study Skills Program for At-Risk Pupils . . . ($75,000)

2. This act shall take effect immediately.

Approved January 10, 2000.

CHAPTER 344

AN ACT concerning automobile insurance and amending P.L.1973, c.252.

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

1. Section 1 of P.L.1973, c.252 (C.17:29C-4.1) is amended to read as follows:

C.17:29C-4.1 Return of unearned premiums; penalty.

1. Whenever an insurance policy or contract is canceled, the insurer on notice thereof shall return to the insured, within a reasonable time not to exceed 60 days of cancellation or notice, whichever occurs last, or 60 days after the completion of any payroll audit necessary to determine the amount of premium earned while the policy was in force, on a short rate basis the amount of gross unearned premiums paid; except for a policy or contract for private passenger automobile insurance, which amount of gross unearned premium shall be determined on a pro rata basis. In the event that the

insurer fails to return the gross unearned premiums to the insured within the period provided for herein, the insurer shall, as a penalty, in addition to the gross unearned premium, return to the insured an additional amount equal to 5% of the gross unearned premium computed on a monthly basis for each month or part thereof past the final date on which the refund was due.

2. This act shall take effect on the 60th day after enactment.

Approved January 10, 2000.

CHAPTER 345

AN ACT concerning county and municipal debt limits and amending N.J.S.40A:2-44.

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

1. N.J.S.40A:2-44 is amended to read as follows:

Deductions from gross debts.

40A:2-44. There shall be deducted from the gross debt of the local unit, to the extent included therein, the amount of bonds or notes issued and authorized but not issued:

a. for school purposes by a municipality or by a school district with boundaries coextensive with such municipality or of which such municipality is a part (other than a regional school district) to the extent of the following percentages of the equalized valuation basis of such municipality as provided in section 18A:24-19 of the New Jersey Statutes.

If such school district does not have title to any one of the facilities mentioned in such section, the authorization of debt for the procurement of such school facilities shall be deductible within the limitations prescribed in such section;

b. for school purposes by a regional school district;

c. for purposes which are self-liquidating as provided in this chapter, but only to the extent permitted by this chapter;

d. by a public body other than the local unit and the principal and interest of which is guaranteed by the local unit but only to the extent permitted by this chapter or any other law;

e. as bond anticipation notes in anticipation of bonds then authorized or issued;

f. for which there are funds on hand or sinking funds applicable only to the payment thereof and not otherwise deductible, including the proceeds of any bonds or notes held for that purpose and any accounts receivable or amounts which may be payable from the Federal Government, this State or any public instrumentality thereof, which funds are applicable only to the payment of any part of the gross debt not otherwise deductible;

g. for any other purpose for which a deduction is authorized by law; and

h. for any purpose authorized pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.) which is otherwise bondable pursuant to the "Local Bond Law," N.J.S.40A:2-1 et seq. when the debt service on the obligations will be paid solely from a county or municipal trust fund created pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.).

No deduction shall be allowed for any obligations authorized or issued to finance a purpose for which a deduction is allowed if, combined with a purpose for which a deduction may not be taken, or for any obligation issued to fund or refund bonds or notes if any of the outstanding bonds or notes paid, funded or refunded shall have been issued for or combined with a purpose or indebtedness for which no deduction can be taken under this chapter.

2. This act shall take effect immediately.

Approved January 10, 2000.

CHAPTER 346

AN ACT concerning the certification of the school tax levy and amending N.J.S.18A:22-33.

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

1. N.J.S.18A:22-33 is amended to read as follows:

Submission of budget and authorization of tax.

18A:22-33. The board of education of each type II district not having a board of school estimate shall at each annual school election, submit to the voters of the district, the amount of money fixed and determined in its budget pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5), excluding therefrom the sum or sums stated therein to be used for interest and debt redemption charges, in the manner provided by law, to be voted upon for the use of the public schools of the district for the ensuing school year, which amount shall be stated in the notice of the election, and

the legal voters of the district shall determine at the election, by a majority vote of those voting upon the proposition, the sum or sums, not exceeding those stated in the notice of the election, to be raised by special district tax for said purposes, in the district during the ensuing school year and the secretary of the board of education shall certify the amount so determined upon, if any, and the sums so stated for interest and debt redemption charges, to the county board of taxation of the county within two days following the certification of the election results and the amount or amounts so certified shall be included in the taxes assessed, levied and collected in the municipality or municipalities comprising the district for such purposes; except that, in the case of a district which, following the school election and the approval by the voters of the sum to be raised by special district tax for the schools of the district, determines that it has a greater surplus account available for the school year than estimated when the sum to be raised by special district tax was presented to the voters, the secretary of the board of education, with the approval of the commissioner, may between the date of the school election and the delivery of tax bills pursuant to R.S.54:4-64 re-certify to the county board of taxation the sum or sums to be raised by special district tax in the district during the ensuing school year, if the sum is lower than that approved by the voters in the school election, and if the reduction is equivalent to the additional amount available in the surplus account to be applied towards the district's budget. The amount re-certified shall be included in the taxes assessed, levied and collected in the municipality or municipalities comprising the district.

2. This act shall take effect immediately and shall first apply to the 2000-2001 school year.

Approved January 10, 2000.

CHAPTER 347

AN ACT establishing a two-part, multi-year program in the Department of Environmental Protection to provide funding for dam rehabilitation projects and appropriating $9,500,000 from the General Fund in Fiscal Year 2000 for that purpose.

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

1. a. There shall be appropriated to the Department of Environmental Protection from the General Fund the sum of $6,000,000 for the purpose of financing the costs of rehabilitating dams defined and designated as "high hazard" by the Department of Environmental Protection. This sum shall be

appropriated pursuant to the provisions of subsection e. of this section. It shall include administrative costs and shall be allocated to those projects included on a Dam Safety Priority List, as developed and maintained by the Department of Environmental Protection and approved by the Commissioner of Environmental Protection.

b. The sum appropriated under subsection a. of this section shall be made available to finance the cost of rehabilitating eligible dams owned by the State, local government units, and private parties. Funds shall be awarded to eligible local government units in the form of nonmatching grants and to eligible private dam owners, as co-applicants with local government units, in the form of loans.

c. Loans awarded under subsection b. of this section shall bear an annual rate of interest of 2% and shall be for a term of not more than 20 years. Repayments shall be used for new dam rehabilitation projects or for the maintenance costs of previously funded projects. Grant and loan amounts for each project shall be determined by the Department of Environmental Protection.

d. Except as otherwise provided pursuant to subsection c. of this section, loans under subsection b. of this section shall be awarded and administered by the Department of Environmental Protection pursuant to the rules and regulations governing the existing revolving loan program for dam restoration projects created and funded under the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88.

e. For the purposes of this section there is appropriated from the General Fund to the Department of Environmental Protection $6,000,000 in Fiscal Year 2000.

2. a. There shall be appropriated to the Department of Environmental Protection from the General Fund the sum of $3,500,000 for the purpose of financing the costs of rehabilitating dams designated by the Department of Environmental Protection as affected by flood waters caused by Hurricane Floyd. Such rehabilitation may include dredging that is intended to ameliorate the effects of the flood waters on an eligible dam. This sum shall be appropriated pursuant to the provisions of subsection e. of this section. This sum shall include administrative costs and 10% of the total program amount shall be available for emergency repairs as shall be determined by the department.

b. The sum appropriated under subsection a. of this section shall be made available to finance the cost of rehabilitating eligible dams owned by the State, local government units, and private parties. Funds shall be awarded to eligible local government units in the form of nonmatching

grants and to eligible private dam owners, as co-applicants with local government units, in the form of loans.

c. Loans awarded under subsection b. of this section shall bear an annual rate of interest of 2% and shall be for a term of not more than 20 years. Repayments shall be used for new dam rehabilitation projects or for the maintenance costs of previously funded projects under either section 1 of P.L.1999, c.347 or this section. Grant and loan amounts for each project shall be determined by the Department of Environmental Protection.

d. Except as otherwise provided pursuant to subsection c. of this section, loans under subsection b. of this section shall be awarded and administered by the Department of Environmental Protection pursuant to the rules and regulations governing the existing revolving loan program for dam restoration projects created and funded under the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88.

e. For the purposes of this section there is appropriated from the General Fund to the Department of Environmental Protection $3,500,000 in Fiscal Year 2000.

3. This act shall take effect immediately.

Approved January 10, 2000.

CHAPTER 348

AN ACT concerning commercial motor vehicles, supplementing chapter 3 of Title 39 and amending R.S.39:3-84 and P.L.1950, c.142.

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

1. The Legislature finds and declares:

a. On July 16, 1999 the Commissioner of Transportation, at the direction of Governor Whitman, adopted emergency regulations designating certain highways in the State where certain large trucks are permitted to operate and other roadways where vehicles such as "102-inch wide standard trucks" and double tandem trailers are not so permitted, which regulations became permanent in September 1999.

b. There has been much debate on the question of the enforcement of the regulations of the Commissioner of Transportation from which it has become clear that there is a need for the creation of clearly defined penalties for violating the regulations.

c. It is necessary and appropriate to provide a schedule of fines for violation of the regulations of the commissioner in order to ensure that the operator of a truck cannot violate those regulations with impunity.

2. R.S.39:3-84 is amended to read as follows:

Vehicles; dimensional, weight limitations; routes, certain, prohibited.

39:3-84. a. The following constitute the maximum dimensional limits for width, height and length for any vehicle or combination of vehicles, including load or contents or any part or portion thereof, found or operated on any public road, street or highway or any public or quasi-public property in this State. Violations shall be enforced pursuant to subsection i. of section 5 of P.L.1950, c.142 (C.39:3-84.3).

The dimensional limitations set forth in this subsection are exclusive of safety and energy conservation devices necessary for safe and efficient operation of a vehicle or combination of vehicles, including load or contents, except that no device excluded herein shall have by its design or use the capability to carry, transport or otherwise be utilized for cargo.

Any rules and regulations authorized to be promulgated pursuant to this subsection shall be consistent with any rules and regulations promulgated by the Secretary of Transportation of the United States of America, and shall be in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). In addition to the other requirements of this subsection and notwithstanding any other provision of this Title, no vehicle or combination of vehicles, including load or contents or any part or portion thereof, except as otherwise provided by this subsection shall be operated in this State, unless by special permit authorized by subsection d. of this section with a dimension, the allowance of which would disqualify the State of New Jersey or any department, agency or governmental subdivision thereof for the purpose of receiving federal highway funds.

As used herein and pursuant to R.S.39:1-1, the term "vehicle" includes, but is not limited to, commercial motor vehicles, trucks, truck tractors, tractors, road tractors, recreation vehicles, or omnibuses. As used herein and pursuant to R.S.39:1-1, the term "combination of vehicles" includes, but is not limited to, vehicles as heretofore designated, when those vehicles are the drawing or power unit of a combination of vehicles and motor-drawn vehicles, such as, but not limited to, trailers, semi-trailers, or other vehicles. As used herein, the term "recycling vehicle" means a commercial motor vehicle used for the collection or transportation of recyclable material; or any truck, trailer or other vehicle approved by the New Jersey Office of Recycling for use by persons engaging in the business of recycling or otherwise providing recycling services in this State; and "recyclable

material" means those materials which would otherwise become solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(1) The maximum outside width of any vehicle or combination of vehicles, including load or contents of any part or portion thereof, except as otherwise provided by this subsection, shall be no more than 102 inches; except that the Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, may promulgate rules and regulations for those public roads, streets or highways or public or quasi-public property in this State, where it is determined that the interests of public safety and welfare require the maximum outside width be no more than 96 inches.

(2) The maximum height of any vehicle or combination of vehicles, including load or contents of any part or portion thereof, except as otherwise provided by this subsection, shall not exceed 13 feet, 6 inches.

(3) The maximum overall length of any vehicle, as set forth in this subsection, including load or contents or any part or portion thereof, except as otherwise provided by this subsection, shall not exceed 40 feet, except that the overall length of a vehicle, including load or contents or any part or portion thereof, otherwise subject to the provisions of this paragraph shall not exceed 50 feet when transporting poles, pilings, structural units or other articles which cannot be dismembered, dismantled or divided. When a vehicle, subject to this paragraph, is the drawing or power unit of a combination of vehicles, as set forth in this subsection, the overall length of the combination of vehicles, including load or contents or any part or portion thereof, shall not exceed 62 feet. The provisions of this paragraph shall not apply to omnibuses or to vehicles which are not designed, built or otherwise capable of carrying cargo or loads.

(4) The maximum overall length of a motor-drawn vehicle, as set forth in this subsection, including load or contents or any part or portion thereof, except as otherwise provided by this subsection, shall not exceed 53 feet when operated as part of a combination of vehicles consisting of one motor-drawn vehicle and a drawing or power unit vehicle not designed, built or otherwise capable of carrying cargo or loads, except that a motor-drawn vehicle, the overall length of which is greater than 48 feet and not more than 53 feet, shall be constructed so that the distance between the kingpin of the motor-drawn vehicle and the centerline of its rear axle or rear axle group does not exceed 41 feet; the motor-drawn vehicle shall be equipped with a rear-end protection device of substantial construction consisting of a continuous lateral beam extending to within four inches of the lateral extremities of the motor-drawn vehicle and located not more than 22 inches from the surface as measured with the vehicle empty and on a level surface; the kingpin of the trailer shall not be set back further than 3.5 feet from the front of the semitrailer; the rear

overhang, measured from the center of the rear tandem axles to the rear of the semitrailer shall not exceed 35% of the semitrailer's wheelbase; the width of the semitrailer and the distance between the outside edges of the trailer tires shall be 102 inches; and the vehicle shall be equipped with such reflectorization, including but not limited to side-marker reflectorization strips located between the rear axle and the rear of the motor-drawn vehicle, as shall be prescribed by the Division of Motor Vehicles, and as is consistent with any applicable federal standards concerning reflectorization. The overall length of a motor-drawn vehicle otherwise subject to the provisions of this paragraph shall not exceed 63 feet when transporting poles, pilings, structural units or other articles that cannot be dismembered, dismantled or divided. The provisions of this paragraph shall not apply to any vehicle or combination of vehicles designed, built and utilized solely to transport other motor vehicles. The Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, shall promulgate rules and regulations specifying those portions or parts of the National System of Interstate and Defense Highways, Federal-aid Primary System Highways and public roads, streets, highways, toll roads, freeways or parkways in this State where the combination of vehicles as described in this paragraph may lawfully operate. The commissioner shall promulgate rules and regulations within 120 days after the effective date of this amendatory act to identify a network of roads with reasonable access for motor-drawn vehicles greater than 48 feet in length but not more than 53 feet in length. The commissioner shall, in establishing this network, consider all portions of the network for 48 foot long and 102 inch wide motor-drawn vehicles and specify those routes or portions thereof where motor-drawn vehicles greater than 48 feet in length but not more than 53 feet in length shall be excluded from lawful operation for reasons of safety.

(5) No combination of vehicles, including load or contents, consisting of more than two motor-drawn vehicles, as set forth in this subsection, and any other vehicle, shall be found or operated on any public road, street or highway or any public or quasi-public property in this State.

(6) The maximum overall length of a motor-drawn vehicle, as set forth in this section, including load or contents or any part or portion thereof, except as otherwise provided by this subsection, when operated as part of a combination of vehicles consisting of two motor-drawn vehicles and a drawing or power unit vehicle which is not designed, built or otherwise capable of carrying cargo or loads, shall not exceed 28 feet for each motor-drawn vehicle in the combination of vehicles. The provision of this paragraph shall not apply to any vehicle or combination of vehicles designed, built and utilized solely to transport other motor vehicles. The Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, shall promulgate rules and regulations specifying those portions or parts of the

National System of Interstate and Defense Highways, Federal-aid Primary System Highways and public roads, streets, highways, toll roads, freeways or parkways in this State where combinations of vehicles as described in this paragraph may lawfully operate.

(7) The maximum length and outside width of an omnibus found or operated in this State shall be established by rules and regulations promulgated by the Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police. Unless otherwise specified in the aforesaid rules and regulations, the maximum outside width shall be 102 inches; any other dimension established for width in the aforesaid rules and regulations shall be based upon a determination that operation of an omnibus with a width of less than 102 inches, but no less than 96 inches is required in the interest of public safety on those public roads, streets, highways, toll roads, freeways, parkways or the National System of Interstate and Defense Highways in this State specified in the aforesaid rules and regulations, or that operation of an omnibus with a width greater than 102 inches is not unsafe on those public roads, streets, highways, toll roads, freeways, parkways or the National System of Interstate and Defense Highways in this State specified in the aforesaid rules and regulations.

(8) The maximum width and length of farm tractors and traction equipment and farm machinery and implements shall be established by rules and regulations promulgated by the Director of the Division of Motor Vehicles. The operation of the aforesaid vehicles shall be subject to the provisions of R.S.39:3-24 and they shall not be operated on any highway which is part of the National System of Interstate and Defense Highways or on any highway which has been designated a freeway or parkway as provided by law.

(9) The maximum outside width of the cargo or load of a vehicle or combination of vehicles, including farm trucks, loaded with hay or straw shall not exceed 105 1/2 inches, but the maximum outside width of the vehicle or combination of vehicles, including farm trucks, shall otherwise comply with the provisions of paragraph (1) of this subsection. The Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, may promulgate rules and regulations establishing a maximum outside width of 102 inches for the aforesaid cargo or load when operating on those highways where a greater width is prohibited by operation of law.

(10) Notwithstanding the provisions of paragraphs (4) and (6) of this subsection pertaining to length, the Director of the Division of Motor Vehicles may adopt rules and regulations specifying maximum length

dimensions for any vehicle or combination of vehicles designed, built and utilized solely to transport other motor vehicles.

(11) The provisions of this subsection pertaining to length shall not apply to a vehicle or combination of vehicles or special mobile equipment operated by a public utility, as defined in R.S.48:2-13, when that vehicle or combination of vehicles or special mobile equipment is used by the public utility in the construction, reconstruction, repair or maintenance of its property or facilities.

(12) The provisions of this subsection pertaining to width shall not apply to a recycling vehicle when that vehicle is used for the collection of recyclable material on a street or highway other than a highway which is designated part of the National System of Interstate and Defense Highways in this State or as a freeway or parkway as provided by law. The maximum outside width of any recycling vehicle so used, including load or contents of any part or portion thereof, shall be no more than 96 inches, except that the width may be up to 105 inches whenever that vehicle is operating at 15 miles per hour or less, and access steps are deployed and recyclable materials are actually being collected.

b. No vehicle or combination of vehicles, including load or contents, found or operated on any public road, street or highway or any public or quasi-public property in this State shall exceed the weight limitations set forth in this Title. Violations shall be enforced pursuant to subsection j. of section 5 of P.L.1950, c.142 (C.39:3-84.3).

Where enforcement of a weight limit provision of this Title requires a measurement of length between axle centers, the distance between axle centers shall be measured to the nearest whole foot or whole inch, whichever is applicable, and when the measurement includes a fractional part of a foot equaling six inches or more or a fractional part of an inch equaling one-half inch or more, the next larger whole foot or whole inch, whichever is applicable, shall be utilized. The term "tandem axle" as used in this act is defined as a combination of consecutive axles, consisting of only two axles, where the distance between axle centers is 40 inches or more but no more than 96 inches.

In addition to the other requirements of this section and notwithstanding any other provision of this Title, no vehicle or combination of vehicles, including load or contents, shall be operated in this State, unless by special permit authorized by this Title, with a gross weight, single or multiple axle weight, or gross weight of two or more consecutive axles, the allowance of which would disqualify the State of New Jersey or any department, agency or governmental subdivision thereof for the purpose of receiving federal highway funds.

(1) The gross weight imposed on the highway or other surface by the wheels of any one axle of a vehicle or combination of vehicles, including load or contents, shall not exceed 22,400 pounds.

For the purpose of this Title the combined gross weight imposed on the highway or other surface by all the wheels of any one axle of a vehicle or combination of vehicles, including load or contents, shall be deemed to mean the total gross weight of all wheels whose axle centers are spaced less than 40 inches apart.

(2) The gross weight imposed on the highway or other surface by all the wheels of all consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed 34,000 pounds where the distance between consecutive axle centers is 40 inches or more, but no more than 96 inches apart.

(3) The combined gross weight imposed on the highway or other surface by all the wheels of consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed 22,400 pounds for each single axle where the distance between consecutive axle centers is more than 96 inches; except that on any highway in this State which is part of, or designated as part of, the National Interstate System, as provided at 23 U.S.C.s.103(e), this single axle limitation shall not apply and in those instances the provisions of this Title as set forth at R.S.39:3-84b.(5) shall apply.

(4) The maximum total gross weight imposed on the highway or other surface by a vehicle or combination of vehicles, including load or contents, shall not exceed 80,000 pounds.

(5) On any highway in this State which is part of, or designated as part of, the National Interstate System, as provided at 23 U.S.C.s.103(e), the total gross weight, in pounds, imposed on the highway or other surface by any group of two or more consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed that listed in the following Table of Maximum Gross Weights, for the respective distance, in feet, between the axle centers of the first and last axles of the group of two or more consecutive axles under consideration; except that in addition to the weights specified in that Table, two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more. The gross weight of each set of tandem axles shall not exceed 34,000 pounds and the combined gross weight of the two consecutive sets of tandem axles shall not exceed 68,000 pounds.

In all cases the combined gross weight for a vehicle or combination of vehicles, including load or contents, or the maximum gross weight for any axle or combination of axles of the vehicle or combination of vehicles, including load or contents, shall not exceed that which is permitted pursuant

to this paragraph or R.S.39:3-84b.(2); R.S.39:3-84b.(3); or R.S.39:3-84b.(4) of this act, whichever is the lesser allowable gross weight.

TABLE OF MAXIMUM GROSS WEIGHTS

Distance in feet between axle centers of first and last axles of any group of two or more consecutive axles	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles
3	22400	22400	22400	22400	22400	22400
4	34000	34000	34000	34000	34000	34000
5	34000	34000	34000	34000	34000	34000
6	34000	34000	34000	34000	34000	34000
7	34000	34000	34000	34000	34000	34000
8	34000	34000	34000	34000	34000	34000
9	39000	42500	42500	42500	42500	42500
10	40000	43500	43500	43500	43500	43500
11	41000	44000	44000	44000	44000	44000
12	42000	45000	50000	50000	50000	50000
13	43000	45500	50500	50500	50500	50500
14	44000	46500	51500	51500	51500	51500
15	44800	47000	52000	52000	52000	52000
16	44800	48000	52500	58000	58000	58000
17	44800	48500	53500	58500	58500	58500
18	44800	49500	54000	59000	59000	59000
19	44800	50000	54500	60000	60000	60000
20	44800	51000	55500	60500	66000	66000
21	44800	51500	56000	61000	66500	66500
22	44800	52500	56500	61500	67000	67000
23	44800	53000	57500	62500	68000	68000
24	44800	54000	58000	63000	68500	74000
25	44800	54500	58500	63500	69000	74500
26	44800	55500	59500	64000	69500	75000
27	44800	56000	60000	65000	70000	75500
28	44800	57000	60500	65500	71000	76500
29	44800	57500	61500	66000	71500	77000
30	44800	58500	62000	66500	72000	77500
31	44800	59000	62500	67500	72500	78000
32	44800	60000	63500	68000	73000	78500
33	44800	60500	64000	68500	74000	79000
34	44800	61500	64500	69000	74500	80000
35	44800	62000	65500	70000	75000	80000
36	44800	63000	66000	70500	75500	80000
37	44800	63500	66500	71000	76000	80000
38	44800	64500	67500	71500	77000	80000

39	44800	65000	68000	72500	77500	80000
40	44800	66000	68500	73000	78000	80000
41	44800	66500	69500	73500	78500	80000
42	44800	67200	70000	74000	79000	80000
43	44800	67200	70500	75000	80000	80000
44	44800	67200	71500	75500	80000	80000
45	44800	67200	72000	76000	80000	80000
46	44800	67200	72500	76500	80000	80000
47	44800	67200	73500	77500	80000	80000
48	44800	67200	74000	78000	80000	80000
49	44800	67200	74500	78500	80000	80000
50	44800	67200	75500	79000	80000	80000
51	44800	67200	76000	80000	80000	80000
52	44800	67200	76500	80000	80000	80000
53	44800	67200	77500	80000	80000	80000
54	44800	67200	78000	80000	80000	80000
55	44800	67200	78500	80000	80000	80000
56	44800	67200	79500	80000	80000	80000
57	44800	67200	80000	80000	80000	80000
58	44800	67200	80000	80000	80000	80000
59	44800	67200	80000	80000	80000	80000
60	44800	67200	80000	80000	80000	80000
61	44800	67200	80000	80000	80000	80000
62	44800	67200	80000	80000	80000	80000
63	44800	67200	80000	80000	80000	80000
64	44800	67200	80000	80000	80000	80000
65	44800	67200	80000	80000	80000	80000
66	44800	67200	80000	80000	80000	80000
67	44800	67200	80000	80000	80000	80000
68	44800	67200	80000	80000	80000	80000
69	44800	67200	80000	80000	80000	80000
70	44800	67200	80000	80000	80000	80000

c. The dimensional and weight restrictions set forth herein shall not apply to a combination of vehicles which includes a disabled vehicle or a combination of vehicles being removed from a highway in this State, provided that such oversize or overweight vehicle combination may not travel on the public highways more than five miles from the point where such disablement occurred. If the disablement occurred on a limited access highway, the distance to the nearest exit of such highway shall be added to the five-mile limitation.

d. The Director of the Division of Motor Vehicles may promulgate rules and regulations, including the establishment of fees, for the issuance, at his discretion and if good cause appears, of a special written permit authorizing the applicant:

(1) To operate or move a vehicle or combination of vehicles or special mobile equipment, transporting one piece loads that cannot be dismembered, dismantled or divided in order to comply with the weight limitations set forth in this act. The special written permit issued by the director shall be in the

possession of the driver or operator of the vehicle or combination of vehicles or special mobile equipment for which said permit was issued; and

(2) To operate or move a vehicle or combination of vehicles or specialized mobile equipment, transporting a load or cargo that cannot be dismembered, dismantled or divided in order to comply with the dimensional limitations set forth in this act. The special written permit shall be in the possession of the driver or operator of the vehicle or combination of vehicles or special mobile equipment for which the permit was issued; and

(3) Under emergency conditions, to operate or move a type of vehicle or combination of vehicles or special mobile equipment of a size or weight, including load or contents, which exceeds the maximum size or weight limitations specified in this act.

e. If the Commissioner of Transportation has, by regulations adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), designated certain routes within the State for use by a combination of vehicles with a prescribed maximum width or length or consisting of a drawing vehicle and two motor drawn vehicles with a prescribed maximum length, no such combination of vehicles shall be found or operated on any other public road, street or highway or any other public or quasi-public property in this State, unless otherwise permitted by such regulations.

3. Section 5 of P.L.1950, c.142 (C.39:3-84.3) is amended to read as follows:

C.39:3-84.3 Measurement, weighing to determine compliance; fines for operating on prohibited routes.

5. a. Officers shall have authority as set forth in paragraphs (1) through (3) of this subsection to require the driver, operator, owner, lessee or bailee of any vehicle or combination of vehicles found on any public road, street, or highway or any public or quasi-public property in this State to facilitate and permit the measurement or weighing of the vehicle or combination of vehicles, including load or contents, for the purpose of determining whether the size or weight of the vehicle or combination of vehicles, including load or contents, is in excess of that permitted in this Title:

(1) Officers of the Division of State Police shall have the exclusive authority to conduct random roadside examinations for the purpose of determining whether size or weight is in excess of that permitted in this Title, and officers of the Division of State Police shall have the authority, with or without probable cause to believe that the size or weight is in excess of that permitted, to require the driver, operator, owner, lessee or bailee, to stop, drive or otherwise move to a location for measurement or weighing

and submit the vehicle or combination of vehicles, including load or contents, to measurement or weighing;

(2) Police or peace officers or inspectors appointed by any municipality or county shall have the authority to require the driver, operator, owner, lessee or bailee to stop, drive or otherwise move to a location for measurement or weighing and submit the vehicle or combination of vehicles, including load or contents, to measurement or weighing, only if the officer has probable cause to believe that the size or weight of the vehicle or combination of vehicles, including load or contents, is in excess of that permitted by this Title; and

(3) The Division of State Police and the director shall have the exclusive authority to establish and operate locations for the measurement and weighing of vehicles, including load and contents, and all measuring and weighing devices or scales employed at such locations shall be approved and certified by the State Superintendent of Weights and Measures or the State Superintendent's agent. Copies of documents displaying the State Superintendent's seal or certification shall be prima facie evidence of the reliability and accuracy of the measuring or weighing devices or scales utilized.

b. Whenever the officer, upon measuring or weighing a vehicle or combination of vehicles, including load or contents, determines that the size or weight is in excess of the limits permitted in this Title, the officer or inspector shall require the driver, operator, owner, lessee or bailee to stop the vehicle or combination of vehicles in a suitable place and remain in that place until a portion of the load or contents of the vehicle or combination of vehicles is removed by the driver, operator, owner, lessee, bailee or duly appointed agent thereof, as may be necessary to conform or reduce the size or weight of the vehicle or combination of vehicles, including load or contents, to those limits as permitted under this act, or permitted by the certificate of registration for the vehicle or combination of vehicles, whichever may be lower. All materials so unloaded or removed shall be cared for by the driver, owner, operator, lessee or bailee of the vehicle or combination of vehicles, or duly appointed agent thereof, at the risk, responsibility and liability of the driver, owner, operator, lessee, bailee or duly appointed agent thereof.

c. No vehicle or combination of vehicles shall be deemed to be in violation of the weight limitation provision of this act, when, upon examination by the officer, the dispatch papers for the vehicle or combination of vehicles, including load or contents, show it is proceeding from its last preceding freight pickup point within the State of New Jersey by a reasonably expeditious route to the nearest available scales or to the first available scales in the general direction towards which the vehicle or

combination of vehicles has been dispatched, or is returning from such scales after weighing-in to the last preceding pickup point.

d. When the officer determines that a vehicle or combination of vehicles, including load or contents, is in violation of the weight limitations of this Title as provided at paragraph (1) of subsection b. of R.S.39:3-84; paragraph (2) of subsection b. of R.S.39:3-84; paragraph (3) of subsection b. of R.S.39:3-84; or paragraph (5) of subsection b. of R.S.39:3-84 relative to maximum gross axle weights, but is within the permissible maximum gross vehicle weight of this Title as provided at paragraph (4) of subsection b. of R.S.39:3-84 or paragraph (5) of subsection b. of R.S.39:3-84, whichever is applicable, the driver, operator, owner, lessee, bailee or duly appointed agent thereof shall be permitted, before proceeding, to redistribute the weight of the vehicle or combination of vehicles or the load or contents of the vehicle or combination of vehicles so that no axle or combination of consecutive axles are in excess of the limits set by this act, in which event there is no violation.

e. When the officer determines that a vehicle or combination of vehicles, including load or contents, is in violation of the height, width or length limits of this Title as provided at subsection a. of R.S.39:3-84, the driver, operator, owner, lessee or bailee of the vehicle or combination of vehicles or duly appointed agent thereof shall be permitted, before proceeding, to adjust, reduce or conform the vehicle or combination of vehicles, including load or contents, so that the vehicle or combination of vehicles, including load or contents, are not in excess of the height, width, or length limits set by this act, in which event there is no violation.

f. The provisions of this subsection shall not apply to a vehicle or combination of vehicles, including load or contents, found or operated on any highway in this State which is part of or designated as part of the National Interstate System, as provided at 23 U.S.C. s. 103(e). No arrest shall be made or summons issued for a violation of the weight limitations provided in this act at subsection b. of R.S.39:3-84 where the excess weight is no more than 5% of the weight permitted, provided the gross weight of the vehicle or combination of vehicles, including load or contents, does not exceed the maximum gross weight of 80,000 pounds as set forth at paragraph (4) of subsection b. of R.S.39:3-84.

g. Any person who presents to the officer, or has in his possession, or who prepares false dispatch papers, that is to say, dispatch papers which do not correspond to the cargo carried, shall be subject to a fine not to exceed $300.

h. Any driver of a vehicle or combination of vehicles who fails or refuses to stop and submit the vehicle or combination of vehicles, including load or contents, to measurement or weighing, as provided in this Title, or

otherwise fails to comply with the provisions of this section, shall be subject to a fine not exceeding $200.00.

i. The owner, lessee, bailee or any one of the aforesaid of any vehicle or combination of vehicles found or operated on any public road, street or highway or on any public or quasi-public property in this State in violation of the height, width or length limits as set forth in subsection a. of R.S.39:3-84 shall be fined not less than $150.00 nor more than $500.00.

j. The owner, lessee, bailee or any one of the aforesaid of any vehicle or combination of vehicles 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 the vehicle or combination of vehicles, including load or contents, in excess of the weight limitations as provided at subsection b. of R.S.39:3-84 or section 3 of P.L.1950, c.142 (C.39:3-84.1) shall be fined an amount equal to $0.02 per pound for each pound of the total excess weight; provided the total excess weight is 10,000 pounds or less, or shall be fined an amount equal to $0.03 per pound for each pound of the total excess weight; provided the total excess weight is more than 10,000 pounds, but in no event shall the fine be less than $50.00. However, in the case of any vehicle or combination of vehicles carrying a sealed ocean container, either the shipper, the consignee or both, shall be liable for a violation of the weight limitations as provided at subsection b. of R.S.39:3-84 relative to maximum gross axle weights.

k. Whenever a vehicle or combination of vehicles, including load or contents, is found to be in violation of any two or more of the weight limitations as provided at subsection b. of R.S.39:3-84 or section 3 of P.L.1950, c.142 (C.39:3-84.1), the fine levied shall be only for the violation involving the greater or greatest excess weight.

l. The driver, owner, lessee, bailee or any one of the foregoing of any combination of vehicles found or operated on any public road, street or highway or on any public or quasi-public property in the State in violation of the regulations of the Commissioner of Transportation regarding designated routes for such combinations as provided in subsection e. of R.S. 39:3-84 shall be fined not more than $400 for the first offense, and shall be subject to a fine of $700 for the second offense and a fine of $1,000 for each subsequent offense. The officer may direct that a combination of vehicles so found or operated proceed by the most direct route to a permitted route or return to a permitted route by making use of the route already traversed.

4. This act shall take effect immediately.

Approved January 13, 2000.

CHAPTER 349

AN ACT establishing the position of municipal prosecutor for each municipal court of this State, providing for the appointment, defining the duties and authorizing the training of municipal prosecutors and supplementing Title 2A of the New Jersey Statutes and amending P.L.1996, c.95.

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

C.2B:25-1 Findings, declarations relative to municipal prosecutors.

1. The Legislature finds and declares that municipal prosecutors are a critical component of New Jersey's system for the administration of justice, that the role of municipal prosecutor is not statutorily defined, and that in order to ensure the uniform and proper administration of justice in this State, it is necessary to define the duties of municipal prosecutors.

C.2B:25-2 Definitions relative to municipal prosecutors.

2. As used in this act:

a. "Municipal prosecutor" means a person appointed to prosecute all offenses over which the municipal court has jurisdiction.

b. "Governing body" of a county or municipality means the officer or body that is the appropriate appointing authority for county counsel, municipal attorney or corporation counsel under the laws applicable to the form of county or municipal government established in the county or municipality pursuant to law, provided that the municipal corporation counsel shall be the appointing authority in any city of the first class with a population greater than 270,000, according to the latest federal decennial census and in any city of the second class with a population of greater than 30,000 but less than 43,000, according to the latest decennial census, which city of the second class is located in a county of the first class with a population less than 600,000 according to the latest federal decennial census.

c. "Municipal court" means any municipal or joint municipal or central municipal court established pursuant to statute.

d. "Attorney General" includes the Attorney General of New Jersey and any assistants or deputies who may be designated to carry out the responsibilities conferred on the Attorney General by this act or the laws of this State.

e. "County prosecutor" shall mean the prosecutor of the county in which the municipal court is situated and any assistant prosecutors of that county who may be designated by this act.

C.2B:25-3 Exemptions for municipal prosecutor currently serving.

3. Any person serving as a municipal prosecutor on the effective date of this act shall be exempt from its requirements for a period of either one year or for the expiration of his or her current term of office, whichever is shorter, except that the provisions of the act pertaining to supersession (section 7) and removal (section 9) shall be in full force on the effective date of this act.

C.2B:25-4 Appointment, qualifications for municipal prosecutor; compensation.

4. a. Each municipal court in this State shall have at least one municipal prosecutor appointed by the governing body of the municipality, municipalities or county in accordance with applicable laws, ordinances and resolutions.

b. A municipal prosecutor shall be an attorney-at-law of this State in good standing, and shall serve for a term of one year from the date of his or her appointment, except as determined by the governing body of a county or a city of the first class with a population greater than 270,000, according to the latest federal decennial census, or the governing body of a city of the second class with a population of greater than 30,000 but less than 43,000, according to the latest decennial census, which city of the second class is located in a county of the first class with a population less than 600,000 according to the latest federal decennial census, and may continue to serve in office pending re-appointment or appointment of a successor. A municipal prosecutor may be appointed to that position in one or more municipal courts. The provisions of this act shall apply to each such position held.

c. (1) A municipal prosecutor of a joint municipal court shall be appointed upon the concurrence of the governing bodies of each of the municipalities in accordance with applicable laws, ordinances or resolutions.

(2) A municipal prosecutor of a central municipal court shall be appointed by the governing body of the county.

d. Municipal prosecutors shall be compensated either on an hourly, per diem, annual or other basis as the county, municipality or municipalities provide. In the case of a joint municipal court, municipalities shall, by similar ordinances, enter into an agreement fixing the compensation of the municipal prosecutor and providing for its payment. In the case of a central municipal court, the county shall fix the compensation of the municipal prosecutor and provide for its payment.

The compensation of municipal prosecutors shall be in lieu of any and all other fees; provided, however that when a municipal prosecutor is assigned to prosecute a de novo appeal in the Superior Court, the prosecutor shall be entitled to additional compensation unless the municipality expressly provides otherwise at the time the compensation is fixed.

e. In accordance with applicable laws, ordinances and resolutions, a municipality may appoint additional municipal prosecutors as necessary to administer justice in a timely and effective manner in its municipal court. Such appointments shall be subject to this act. This subsection also applies to joint municipal courts and central municipal courts.

f. Any municipal court having two or more municipal prosecutors shall have a "chief municipal prosecutor" who shall be appointed by the governing body of the county or the municipality. The chief municipal prosecutor of a joint municipal court shall be appointed upon the concurrence of the governing bodies of each municipality. The chief municipal prosecutor shall have authority over other prosecutors serving that court with respect to the performance of their duties.

g. (1) Nothing in this act shall affect the appointment of municipal attorneys in accordance with N.J.S.40A:9-139; provided, however, that a person appointed to the positions of both municipal prosecutor and municipal attorney shall be subject to all of the provisions of this act while serving in the capacity of municipal prosecutor.

(2) In addition to any other duties proscribed by the provisions of this act, a person serving as both a municipal prosecutor and a municipal attorney may prosecute county or municipal ordinance violations.

C.2B:25-5 Duties of municipal prosecutor; use of private attorneys.

5. a. A municipal prosecutor, except as provided by paragraph b. of this section and sections 6 and 7 of this act, shall represent the State, the county or the municipality in the prosecution of all offenses, except for zoning violations, within the statutory jurisdiction of the municipal court as defined by law. A municipal prosecutor shall be responsible for handling all phases of the prosecution of an offense, including but not limited to discovery, pretrial and post-trial hearings, motions, dismissals, removals to Federal District Court and other collateral functions authorized to be performed by the municipal prosecutor by law or Rule of Court. As used in this subsection, the term "post-trial hearing" shall not include de novo appeals in Superior Court.

b. A municipal prosecutor may, with the approval of the court and pursuant to the Rules of Court, authorize private attorneys to prosecute citizen complaints filed in the municipal court. A municipal prosecutor may, with the approval of the court, decline to participate in municipal court proceedings in which the defendant is not represented by counsel. The court shall afford the citizen complainant an opportunity to be heard prior to determining whether to approve a municipal prosecutor's decision to authorize a private attorney to prosecute a citizen complaint or to decline to participate in a municipal court proceeding in which the defendant is not

represented by counsel. When the municipal prosecutor declines to prosecute, the prevailing complainant may make an application to the court for counsel fee reimbursement to be paid out of applicable fines, but such reimbursement shall not exceed the amount of the applicable fines. Upon a finding that a conflict of interest precludes a municipal prosecutor from participating in a proceeding, the court shall excuse the municipal prosecutor and may, in such a case, request the county prosecutor to provide representation in accordance with section 6 of this act unless the municipality has provided for alternative representation.

c. A municipal prosecutor may at any time move before the municipal court to amend or dismiss any complaint for good cause shown in accordance with the Rules of the Court.

C.2B:25-6 Vacancies, filling, alternative representation.

6. a. Appointments to fill vacancies in the position of municipal prosecutor shall be made in accordance with the provisions of section 4 of this act as soon as practicable.

b. Unless the municipality has provided for alternative representation, the Attorney General or the county prosecutor, with notice to the Attorney General, may designate, at the request of the municipal prosecutor or municipal court, one or more assistant or deputy attorneys general or assistant prosecutors to prosecute the business of any municipal court if there is a vacancy in the office of the municipal prosecutor or the municipal prosecutor is temporarily unavailable and the municipal prosecutor or the municipal court has requested such designation.

C.2B:25-7 Supersedure by Attorney General, county prosecutor.

7. Whenever in the opinion of the Attorney General or a county prosecutor the public interest of the State will be promoted by so doing, the Attorney General or county prosecutor, with notice to the Attorney General, may supersede a municipal prosecutor by prosecuting any offense against the laws of this State within the jurisdiction of a municipal court, or by intervening in any prosecution before a municipal court.

C.2B:25-8 Reimbursement to Attorney General, county prosecutor.

8. Whenever the Attorney General or county prosecutor shall prosecute in a municipal court of this State pursuant to section 6 of this act, the Attorney General or county prosecutor shall, upon demand, be promptly reimbursed by the county, municipality or municipalities for costs, including the compensation of any assistants or deputies attorney general or assistant prosecutors.

C.2B:25-9 Removal from office, procedure.

9. In addition to any of the other means provided by law for the removal from office of a public official, a municipal prosecutor may be

removed by the governing body of a county or municipality, or as provided by the agreement entered into between two or more municipalities participating in a joint municipal court, for good cause shown and after a public hearing, and upon due notice and an opportunity to be heard.

C.2B:25-10 Training programs, certification.

10. The Attorney General in consultation with the county and municipal prosecutors may develop curricula for training programs for all municipal prosecutors. Participation in such training programs shall be voluntary. An attorney successfully completing a training program shall receive such certification or recognition as deemed appropriate by the Attorney General.

11. Section 14 of P.L.1996, c.95 (C.2B:12-27) is amended to read as follows:

C.2B:12-27 Employment of prosecutor by county, municipality.

14. The governing body of the county or municipality may employ an attorney-at-law as a prosecutor, under the supervision of the Attorney General or county prosecutor, who may represent the State, county or municipality in any matter within the jurisdiction of the central municipal court or any other municipal court in accordance with the provisions of P.L.1999, c.349 (C.2B:25-1 et al.).

12. This act shall take effect 90 days after enactment.

Approved January 14, 2000.

CHAPTER 350

AN ACT concerning the transportation of nonpublic school students and supplementing Title 18A of the New Jersey Statutes.

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

C.18A:39-1.6 Transportation of nonpublic school students, remote, certain.

1. Notwithstanding any provision of N.J.S.18A:39-1 to the contrary, if a school district provides transportation to and from school to a school pupil who resides remote from school and attends a nonpublic school located within the State not more than 20 miles from the residence of the pupil, the school district shall provide transportation, when seats are available on existing routes, or an in-lieu-of payment to all nonpublic school

pupils who reside within the municipality of that pupil, attend that school, and reside more than 20 miles from that school. The school district may require all nonpublic school pupils in the municipality to use the bus stops which serve the pupils whose residences are not more than 20 miles from the nonpublic school. Any cost incurred by a school district in providing transportation or an in-lieu-of payment to a pupil who is eligible for the transportation or an in-lieu-of payment under the provisions of this act shall not exceed the maximum cost per pupil established pursuant to section 2 of P.L.1981, c.57 (C.18A:39-1a), and shall be paid by the State.

2. This act shall take effect immediately and first apply to the 1999-00 school year.

Approved January 14, 2000.

CHAPTER 351

AN ACT concerning the powers and duties of county fire marshals, amending N.J.S.40A:14-2, supplementing chapter 14 of Title 40A of the New Jersey Statutes and repealing N.J.S.40A:14-4 and N.J.S.40A:14-5.

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

1. N.J.S.40A:14-2 is amended to read as follows:

County fire marshal; powers and duties.

40A:14-2. County Fire Marshal; powers and duties.

The county fire marshal shall: act in an advisory capacity to all of the fire companies in the county, conduct or assist in, when requested by the incident commander or fire chief of the department having jurisdiction, investigations pertaining to the cause and origins of fires, conduct or review studies pertaining to the elimination of fire hazards and, subject to the approval of the board of chosen freeholders, have authority to enforce the provisions of the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.). The county fire marshal shall report to the appropriate authority, as determined by the entity with control over the executive functions of the county. The term "entity with control over the executive functions of the county" means:

a. in counties other than those that have adopted a form of government pursuant to the provisions of P.L.1972, c.154 (C.40:41A-1 et seq.), the board of freeholders, unless such a county has created the position of county administrator pursuant to (N.J.S.40A:9-42), in which case the term means the county administrator;

b. in counties that have adopted a form of government pursuant to the provisions of P.L.1972, c.154 (C.40:41A-1 et seq.), the county executive, the county manager, the county supervisor or the board president, depending upon the county form of government.

The county fire marshal, subject to the approval of the board of chosen freeholders, may:

(1) (Deleted by amendment, P.L.1999, c.351).

(2) (Deleted by amendment, P.L.1999, c.351).

(3 (Deleted by amendment, P.L.1999, c.351).

(4) accept the responsibility to be the enforcing agency for a municipality or fire district under the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.) if requested to do so by ordinance of the municipality or resolution of the fire district;

(5) act as training administrator of county fire training facilities and coordinate training programs with fire departments, agencies and established training committees;

(6) offer assistance to families, units of government and mental health agencies including law enforcement for intervention in juvenile fire setting incidents;

(7) provide for the prevention of fire hazards and initiate programs for public awareness; and

(8) provide municipal fire departments with such assistance as necessary to coordinate, control or extinguish any fire situation or other emergency situation for which a fire department has responsibility by local ordinance when requested by the incident commander or fire chief of the department having jurisdiction.

C.40A:14-1.1 Creation of arson investigation unit.

2. a. The board of freeholders of any county which has created the office of county fire marshal, other than a county in which a county arson investigation unit has been established in the county prosecutor's office, may by ordinance or resolution, as appropriate, create an arson investigation unit within the office of county fire marshal and provide for the maintenance, regulation and control thereof. The arson investigation unit, subject to the approval and supervision of the county prosecutor or, if the Attorney General has exercised jurisdiction in the matter, the Attorney General, shall be responsible for conducting investigations of arson, suspicious fires or

explosions in those municipalities within the county that have not created an arson investigation unit pursuant to the provisions of section 1 of P.L.1981, c.409 (C.40A:14-7.1).

b. Before any county fire marshal or assistant fire marshal shall be assigned to an arson investigation unit, that person shall have successfully completed an appropriate course of training approved by the Police Training Commission and an arson investigation training course approved by the Department of Law and Public Safety.

c. Any county fire marshal or assistant fire marshal who is assigned to an arson investigation unit pursuant to this section shall attend and successfully complete in-service training programs for certified arson investigators as required by the Division of Criminal Justice.

d. Any county fire marshal or assistant fire marshal who is assigned to an arson investigation unit pursuant to this section shall have the same powers and authority of a police officer within the municipality while engaging in the actual performance of arson investigation duties.

Repealer.

3. N.J.S.40A:14-4 and N.J.S.40A:14-5 are hereby repealed.

4. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 352

AN ACT concerning check cashing businesses and the reporting of suspicious transactions, supplementing P.L.1977, c.110 and amending and supplementing P.L.1993, c.383.

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

C.5:12-129.1 Report of suspicious transaction.

1. The holder of any license issued under P.L.1977, c.110 (C.5:12-1 et seq.), or any person acting on behalf thereof, shall file a report of any suspicious transaction with the Director of the Division of Gaming Enforcement. For the purposes of P.L.1999, c.352 (C.5:12-129.1 et al.), "suspicious transaction" means the acceptance of cash or the redeeming of chips or markers involving or aggregating $5,000 if the licensee or person knows or suspects that the transaction:

a. involves funds derived from illegal activities or is intended or conducted in order to conceal or disguise funds or assets derived from illegal activities;

b. is part of a plan to violate or evade any law or regulation or to avoid any transaction reporting requirement under the law or regulations of this State or the United States, including a plan to structure a series of transactions to avoid any transaction reporting requirement under the laws or regulations of this State or the United States; or

c. has no business or other apparent lawful purpose or is not the sort of transaction in which a person would normally be expected to engage and the licensee or person knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

C.5:12-129.2 Failure to file report, sanctions.

2. Any person required by section 1 of P.L.1999, c.352 (C.5:12-129.1) to file a report of a suspicious transaction who knowingly fails to file a report thereof or who knowingly causes any other person having that responsibility to fail to file a report shall be subject to the sanctions set forth in section 129 of P.L.1977, c.110 (C.5:12-129). Nothing herein shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for a violation of section 3 of P.L.1994, c.121 (C.2C:21-25) or any other provision of law.

C.5:12-129.3 Record of reports.

3. The Division of Gaming Enforcement shall maintain a record of all reports made pursuant to P.L.1999, c.352 (C.5:12-129.1 et al.) for a period of five years. The division shall make the reports available to any State or federal law enforcement agency upon written request and without necessity of subpoena.

C.5:12-129.4 Rules, regulations.

4. The Director of the Division of Gaming Enforcement 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 P.L.1999, c.352 (C.5:12-129.1 et al.). The director may determine that compliance with applicable federal reporting requirements, as may be adopted or amended from time to time, satisfies the reporting requirements of this act.

C.5:12-129.5 Notification to person involved in transaction prohibited, fourth degree crime.

5. Any person who is required to file a report of a suspicious transaction pursuant to the provisions of section 1 of P.L.1999, c.352 (C.5:12-129.1) shall not notify a person involved in the transaction that the transaction has been reported.

Any person who violates the provisions of this section shall be guilty of a crime of the fourth degree.

C.5:12-129.6 Immunity from civil liability.

6. Any person who is required to file a report of a suspicious transaction pursuant to the provisions of P.L.1999, c.352 (C.5:12-129.1 et al.) who in good faith makes such a report shall not be liable in any civil action brought by any person for making such a report, regardless of whether the transaction is later determined to be suspicious.

7. Section 15 of P.L.1993, c.383 (C.17:15A-44) is amended to read as follows:

C.17:15A-44 Responsibilities of licensee.

15. A licensee shall:

a. Conspicuously display at each office, limited branch office or mobile office it operates the original license, certificate or branch authorization, as appropriate, issued by the commissioner.

b. Conspicuously display all signs and notifications which the commissioner may require.

c. Provide each customer, at the time of a transaction, with a record of each transaction as specified by regulation.

d. Produce a photographic record, on such equipment as the commissioner may prescribe, of all of the checks cashed at the place of business and maintain a true copy of each such record.

e. Endorse each check cashed with the actual name under which the licensee is doing business and legibly write or stamp the words "Licensed Casher of Checks" immediately after or below the licensee's name.

f. Conduct all check cashing business through a bank account or accounts which are used solely for that purpose, and which have been identified as such to the department.

g. Inform the department if any bank account number changes or if any bank account is closed.

h. Maintain adequate records of its check cashing business as prescribed by the commissioner by regulation.

i. Retain for five years essential records, and retain all other records for a shorter period as prescribed by the commissioner by regulation. Such records shall be separate from the records of other businesses in which the licensee may be engaged. Although separate records are required, it is not required that the licensee's check cashing business have a different legal identity from other businesses in which the licensee is engaged.

j. Suspend for at least six months the check cashing privileges of any customer who cashes, in any one calendar year, more than three checks

which are returned by the payor bank because of insufficient funds, and notify the department in writing of the name of such customer and the action taken, except that for the purposes of this subsection, two or more checks of a single maker which are returned because of insufficient funds shall be counted as one check provided they were cashed the same day and deposited in the licensee's bank account on the same banking day.

k. Maintain at all times a capital or net worth of at least $50,000 for the operation of the licensee's check cashing business at each office and mobile office, and maintain at all times liquid assets of at least $50,000 for the operation of the licensee's check cashing business at each office and mobile office.

l. (1) Maintain on its premises, a record keeping system by which a licensee may track, and provide for inspection at the request of the commissioner, checks which the licensee cashed and which were made payable to a payee other than a natural person and checks which the licensee cashed in the amount of $2,500.00 or more;

(2) The record keeping system required pursuant to paragraph (1) of this subsection l. shall include, but not be limited to, the following information:

(a) the date of the transaction;

(b) the name of the payee;

(c) the federal tax payer identification number of the payee;

(d) the face amount of the check;

(e) the date of the check;

(f) the name or names of those presenting the check for payment;

(g) the name of the financial institution on which the check is drawn and the financial institution's transit routing number;

(h) the amount of the fee charged; and

(i) a photograph, photostat, duplicate or any other reproduction of the front and back of the fully endorsed check.

(3) The record keeping system shall be made available to any State or federal law enforcement agency upon written request and without necessity of subpoena.

m. File with the Attorney General of New Jersey a duplicate copy of any report a licensee is required to file regarding business conducted in this State pursuant to 31 U.S.C.s.5311 et seq. and 31 C.F.R.s.103 et seq.

n. Supervise employees engaged in the operation of the check cashing business to ensure the business is conducted lawfully and pursuant to the provisions of this act and any order, rule or regulation made or issued pursuant to this act.

8. Section 19 of P.L.1993, c.383 (C.17:15A-48) is amended to read as follows:

C.17:15A-48 Revocation, suspension of license.

19. a. Except as provided in subsection c. of this section, the commissioner may revoke or suspend a license if, after notice and hearing, the commissioner determines that the licensee:

(1) Has violated any provision of this act or any order, rule, or regulation made or issued pursuant to this act or has violated any other law in connection with the operation of the check cashing business;

(2) Has failed to pay any fee, penalty, or other lawful levy imposed by the commissioner;

(3) Has withheld information or made a material misstatement in the application for the license, or in any branch application or in any other submission to the department;

(4) Has been convicted of an offense involving breach of trust, moral turpitude or fraudulent or dishonest dealing, or has had a final judgment entered against him in a civil action upon grounds of fraud, misrepresentation or deceit;

(5) Is associating with, or has associated with, any person who has been convicted of an offense involving breach of trust, moral turpitude or fraudulent or dishonest dealing, or who has had a final judgment entered against him in a civil action upon grounds of fraud, misrepresentation or deceit;

(6) Has become insolvent or has acted in a way that indicates the licensee's check cashing business would not be operated in a financially responsible manner;

(7) Has demonstrated unworthiness, incompetence, bad faith or dishonesty in transacting business or otherwise; or

(8) Has engaged in any other conduct which would be deemed by the commissioner to be grounds to deny, revoke or suspend a license.

b. Pending an investigation or a hearing for the suspension or revocation of any license issued pursuant to this act, the commissioner may temporarily suspend such license for a period not to exceed 90 days, if the commissioner finds that such suspension is in the public interest.

c. The commissioner shall revoke a license if, after notice and a hearing, the commissioner determines that the licensee was convicted of a crime pursuant to the provisions of P.L.1994, c.121 (C.2C:21-23 et seq.) or any other crime defined in chapter 20 or chapter 21 of Title 2C of the New Jersey Statutes.

d. A licensee and the probation department shall, not later than 10 days after the entry of a judgment of conviction or the imposition of sentence, whichever first occurs, notify the commissioner of a licensee's conviction of any criminal offense.

e. For the purposes of this section, a conviction exists if the person has been convicted under the laws of this State, the United States or another state for an offense that is substantially similar to the offenses enumerated in this section.

9. Section 20 of P.L.1993, c.383 (C.17:15A-49) is amended to read as follows:

C.17:15A-49 Violations, penalties.

20. a. Any person who knowingly cashes a check for consideration without having first obtained a license as required by section 3 of P.L.1993, c.383 (C.17:15A-32) shall be guilty of an offense. If the face value of the check is in an amount less than $1,000.00 and the actor previously has not been convicted of an offense under this section, the actor shall be guilty of a disorderly persons offense. If the face value of the check is at least $1,000.00 but less than $10,000.00 and the actor previously has not been convicted of an offense under this section, the offense is a crime of the fourth degree. If the actor previously has been convicted of an offense under this section, the actor shall be guilty of a crime of the third degree. If the person conducts a transaction that would be required to be reported pursuant to the laws or regulations of this State had the actor obtained the license required by section 3 of P.L.1993, c.383 (C.17:15A-32), the actor shall be guilty of a crime of the third degree. Notwithstanding the provisions of N.J.S.2C:43-3 and in addition to any other disposition made pursuant to Title 2C of the New Jersey Statutes or any statute imposing sentences for crimes, any person convicted of any offense defined in this section may be sentenced to pay a fine not to exceed $30,000.00. For the purposes of this section, each check cashed for consideration without a license shall constitute a separate violation.

b. (1) In addition to any civil or criminal penalties that may be imposed, any person who cashes a check for consideration without having first obtained a license as required by section 3 of P.L.1993, c.383 (C.17:15A-32) shall be liable for a penalty of not more than $1,000.00 for each violation. For the purposes of this paragraph, each check cashed for consideration without a license shall constitute a separate violation.

(2) Any person who violates or causes to be violated any provision of this act or any order, rule or regulation made or issued pursuant to this act shall be liable for a penalty, in addition to all other penalties or forfeitures imposed by this or any other law, of not more than $5,000 for each violation. Any person who shall aid or abet a violation shall be equally liable for such a penalty as may be imposed upon a principal violator. For the purpose of this paragraph, a violation of any provision of this act or any

order of the commissioner or rule or regulation promulgated by the commissioner pursuant thereto shall constitute a separate violation.

c. The commissioner may issue an order to any licensee who violates any provision of this act or regulation promulgated thereunder, ordering payment of the penalties provided in this act and corrective action concerning the violation. Any person aggrieved by any ruling, action, order, or notice of the commissioner shall be entitled to a hearing. The application for such a hearing shall be filed in writing with the commissioner within 15 days of receipt thereof.

d. Where any violation of any provision of this act is of a continuing nature, each day during which the violation remains uncorrected after the date fixed by the commissioner in any order or notice for the correction or termination of such continuing violation shall constitute a separate and distinct violation, except during the time when an appeal from such an order is being taken.

e. The commissioner is hereby authorized and empowered to compromise and settle any claim for a penalty under this section for an amount that appears appropriate and equitable under the circumstances.

f. The civil penalties provided for in this section, if not paid to the commissioner within 30 days of their issuance, shall be collected in a civil action brought in the name of the commissioner pursuant to the provisions of "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

g. Penalties imposed pursuant to this act shall not diminish the remedies which may be available to complainants through private actions.

10. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 353

AN ACT establishing a "Physician-Dentist Fellowship and Education Program to Provide Health Care to Persons with Developmental Disabilities" and making an appropriation.

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

C.18A:64G-35 "Physician-Dentist Fellowship and Education Program to Provide Health Care to Persons with Developmental Disabilities."

1. There is established a "Physician-Dentist Fellowship and Education Program to Provide Health Care to Persons with Developmental Disabili-

ties" within the University of Medicine and Dentistry of New Jersey. The purpose of the program is to provide physicians and dentists with graduate and fellowship training through academic institutions in the State and continuing medical and dental education on a Statewide basis, in the provision of medical and dental services to persons with developmental disabilities to ensure that these services are accessible and adequately available to persons with developmental disabilities in the State.

C.18A:64G-36 Establishment of consortium to advise director.

2. There is established a 17-member Consortium on Physician and Dentist Training in Health Care for Persons with Developmental Disabilities to advise the director of the program on the implementation of this act.

a. The members of the consortium shall include: one representative each from the pediatric medicine, family medicine, internal medicine, neurology and psychiatry programs at the University of Medicine and Dentistry of New Jersey, one representative from the New Jersey Dental School, and one representative of the University Affiliated Program, to be appointed by the President of the University of Medicine and Dentistry of New Jersey; the director of the Mainstreaming Medical Care program of The Arc of New Jersey, who shall serve ex officio; the Director of the Division of Developmental Disabilities in the Department of Human Services, who shall serve ex officio; the Director of the Division of Medical Assistance and Health Services in the Department of Human Services, who shall serve ex officio; the Commissioner of Health and Senior Services or the commissioner's designee, who shall serve ex officio; three health care provider public members appointed by the Commissioner of Human Services, one each upon the recommendation of the Medical Society of New Jersey, the New Jersey Association of Osteopathic Physicians and Surgeons and the New Jersey Dental Association; and three public members appointed by the Commissioner of Human Services, two of whom shall represent community organizations that advocate for persons with developmental disabilities and one of whom shall be a family member of a person with a developmental disability or a person with a developmental disability who is a self advocate.

The President of the University of Medicine and Dentistry of New Jersey and the Commissioner of Human Services shall make the appointments to the consortium within 60 days of the effective date of this act.

Members of the consortium shall serve for a term of three years and are eligible for reappointment, but of the members first appointed, five shall serve for a term of one year, four for a term of two years and four for a term of three years. Vacancies shall be filled in the same manner as the original appointments were made.

b. Members shall serve without compensation, but the public members shall be entitled to reimbursement for necessary expenses incurred in the performance of their duties and within the limits of funds appropriated to the program.

c. The consortium shall organize as soon as may be practicable after the appointment of its members. The Director of the Division of Developmental Disabilities shall serve as the chairman of the consortium. The members of the consortium shall elect a vice-chairman from among the members. All members, including ex officio members, shall be eligible to vote on all matters before the consortium. The director of the program, appointed pursuant to section 5 of this act, shall serve as secretary to the consortium.

d. The consortium shall assist the director of the program in establishing policies and procedures for the nomination and selection of physicians and dentists as program fellows. The consortium shall otherwise advise the director on the operation of the program as the director deems necessary, and as specified in this act.

C.18A:64G-37 Purpose of program.

3. The program shall:

a. Create training sites in each of the northern, central and southern regions of the State;

b. Establish cooperative agreements with managed care organizations, community health centers and other health care facilities in the State, in which the program participants can provide medical and dental care to persons with developmental disabilities;

c. Establish standards for one to two year fellowships, which shall include clinical, didactic and research components, as appropriate, and provide stipends to the program fellows which are comparable to other post-graduate medical and dental fellowships offered in the State;

d. Establish collaborative, working relationships with Department of Human Services programs for the developmentally disabled, programs that deliver health care services to the disabled community and accredited residency programs in the State to provide training to medical and dental residents in the provision of health care to persons with developmental disabilities; and

e. Ensure the development and provision of continuing medical education and continuing dental education for physicians and dentists, respectively, on a Statewide basis, in the care of persons with developmental disabilities.

C.18A:64G-38 Qualifications for fellowship applicants.

4. A fellowship applicant shall:

a. Be a graduate of a medical school approved by the State Board of Medical Examiners for the purpose of licensure and receive a recommenda-

tion from the school's medical staff concerning participation in the program in the case of a physician, or be a graduate of a dental school approved by the New Jersey State Board of Dentistry for the purpose of licensure and receive a recommendation from the school's dental staff concerning participation in the program in the case of a dentist;

b. In the case of a physician, have completed a professional residency training program and have received a recommendation from the medical staff of the residency training program concerning participation in the program established pursuant to this act; and

c. Agree to provide medical or dental care to persons with developmental disabilities, as appropriate, in the State following completion of the fellowship for a time period equal to the length of the applicant's fellowship training.

C.18A:64G-39 Appointment of director.

5. The President of the University of Medicine and Dentistry of New Jersey shall, in consultation with the consortium, appoint a director for the program who shall be a State licensed physician. The director of the program need not be solely responsible for the program and may continue to have other duties. The director may, in consultation with the consortium, appoint regional chairmen or chairmen of medical or dental practice specialties, as the director deems necessary for the operation of the program.

C.18A:64G-40 Annual report to legislative committees.

6. The Commissioner of Human Services, in consultation with the consortium and the director of the program, shall report one year after the effective date of this act, and annually thereafter, to the Senate and General Assembly standing reference committees on health on the status of the program. The report shall include information about the design of the program, the number of medical and dental participants in the fellowship, residency training and continuing education components of the program, respectively, the fellowship participants' training locations and their practice specialties, and follow-up information about where the fellowship participants have chosen to practice after completion of their fellowship.

7. There is appropriated $2,500,000 to the Department of Human Services from the General Fund for the "Physician-Dentist Fellowship and Education Program to Provide Health Care to Persons with Developmental Disabilities" at the University of Medicine and Dentistry of New Jersey for costs associated with the program, which costs shall include, but not be limited to, the fellowships awarded to medical and dental participants, program administrative costs, faculty salaries, educational costs for the didactic component and support for resource units which assist with educational activities and clinical training. The consortium shall recom-

mend to the Commissioner of Human Services appropriate amounts to be allocated to the fellowship program; to residency training programs; and to continuing medical and dental education programs. The Commissioner of Human Services shall determine the final allocated amounts.

8. This act shall take effect on the 60th day after enactment.

Approved January 14, 2000.

CHAPTER 354

AN ACT concerning special 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.39:3-27.107 Deborah Heart and Lung Center license plates.

1. The Director of the Division of Motor Vehicles shall, upon proper application therefor, issue Deborah Heart and Lung Center license plates for any motor vehicle owned or leased and registered in the State. In addition to the registration number and other markings prescribed by law, a Deborah Heart and Lung Center license plate shall display words or a slogan and an emblem indicating support for, or interest in, the Deborah Heart and Lung Center. The license plate shall be designed by the director, in consultation with the Deborah Hospital Foundation's Board of Directors. Issuance of the Deborah Heart and Lung Center license plates in accordance with this section shall be subject to the provisions of chapter 3 of Title 39 of the Revised Statutes, except as hereinafter otherwise specifically provided.

C.39:3-27.108 Application, renewal; fee.

2. An application for issuance of a Deborah Heart and Lung Center license plate shall be accompanied by a fee of $50, in addition to the fees otherwise required by law for the registration of the motor vehicle. An application for the renewal of the plates shall be accompanied by an additional fee of $10. The additional application and renewal fees shall be deposited in the Deborah Hospital Foundation Fund created pursuant to section 3 of this act.

C.39:3-27.109 "Deborah Hospital Foundation Fund."

3. a. There is created in the Department of the Treasury a non-lapsing, interest-bearing fund to be known as the "Deborah Hospital Foundation

Fund." There shall be deposited in the fund the amount collected from the application and renewal fees collected pursuant to section 2 of this act, after reimbursement of the division for its actual costs in administering this act, and the amount remaining from the monies contributed by the Deborah Heart and Lung Center pursuant to section 4 of this act.

b. Monies deposited in the fund shall be used by the Deborah Hospital Foundation to fund programs and services for persons served by the Deborah Heart and Lung Center in New Jersey. Monies 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 monies deposited into the fund, and any monies 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. Monies in the Deborah Hospital Foundation Fund shall be withdrawn by the State Treasurer and disbursed to the Deborah Hospital Foundation in Browns Mills, New Jersey, upon request of the foundation pursuant to a voucher system to be established by the State Treasurer. The foundation shall indicate on each voucher request the purpose to which the monies disbursed shall be applied.

d. The State Treasurer shall provide an annual report to the Deborah Hospital Foundation on the status of the funds, and the foundation shall provide an annual report to the State Treasurer documenting expenditures by the center of monies from the fund.

C.39:3-27.110 Contribution to offset initial costs.

4. The Deborah Heart and Lung Center shall contribute monies in an amount to be determined by the director, not to exceed $50,000, to be used to offset the initial costs incurred by the division pursuant to section 5 of this act. Any amount remaining after the payment of the initial costs shall be deposited in the "Deborah Hospital Foundation Fund," created pursuant to section 3 of this act.

C.39:3-27.111 Reimbursement for costs incurred.

5. a. Prior to the deposit of the fees collected pursuant to section 2 of this act into the Deborah Hospital Foundation Fund, such amounts thereof as are necessary shall first be used to reimburse the Deborah Heart and Lung Center, up to the amount contributed by the center pursuant to section 4 of this act, and then to reimburse the division for all costs reasonably and actually incurred, as stipulated by the director, for:

(1) producing, issuing, renewing, and publicizing the availability of Deborah Heart and Lung Center license plates; and

(2) any initial computer programming fees that may be necessary to implement the Deborah Heart and Lung Center 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 Deborah Heart and Lung Center license plates.

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 2 of this act in two consecutive fiscal years, the director may discontinue the issuance of Deborah Heart and Lung Center license plates.

C.39:3-27.112 Notification to eligible motorists.

6. The director shall notify eligible motorists of the opportunity to obtain Deborah Heart and Lung Center 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. The notices, posters, and signs shall be designed by the director after consultation with the Deborah Hospital Foundation's Board of Directors.

C.39:3-27.113 Memorandum of agreement.

7. The director and the Trustees of the Deborah Heart and Lung Center shall enter into a memorandum of agreement setting forth the procedures to be followed by the division and the trustees in carrying out the provisions of this act.

8. This act shall take effect on the 180th day after enactment, but the State Treasurer, the Director of the Division of Motor Vehicles and the Deborah Hospital Foundation may take such anticipatory acts in advance of that date as may be necessary for the timely implementation of this act.

Approved January 14, 2000.

CHAPTER 355

AN ACT making permanent the Vietnam Veterans' Memorial fund contribution gross income tax return checkoff, amending P.L.1994, c.139.

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

1. Section 1 of P.L.1994, c.139 (C.54A:9-25.6) is amended to read as follows:

C.54A:9-25.6 Contribution to Vietnam Veterans' Memorial Fund; indication on income tax return.

1. Each taxpayer shall have the opportunity to indicate on the taxpayer's New Jersey gross income tax return that a portion of the taxpayer's tax refund or an enclosed contribution shall be deposited in the Vietnam Veterans' Memorial Fund established pursuant to section 4 of P.L.1985, c.494 (C.52:18A-208). 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 to contribute to the fund in substantially the following way:

"Vietnam Veterans' Memorial Fund: I wish to contribute $10 □, $20 □, 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 Vietnam Veterans' Memorial Fund.

2. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2000.

Approved January 14, 2000.

CHAPTER 356

AN ACT concerning limousine service and revising parts of the statutory law.

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

1. R.S.33:1-1 is amended to read as follows:

Definitions.

33:1-1. For the purpose of this chapter, the following words and terms shall be deemed to have the meanings herein given to them:

a. "Alcohol." Ethyl alcohol, hydrated oxide of ethyl or neutral spirits from whatever source or by whatever process produced.

b. "Alcoholic beverage." Any fluid or solid capable of being converted into a fluid, suitable for human consumption, and having an alcohol content of more than one-half of one per centum (1/2 of 1%) by volume, including alcohol, beer, lager beer, ale, porter, naturally fermented wine, treated wine, blended wine, fortified wine, sparkling wine, distilled liquors, blended distilled liquors and any brewed, fermented or distilled liquors fit for use for beverage purposes or any mixture of the same, and fruit juices.

c. "Building." A structure of which licensed premises are or may be a part, including all rooms, cellars, outbuildings, passageways, closets, vaults, yards, attics, and every part of the structure of which the licensed premises are a part, and of any other structure to which there is a common means of access, and any other appurtenances.

d. "Commissioner." The Director of the Division of Alcoholic Beverage Control.

e. "Container." Any glass, can, bottle, vessel or receptacle of any material whatsoever used for holding alcoholic beverages, which container is covered, corked or sealed in any manner whatsoever.

f. "Eligible." The status of a person who is a citizen of the United States, a resident of this State, of good moral character and repute, and of legal age.

g. "Governing board or body." The board or body which governs a municipality, including a board of aldermen in municipalities so governed; but in every municipality having a board of public works which exercises general licensing powers such board shall be considered as the governing board or body.

h. "Importing." The act of bringing or causing to be brought any alcoholic beverage into this State.

i. "Illicit beverage." Any alcoholic beverage manufactured, distributed, bought, sold, bottled, rectified, blended, treated, fortified, mixed, processed, warehoused, possessed or transported in violation of this chapter, or on which any federal tax or tax imposed by the laws of this State has not been paid; and any alcoholic beverage possessed, kept, stored, owned or imported with intent to manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse or transport in violation of the provisions of this chapter.

j. "Licensed building." Any building containing licensed premises.

k. "Licensed premises." Any premises for which a license under this chapter is in force and effect.

l. "Magistrate." The Superior Court or municipal court.

m. "Manufacturer." Any person who, directly or indirectly, personally or through any agency whatsoever, engages in the making or other processing whatsoever of alcoholic beverages.

n. "Municipality." Any city, town, township, village, or borough, including a municipality governed by a board of commissioners or improvement commission, but excluding a county.

o. "Municipal board." The municipal board of alcoholic beverage control as established by this chapter.

p. "Officer." Any sheriff, deputy sheriff, constable, police officer, member of the Division of State Police, or any other person having the power to execute a warrant for arrest, or any inspector or investigator of the Division of Alcoholic Beverage Control.

q. "Original container." Any container in which an alcoholic beverage has been delivered to a retail licensee.

r. "Person." Any natural person or association of natural persons, association, trust company, partnership, corporation, organization, or the manager, agent, servant, officer, or employee of any of them.

s. "Premises." The physical place at which a licensee is or may be licensed to conduct and carry on the manufacture, distribution or sale of alcoholic beverages, but not including vehicular transportation.

t. "Restaurant." An establishment regularly and principally used for the purpose of providing meals to the public, having an adequate kitchen and dining room equipped for the preparing, cooking and serving of food for its customers and in which no other business, except such as is incidental to such establishment, is conducted.

u. "Retailer." Any person who sells alcoholic beverages to consumers.

v. "Rules and regulations." The rules and regulations established from time to time by the director.

w. "Sale." Every delivery of an alcoholic beverage otherwise than by purely gratuitous title, including deliveries from without this State and deliveries by any person without this State intended for shipment by carrier or otherwise into this State and brought within this State, or the solicitation or acceptance of an order for an alcoholic beverage, and including exchange, barter, traffic in, keeping and exposing for sale, serving with meals, delivering for value, peddling, possessing with intent to sell, and the gratuitous delivery or gift of any alcoholic beverage by any licensee.

x. "Unlawful alcoholic beverage activity." The manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of any alcoholic beverage in violation of this chapter, or the importing, owning, possessing, keeping or storing in this State of alcoholic beverages with intent to manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse or transport alcoholic beverages in violation of this chapter, or the owning, possessing, keeping or storing in this State of any implement or paraphernalia for the manufacture, sale, distribution, bottling, rectifying, blending,

treating, fortifying, mixing, processing, warehousing or transportation of alcoholic beverages with intent to use the same in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of alcoholic beverages in violation of this chapter, or to aid or abet another in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of alcoholic beverages in violation of this chapter, or the aiding or abetting of another in any of the foregoing activities.

y. "Unlawful property." All illicit beverages and all implements, vehicles, vessels, airplanes, and paraphernalia for the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages used in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages or owned, possessed, kept or stored with intent to use the same in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages, whether such use be by the person owning, possessing, keeping, or storing the same, or by another with the consent of such person; and all alcoholic beverages, fixtures and personal property located in or upon any premises, building, yard or inclosure connected with a building, in which an illicit beverage is found, possessed, stored or kept.

z. "Wholesaler." Any person who sells an alcoholic beverage for the purpose of resale either to a licensed wholesaler or to a licensed retailer, or both.

aa. "Limousine." A motor vehicle used in the business of carrying passengers for hire to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route and with a seating capacity in no event of more than 14 passengers, not including the driver, provided, that such a motor vehicle shall not have a seating capacity in excess of four passengers, not including the driver, beyond the maximum passenger seating capacity of the vehicle, not including the driver, at the time of manufacture. This shall not include taxicabs, hotel or airport shuttles and buses, or buses employed solely in transporting schoolchildren or teachers to and from school, or vehicles owned and operated without charge or remuneration by a business entity for its own purposes.

bb. "Entertainment facility" is a privately-owned facility in which athletic, commercial, cultural, or artistic events are featured.

Any definition herein contained shall apply to the same word in any form. Thus "sell" means to make a "sale" as above defined.

2. Section 1 of P.L.1966, c.113 (C.34:11-56a1) is amended to read as follows:

C.34:11-56a1 Definitions.

1. As used in this act:

(a) "Commissioner" means the Commissioner of Labor.

(b) "Director" means the director in charge of the bureau referred to in section 3 of this act.

(c) "Wage board" means a board created as provided in section 10 of this act.

(d) "Wages" means any moneys due an employee from an employer for services rendered or made available by the employee to the employer as a result of their employment relationship including commissions, bonus and piecework compensation and including any gratuities received by an employee for services rendered for an employer or a customer of an employer and the fair value of any food or lodgings supplied by an employer to an employee. The commissioner may, by regulation, establish the average value of gratuities received by an employee in any occupation and the fair value of food and lodging provided to employees in any occupation which average values shall be acceptable for the purposes of determining compliance with this act in the absence of evidence of the actual value of such items.

(e) "Regular hourly wage" means the amount that an employee is regularly paid for each hour of work as determined by dividing the total hours of work during the week into the employee's total earnings for the week, exclusive of overtime premium pay.

(f) "Employ" includes to suffer or to permit to work.

(g) "Employer" includes any individual, partnership, association, corporation or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

(h) "Employee" includes any individual employed by an employer.

(i) "Occupation" means any occupation, service, trade, business, industry or branch or group of industries or employment or class of employment in which employees are gainfully employed.

(j) "Minimum fair wage order" means a wage order promulgated pursuant to this act.

(k) "Fair wage" means a wage fairly and reasonably commensurate with the value of the service or class of service rendered and sufficient to meet the minimum cost of living necessary for health.

(l) "Oppressive and unreasonable wage" means a wage which is both less than the fair and reasonable value of the service rendered and less than sufficient to meet the minimum cost of living necessary for health.

(m) "Limousine" means a motor vehicle used in the business of carrying passengers for hire to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route and with a seating capacity in no event of more than 14 passengers, not including the driver, provided, that such a motor vehicle shall not have a seating capacity in excess of four passengers, not including the driver, beyond the maximum passenger seating capacity of the vehicle, not including the driver, at the time of manufacture. "Limousine" shall not include taxicabs, hotel or airport shuttles and buses, or buses employed solely in transporting school children or teachers to and from school, or vehicles owned and operated without charge or remuneration by a business entity for its own purposes.

3. R.S.48:16-13 is amended to read as follows:

Definitions.

48:16-13. Except as provided in section 2 of P.L.1997, c.356 (C.48:16-13.1), as used in this article:

"Autocab" means a limousine.

"Limousine" means and includes any automobile or motor car used in the business of carrying passengers for hire to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route and with a seating capacity in no event of more than 14 passengers, not including the driver, provided, that such a vehicle shall not have a seating capacity in excess of four passengers, not including the driver, beyond the maximum passenger seating capacity of the vehicle, not including the driver, at the time of manufacture. Nothing in this article contained shall be construed to include taxicabs, hotel buses or buses employed solely in transporting school children or teachers or autobuses which are subject to the jurisdiction of the Department of Transportation, or interstate autobuses required by federal or State law or regulations of the Department of Transportation to carry insurance against loss from liability imposed by law on account of bodily injury or death.

"Limousine or livery service" means and includes the business of carrying passengers for hire by limousines.

"Person" means and includes any individual, copartnership, association, corporation or joint stock company, their lessees, trustees or receivers appointed by any court whatsoever.

"Street" means and includes any street, avenue, park, parkway, highway, or other public place.

4. Section 2 of P.L.1997, c.356 (C.48:16-13.1) is amended to read as follows:

C.48:16-13.1 Limousine defined; county, certain.

2. In a county of the first class with a population density of over 10,000 persons per square mile, according to the latest federal decennial census, "limousine" means and includes any automobile or motor car which is issued special registration plates bearing the word "limousine" pursuant to section 12 of P.L.1979, c.224 (C.39:3-19.5) and is engaged in the business of carrying passengers for hire to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route and with a seating capacity in no event of more than 14 passengers, not including the driver, provided, that such a motor vehicle shall not have a seating capacity in excess of four passengers, not including the driver, beyond the maximum passenger seating capacity of the vehicle, not including the driver, at the time of manufacture.

5. R.S.48:16-14 is amended to read as follows:

Insurance policy on limousine.

48:16-14. No limousine shall be operated wholly or partly along any street in any municipality until the owner of the limousine shall have filed with the clerk of the municipality in which the owner has his principal place of business, an insurance policy of a company duly licensed to transact business under the insurance laws of this State in the sum of $1,500,000 against loss by reason of the liability imposed by law upon every limousine owner for damages on account of bodily injury or death suffered by any person as the result of an accident occurring by reason of the ownership, maintenance or use of the limousine upon any public street.

Such operation shall be permitted only so long as the insurance policy shall remain in force to the full and collectible amount of $1,500,000.

The insurance policy shall provide for the payment of any final judgment recovered by any person on account of the ownership, maintenance and use of such limousine or any fault in respect thereto, and shall be for the benefit of every person suffering loss, damage or injury as aforesaid.

6. R.S.48:16-16 is amended to read as follows:

Power of attorney executed by owner of limousine.

48:16-16. The owner of the limousine shall execute and deliver to the Division of Motor Vehicles, concurrently with the filing of a policy referred to in R.S.48:16-14, a power of attorney, wherein and whereby the owner shall appoint the Director of the Division of Motor Vehicles his true and

lawful attorney for the purpose of acknowledging service of any process out of a court of competent jurisdiction to be served against the insured by virtue of the indemnity granted under the insurance policy filed.

7. R.S.48:16-17 is amended to read as follows:

Issuance of license to operate limousine; fee.

48:16-17. The clerk of the municipality, in which the owner has his principal place of business, upon the filing of the required insurance policy and the payment of a fee which shall not exceed $50, shall issue in duplicate a license to operate showing that the owner of the limousine has complied with the terms and provisions of this article.

The license shall recite the name of the insurance company, the number and date of expiration of the policy, a description of every limousine insured thereunder, and the registration number of the same.

The duplicate license shall be filed with the Division of Motor Vehicles before any such car is registered as a limousine.

The original license shall be retained within the limousine and shall be available for inspection by any police officer in the State. In lieu of the recital of insurance information required on the license pursuant to this section, the owner of a limousine may affix to the original license retained within the limousine a notarized letter from an insurance company containing the same insurance information required in the recital, which shall constitute proof of insurance coverage, and which shall also be available for inspection by any police officer in the State. A copy of the notarized letter shall constitute proof to the Director of the Division of Motor Vehicles, that the applicant has complied with the insurance provisions of this section.

8. R.S.48:16-18 is amended to read as follows:

Insurance policy filed where owner has principal place of business.

48:16-18. Where a limousine service operates in more than one municipality, the insurance policy required by R.S.48:16-14 shall be filed with the clerk of the municipality in which the owner has his principal place of business.

9. R.S.48:16-21 is amended to read as follows:

Compliance with other laws.

48:16-21. Nothing in this article contained shall exempt any person owning or operating any limousine service from complying with the law

relating to the ownership, registration and operation of automobiles in this State.

10. R.S.48:16-22 is amended to read as follows:

License required to operate limousine.

48:16-22. No person shall operate a limousine service in any street in this State without a license to operate issued by a municipality in which the owner has his principal place of business and without otherwise complying with the provisions of this article.

C.48:16-22.1 Requirements for operation of limousine.

11. No limousine shall be operated on the highways of this State unless it has a license issued pursuant to R.S.48:16-17 and the limousine is equipped, in accordance with minimum standards established by the Director of the Division of Motor Vehicles in the Department of Transportation, with:

a. a two-way communications system, which, at a minimum, shall provide for communication to a person outside the vehicle for a distance of not less than 100 miles and which requirement may be satisfied by a mobile telephone;

b. a removable first-aid kit and an operable fire extinguisher, which shall be placed in an accessible place within the vehicle;

c. sideboards attached to the permanent body construction of the vehicle if the height of the vehicle floor is 10 inches or more above ground level.

C.48:16-22.2 General examination of condition of limousine.

12. a. Prior to any operation of a limousine on the highways of this State for the purpose of picking up passengers, the driver of the limousine shall conduct a general examination of the condition of the vehicle to ascertain its fitness to operate, which shall include, at a minimum, an examination of the tires, windshield wipers, horn, condition of the front and rear windshield and side windows, front and rear lights, fluid levels and brakes, as well as the condition of the two-way communications system. The completion of a check list by the driver containing, at a minimum, the items enumerated in this subsection and the date and time of the examination, and supplied by the owner of the limousine service, shall constitute proof of compliance with this subsection. Nothing in this subsection shall be construed as requiring more than the general examination to be conducted prior to the commencement of operation in any one day.

b. In a calendar year in which a limousine is not required to undergo an inspection as required pursuant to R.S.39:8-1, the owner of the limousine service shall cause to be conducted, by a person qualified to do so, an examination of the mechanical and operating condition of the limousine, including at a minimum, the condition of the brakes, the exhaust system,

condition of the tires, functioning of front and rear lights, and operation of fan belts and other belts in the engine of the vehicle. The person conducting the examination shall issue a report thereof to the owner who shall retain the report of the examination until the time of the next inspection required pursuant to R.S.39:8-1. The report shall be subject to inspection by the Division of Motor Vehicles.

C.48:16-22.3 Limousine service owner, one license, etc. required.

13. Neither the State nor any political subdivision of the State shall enact, adopt or enforce any ordinance, resolution, rule, regulation, order, standard or other provision having the force and effect of law that would require a person lawfully engaged in limousine service on an intra-State basis between or among political subdivisions within the State to obtain a license, permit, certificate or other form of authority from any political subdivision of the State other than that political subdivision in which the owner of the limousine service maintains his principal place of business.

C.48:16-22.4 Proof of insurance for out-of-State limousine.

14. Notwithstanding the provisions of this act to the contrary, no limousine registered in another state or the District of Columbia shall conduct wholly intra-State operations on the highways of this State unless the owner of the limousine has proof of insurance in the amount of $1,500,000 as provided in R.S.48:16-14 for limousines registered in this State, and is licensed pursuant to R.S.48:16-17 in a municipality in which it has a business address.

C.48:16-22.5 Construction of act in regard to taxis, limousine fares.

15. Nothing in this act shall be construed in any way as altering the authority of municipalities to regulate taxis, nor as giving the State or any political subdivision thereof the authority to set or regulate limousine fares or tariffs.

C.48:16-22.6 Construction of act in regard to filing complaint for consumer fraud.

16. Nothing in this act shall be construed as preventing the filing of a complaint concerning limousine service with the Division of Consumer Affairs in the Department of Law and Public Safety with regard to a violation of the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.).

C.48:16-22.7 State Limousine Advisory Committee.

17. There is created in the Department of Transportation a State Limousine Advisory Committee consisting of six members appointed by the Commissioner of Transportation, three upon recommendation of the New Jersey Limousine Association and three upon recommendation of the South Jersey Limousine Association; the Director of the Division of Motor Vehicles or the director's designee who shall serve ex officio, the Director

of the Division of Consumer Affairs in the Department of Law and Public Safety or the director's designee who shall serve ex officio; and such additional public members or representatives of limousine services as the Director of the Division of Motor Vehicles or the director of the Division of Consumer Affairs may designate. The membership of the committee shall include at least one owner of a limousine service having 15 or more vehicles, at least one owner of a limousine service having no less than seven nor more than 14 vehicles, and at least one owner of a limousine service having six or fewer vehicles. The non-ex officio members shall serve at the pleasure of the appointing authority. The Director of the Division of Motor Vehicles shall serve as the chairman of the committee. The duty of the committee shall be to advise the Department of Transportation regarding policies, regulations and standards as may be necessary or desirable to promote the public safety and convenience in respect to limousine service. The committee shall meet at least twice during each year and all meetings shall be open to members of the public.

C.39:5G-1 Penalties for violations of limousine laws; enforcement.

18. A person who shall own and operate a limousine in any street in this State in violation of the provisions of article 2 of chapter 16 of Title 48 of the Revised Statutes or of Title 39 of the Revised Statutes shall be subject to the following penalties:

a. (1) For operating a limousine without a license issued by a municipality pursuant to R.S.48:16-17, operating a limousine without authority to operate a limousine in interstate service granted by the Federal Highway Administration, or the Interstate Commerce Commission, as provided in section 14 of P.L.1999, c.356 (C.48:16-22.4), knowingly permitting a driver to operate a limousine without a validly issued driver's license or a validly issued commercial driver license if required pursuant to N.J.A.C. 13:21-23.1, failure to have filed an insurance policy in the amount of $1,500,000 which is currently in force as provided in R.S.48:16-14 or required pursuant to section 14 of P.L.1999, c.356 (C.48:16-22.4), operating a limousine in which the number of passengers exceeds the maximum seating capacity as provided in R.S.48:16-13 or section 2 of P.L.1997, c.356 (C.48:16-13.1): a fine of $2,500 for the first offense and a fine of $5000 for the second or subsequent offense;

(2) For operating a limousine without the special registration plates required pursuant to section 12 of P.L.1979, c.224 (C.39:3-19.5), or operating a limousine without the limousine being properly inspected as provided in R.S.39:8-1: a fine of $1,250 for the first offense and a fine of $2,500 for the second or subsequent offense;

(3) For operating a limousine without the attached sideboards required by section 11 of P.L.1999, c.356 (C.48:16-22.1), failure to retain within the limousine appropriate proof of insurance or failure to execute and deliver to the Director of the Division of Motor Vehicles the power of attorney required pursuant to R.S. 48:16-16: a fine of $250 for the first offense and $500 for the second and subsequent offense;

(4) For failure to be equipped with a two-way communications system, a removable first-aid kit or an operable fire extinguisher as required by section 11 of P.L.1999, c.356 (C.48:16-22.1), or any other violation of the provisions of article 2 of chapter 16 of Title 48 of the Revised Statutes other than those enumerated in this subsection: a fine of $50 for the first offense and $100 for the second and subsequent offense.

b. Violations of this section shall be enforced and penalties collected in a summary proceeding pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court or any municipal court where the violation was detected, or where the defendant was apprehended, shall have jurisdiction to enforce this section. Penalties imposed pursuant to this section shall be in addition to those otherwise imposed according to law. All penalties collected pursuant to the provisions of this section shall be forwarded as provided in R.S.39:5-40 and subsection b. of R.S.39:5-41.

19. Section 12 of P.L.1979, c.224 (C.39:3-19.5) is amended to read as follows:

C.39:3-19.5 Special registration plates for limousines.

12. a. Upon the application of any person who owns a limousine service, the Director of the Division of Motor Vehicles shall issue special registration plates bearing the word "limousine" in addition to the registration number and other markings or identification otherwise prescribed by law.

b. The special registration plates authorized by this act shall be issued upon proof, satisfactory to the director, that the applicant has complied with the provisions of article 2 of chapter 16 of Title 48 of the Revised Statutes.

c. The fee for such special registration plates shall be $10.00 in addition to the fees otherwise prescribed by law for the registration of such motor vehicles.

20. Section 1 of P.L.1983, c.307 (C.39:4-51a) is amended to read as follows:

C.39:4-51a No consumption of alcoholic beverages in motor vehicles; presumption; penalties.

1. a. A person shall not consume an alcoholic beverage while operating a motor vehicle. A passenger in a motor vehicle shall not consume an

alcoholic beverage while the motor vehicle is being operated. This subsection shall not apply to a passenger of a charter or special bus operated as defined under R.S.48:4-1 or a limousine service.

b. A person shall be presumed to have consumed an alcoholic beverage in violation of this section if an unsealed container of an alcoholic beverage is located in the passenger compartment of the motor vehicle, the contents of the alcoholic beverage have been partially consumed and the physical appearance or conduct of the operator of the motor vehicle or a passenger may be associated with the consumption of an alcoholic beverage. For the purposes of this section, the term "unsealed" shall mean a container with its original seal broken or a container such as a glass or cup.

c. For the first offense, a person convicted of violating this section shall be fined $200.00 and shall be informed by the court of the penalties for a second or subsequent violation of this section. For a second or subsequent offense, a person convicted of violating this section shall be fined $250.00 or shall be ordered by the court to perform community service for a period of 10 days in such form and on such terms as the court shall deem appropriate under the circumstances.

Repealer.

21. R.S.48:16-19 through R.S.48:16-20 are repealed.

22. This act shall take effect on the 90th day following enactment, except that section 19 shall take effect on March 1st next following 180 days after enactment, but the Commissioner of Transportation may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved January 14, 2000.

CHAPTER 357

AN ACT concerning cooperatives and amending P.L.1968, c.49.

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

1. Section 6 of P.L.1968, c.49 (C.46:15-10) is amended to read as follows:

C.46:15-10 Exemptions from realty transfer fee.

6. The fee imposed by this act shall not apply to a deed:

(a) For a consideration, as defined in section 1(c), of less than $100.00;

(b) By or to the United States of America, this State, or any instrumentality, agency, or subdivision thereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) On a sale for delinquent taxes or assessments;

(f) On partition;

(g) By a receiver, trustee in bankruptcy or liquidation, or assignee for the benefit of creditors;

(h) Eligible to be recorded as an "ancient deed" pursuant to R.S.46:16-7;

(i) Acknowledged or proved on or before July 3, 1968;

(j) Between husband and wife, or parent and child;

(k) Conveying a cemetery lot or plot;

(l) In specific performance of a final judgment;

(m) Releasing a right of reversion;

(n) Previously recorded in another county and full realty transfer fee paid or accounted for, as evidenced by written instrument, attested by the grantee and acknowledged by the county recording officer of the county of such prior recording, specifying the county, book, page, date of prior recording, and amount of realty transfer fee previously paid;

(o) By an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this State;

(p) Recorded within 90 days following the entry of a divorce decree which dissolves the marriage between the grantor and grantee;

(q) Issued by a cooperative corporation, as part of a conversion of all of the assets of the cooperative corporation into a condominium, to a shareholder upon the surrender by the shareholder of all of the shareholder's stock in the cooperative corporation and the proprietary lease entitling the shareholder to exclusive occupancy of a portion of the property owned by the corporation.

2. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 358

AN ACT concerning criminal history background checks and supplementing Title 30 of the Revised Statutes.

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

C.30:6D-63 Definitions relative to criminal history background checks for community agency employees.

1. As used in this act:

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

b. "Community agency employee" means any individual 18 years of age or older who is employed by a public or private agency under contract with the department to provide services to department clients who have developmental disabilities and includes all personnel working or residing at an agency who may come into direct contact with clients.

c. "Community agency head" means the person responsible for the overall operation of the agency under contract with the department.

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

C.30:6D-64 Contract with community agency.

2. a. The department shall not contract with any community agency for the provision of services unless it has first been determined, consistent with the requirement and standards of this act, that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which would disqualify the community agency head or the community agency employees from such employment. The determination shall be made by the commissioner with regard to the agency head and the determination shall be made by the agency head with regard to all agency employees.

b. An individual shall be disqualified from employment under this act if that individual's criminal history record check reveals a record of conviction of any of the following crimes and offenses:

(1) In New Jersey, any crime or disorderly persons offense:

(a) Involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.; or

(b) Against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et seq.; or

(c) A crime or offense involving the manufacture, transportation, sale, possession, or habitual use of a controlled dangerous substance as defined in the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.).

(2) In any other state or jurisdiction, of conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in paragraph (1) of this subsection.

c. If a prospective employee refuses to consent to, or cooperate in, securing of a criminal history record background check, the person shall not be considered for employment.

d. If a current employee refuses to consent to, or cooperate in, the securing of a criminal history record background check, the person shall be immediately removed from his position and the person's employment shall be terminated.

e. Notwithstanding the provisions of subsection b. of this section to the contrary, provisional employment of an individual is authorized for a period not to exceed six months if that individual's State Bureau of Identification criminal history record background check does not contain any information that would disqualify the individual from such employment and if the individual submits to the appointing authority a sworn statement attesting that the individual has not been convicted of any crime or disorderly persons offense as described in this act, pending a determination that no criminal history record background information which would disqualify the individual exists on file in the Federal Bureau of Investigation, Identification Division. An individual who is provisionally employed pursuant to this subsection shall perform his duties under the direct supervision of a superior who acts in a supervisory capacity over that individual until the determination concerning the federal information is complete, where possible.

C.30:6D-65 Authorization to exchange data.

3. The commissioner is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required by this act. No criminal history record check shall be performed pursuant to this act unless the applicant or employee shall have furnished his written consent to the check. All applicants or current employees shall have their fingerprints taken on standard fingerprint cards by a State or municipal law enforcement agency or a personnel unit of the department.

C.30:6D-66 Written notice to applicant, employee of record information.

4. Upon receipt of the criminal history record information from the Federal Bureau of Investigation and the Division of State Police, written notice shall be provided to the applicant or employee as follows:

a. In the case of a community agency head, the commissioner shall notify the person in writing of his qualification or disqualification for employment under this act; and

b. In the case of a community agency applicant or employee, the community agency head shall notify the person of his qualification or disqualification for employment under this act. If the applicant or employee is disqualified, the conviction or convictions which constitute the basis for the disqualification shall be identified in the written notice.

C.30:6D-67 Petition for hearing.

5. The applicant or employee shall have 30 days from the date of receipt of the written notice of disqualification to petition for a hearing on the accuracy of the criminal history record information. In the case of a community agency head, the petition shall be to the commissioner and the commissioner shall make the determination. The commissioner may refer any case arising hereunder to the Office of Administrative Law for administrative proceedings pursuant to P.L.1978, c.67 (C.52:14F-1 et seq.). In the case of a community agency applicant or employee, the petition shall be to the agency head and the community agency head shall make the determination. The agency head shall provide notice that further appeal is to the New Jersey Superior Court.

C.30:6D-68 Maintenance of information.

6. The commissioner shall maintain all criminal history record information submitted under this act in accordance with rules and regulations which the commissioner shall adopt to implement the provisions of this act.

C.30:6D-69 Initiation of background check.

7. In accordance with this act, the commissioner and community agency heads shall initiate a criminal history record background check on all applicants and current employees.

C.30:6D-70 Report to Governor, Legislature.

8. The commissioner shall report to the Governor and the Legislature no later than three years from the effective date of this act on the effectiveness of the criminal history record background checks in screening out prospective or current community agency heads and agency employees who have criminal history records which render them unfit for employment. The commissioner shall include in the report any recommendations for modifying the provisions of this act.

C.30:6D-71 Rules, regulations.

9. In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall adopt rules and regulations necessary to implement the provisions of this act.

C.30:6D-72 Assumption of cost of background checks.

10. The Department of Human Services shall assume the cost of all criminal history record background checks required pursuant to the provisions of this act.

11. Section 7 of this act shall take effect immediately and the remainder of this act shall take effect on the 120th day after enactment.

Approved January 14, 2000.

CHAPTER 359

AN ACT concerning the State Police and supplementing chapter 1 of Title 53 of the Revised Statutes.

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

C.53:1-30 Provision of means for defense, reimbursement, exceptions.

1. Whenever a member or officer of the Division of State Police is a defendant in an action or legal proceeding arising out of and directly related to the lawful exercise of police powers in the furtherance of official duties, the Attorney General shall provide that member or officer with necessary means for the defense of the action or proceeding, but not for his defense in a disciplinary or criminal proceeding instituted against the member or officer. If a disciplinary or criminal proceeding is dismissed or finally determined in favor of the member or officer, the member or officer shall be reimbursed for the reasonable expenses of his defense. Nothing in this section shall be construed to limit the Attorney General's authority under section 3 of P.L.1972, c.48 (C.59:10A-3) to provide for the defense of a member or officer of the Division of State Police in any action or legal proceeding, if the Attorney General concludes that such representation is in the best interest of the State.

C.53:1-31 Reinstatement, recovery of pay under certain circumstances.

2. Whenever a member or officer of the Division of State Police is charged under the laws of this State, another state, or the United States, and has been suspended without pay as a result of an action or legal proceeding, and is found not guilty at trial, or the charges are dismissed, or the prosecution is terminated, that member or officer shall be reinstated to his position

and shall recover all pay withheld during the period of suspension subject to any disciplinary proceedings or administrative action.

3. This act shall take effect immediately and shall apply retroactively to a member or officer of the Division of State Police who has been subject to a disciplinary or criminal proceeding instituted against the officer or member and as to whom the disciplinary or criminal proceeding has been dismissed or finally determined in favor of the member or officer on or after January 1, 1990, but shall not be construed to authorize reimbursement to or reinstatement of members or officers whose applicable claims for relief have previously been settled or adjudicated on or before the date of enactment.

Approved January 14, 2000.

CHAPTER 360

AN ACT concerning the Body Armor Replacement fund and amending P.L.1997, c.177.

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

1. Section 1 of P.L.1997, c.177 (C.52:17B-4.4) is amended to read as follows:

C.52:27B-4.4 "Body Armor Replacement" fund; program.

1. There is created in the Department of Law and Public Safety a nonlapsing revolving fund to be known as the "Body Armor Replacement" fund. This fund shall be the repository for moneys provided pursuant to subsection d. of R.S.39:5-41 and shall be administered by the Attorney General. Moneys deposited in the fund, and any interest earned thereon, shall be used exclusively for the purpose of making grants to local law enforcement agencies, the Division of State Police, the Division of Criminal Justice, the Administrative Office of the Courts and the Department of Corrections for the purchase of body vests for the law enforcement officers, investigators, probation officers and corrections officers of those agencies. Of the moneys deposited into the fund, an amount not to exceed $75,000 shall be allocated annually to the Department of Law and Public Safety exclusively for the administration of the grant program.

The grant program shall be designed to effectuate a five-year vest replacement cycle, to the extent practicable, for local law enforcement officers, the officers and troopers of the State Police, investigators in the Division of Criminal Justice and State corrections and probation officers. The Attorney General shall provide for the distribution of the initial grants in a manner which is conducive to establishing a balance among the number of local law enforcement officers who are eligible for vest replacement grants in each year of the five-year cycle. In the same manner and to the greatest extent practicable, the Attorney General shall establish a grant distribution schedule for the officers and troopers of the State Police and investigators in the Division of Criminal Justice that provides for a balance among the number of officers, troopers and investigators receiving vest replacements in each year of the five-year cycle. In establishing a distribution schedule for State corrections and probation officers, the Attorney General shall give first priority to those State corrections officers assigned inmate supervision and control responsibilities in the State's maximum security correctional facilities and second priority to those officers assigned inmate supervision and control responsibilities in the State's medium security correctional facilities. The distribution schedule for State corrections and probation officers shall be based on a five-year cycle, but need not provide for a balance among the number of officers receiving vests in each year of the five-year cycle. The number of probation officers, the replacement of whose vests shall be funded from grants under this section, shall not exceed 200.

The Attorney General shall promulgate rules and regulations to implement this grant program. Those rules and regulations shall include, but not be limited to application procedures for local law enforcement agencies seeking vest replacement grants; criteria, such as crime rates and the age and condition of the body vests currently utilized by a local law enforcement agency's officers, to prioritize the awarding of grants; and guidelines identifying those body vests, by manufacturer or brand name, which may be purchased with grant moneys.

As used in this section:

"Body vest" means bullet resistant body armor which is intended to provide ballistic and trauma protection; and

"Probation officer" means a probation officer whose daily duties expose the officer to a substantial risk of assault by deadly weapon.

2. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 361

AN ACT establishing a Cancer Awareness, Education and Research Program, supplementing Title 26 of the Revised Statutes and making an appropriation.

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

C.26:2W-1 Cancer Awareness, Education and Research Program.

1. The Commissioner of Health and Senior Services shall establish a Cancer Awareness, Education and Research Program to provide the following: support for cancer medical research; physician education and awareness; and patient education and screening services, particularly for members of minority groups.

C.26:2W-2 Rules, regulations.

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

3. There is appropriated $600,000 from the General Fund to the Department of Health and Senior Services for cancer research, of which amount $250,000 shall be allocated for research related to prostate cancer. In the event that insufficient qualified applications are received for projects related to prostate cancer research, these funds, or a portion thereof, may be allocated by the commissioner for research related to any other form of cancer.

4. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 362

AN ACT concerning the testing of drinking water, supplementing P.L.1983, c.443 (C.58:12A-12 et seq.), P.L.1971, c.136 (C.26:2H-1 et seq.), P.L.1983, c.492 (C.30:5B-1 et seq.), Title 18A of the New Jersey Statutes, and P.L.1967, c.76 (C.55:13A-1 et seq.), and repealing P.L.1997, c.314.

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

C.58:12A-12.1 Additional information included in Consumer Confidence Report by public community water systems.

1. a. The owner or operator of every public community water system required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996," 42 U.S.C.s. 300f et al., shall include in the Consumer Confidence Report such additional information as required by the Department of Environmental Protection pursuant to rules and regulations adopted, in consultation with the Drinking Water Quality Institute established pursuant to section 10 of P.L.1983, c.443 (C.58:12A-20), pursuant to section 2 of this act.

b. The provisions of subsection a. of this section shall apply to the first Consumer Confidence Report required to be prepared after the adoption of rules and regulations by the Department of Environmental Protection, in consultation with the Drinking Water Quality Institute, pursuant to section 2 of this act.

C.58:12A-12.2 Rules, regulations.

2. The Department of Environmental Protection, in consultation with the Drinking Water Quality Institute, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations that shall provide that the Consumer Confidence Report, in addition to meeting the specific requirements of the "Safe Drinking Water Act Amendments of 1996," shall set forth the environmental and health information concerning the drinking water provided by the public community water system in a format designed to make this information easily accessible and understandable to all customers of the public community water system. These rules and regulations shall include, but need not be limited to, provisions requiring the Consumer Confidence Report to be formatted in such a way that the statement required pursuant to 40 CFR s.141.154(a) shall be included in bold print within the header of any chart displaying levels of detection and maximum contaminant levels for contaminants included in the Consumer Confidence Report.

C.26:2H-12.13 Posting of drinking water test reports by general hospitals.

3. a. The owner or operator of a general hospital who is required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996,"42 U.S.C.s.300f et al., or who receives a Consumer Confidence Report from the owner or operator of a public community water system, shall post each Consumer Confidence Report it prepares or receives in the area of each major entrance and in each admitting room in the hospital.

b. The owner or operator of a general hospital who is a supplier of water but is not required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996," and who is required to conduct tests of its drinking water by the Department of Environmental Protection, shall post a chart setting forth the results of the water tests, including the level of detection and, as appropriate for each contaminant, the maximum contaminant level, highest level allowed, action level, treatment technique, or other expression of an acceptable level, for each contaminant, in the area of each major entrance and in each admitting room in the general hospital. The chart also shall include in bold print the statement required to be included in a Consumer Confidence Report pursuant to 40 CFR s.141.154(a). The chart shall not include contaminants that are not detected.

c. As used in this section, "general hospital" shall mean any general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

d. The provisions of this section shall be enforced by the Department of Health and Senior Services. The Department of Health and Senior Services shall not be required to conduct on-site inspections to determine compliance with this section more frequently than any on-site inspections of general hospitals are conducted by the department pursuant to any other law.

C.26:2H-12.14 Posting of drinking water test reports by rehabilitation centers, extended care facilities, nursing homes.

4. a. The owner or operator of a rehabilitation center, extended care facility, skilled nursing home, or nursing home who is required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996,"42 U.S.C.s.300f et al., or who receives a Consumer Confidence Report from the owner or operator of a public community water system, shall post each Consumer Confidence Report it prepares or receives in at least one conspicuous location in the rehabilitation center, extended care facility, skilled nursing home, or nursing home.

b. The owner or operator of a rehabilitation center, extended care facility, skilled nursing home, or nursing home who is a supplier of water but is not required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996," and who is required to conduct tests of its drinking water by the Department of Environmental Protection, shall post a chart setting forth the results of the water tests, including the level of detection and, as appropriate for each contaminant, the maximum contaminant level, highest level allowed, action level, treatment technique, or other expression of an acceptable level, for each contaminant, in at least one conspicuous location in the rehabilitation center, extended care facility, skilled nursing home, or nursing home. The chart also shall

include in bold print the statement required to be included in a Consumer Confidence Report pursuant to 40 CFR s.141.154(a). The chart shall not include contaminants that are not detected.

c. As used in this section, "rehabilitation center," "extended care facility," skilled nursing home," and "nursing home" shall mean a rehabilitation center, extended care facility, skilled nursing home, or nursing home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

d. The provisions of this section shall be enforced by the Department of Health and Senior Services. The Department of Health and Senior Services shall not be required to conduct on-site inspections to determine compliance with this section more frequently than any on-site inspections of rehabilitation centers, extended care facilities, skilled nursing homes, or nursing homes are conducted by the department pursuant to any other law.

C.30:5B-5.5 Posting of drinking water test reports by child care centers.

5. a. The sponsor of a child care center who is required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996,"42 U.S.C.s.300f et al., or who receives a Consumer Confidence Report from the owner or operator of a public community water system, shall post each Consumer Confidence Report it prepares or receives in at least one conspicuous location in the child care center.

b. The sponsor of a child care center who is a supplier of water but is not required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996," and who is required to conduct tests of its drinking water by the Department of Environmental Protection, shall post a chart setting forth the results of the water tests, including the level of detection and, as appropriate for each contaminant, the maximum contaminant level, highest level allowed, action level, treatment technique, or other expression of an acceptable level, for each contaminant, in at least one conspicuous location in the child care center. The chart also shall include in bold print the statement required to be included in a Consumer Confidence Report pursuant to 40 CFR s.141.154(a). The chart shall not include contaminants that are not detected.

c. As used in this section, "child care center" shall mean any child care center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.) and "sponsor" shall have the same meaning as in section 3 of P.L.1983, c.492 (C.30:5B-3).

d. The provisions of this section shall be enforced by the Department of Human Services. The Department of Human Services shall not be required to conduct on-site inspections to determine compliance with this section more frequently than any on-site inspections of child care centers are conducted by the department pursuant to any other law.

C.18A:33-7 Posting of drinking water test reports by public schools.

6. a. The principal of every public school who is required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996,"42 U.S.C.s.300f et al., or who receives a Consumer Confidence Report from the owner or operator of a public community water system, shall post each Consumer Confidence Report the principal prepares or receives in a conspicuous location near each major entrance to the public school.

b. The principal of every public school who is a supplier of water but is not required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996," and who is required to conduct tests of its drinking water by the Department of Environmental Protection, shall post a chart setting forth the results of the water tests, including the level of detection and, as appropriate for each contaminant, the maximum contaminant level, highest level allowed, action level, treatment technique, or other expression of an acceptable level, for each contaminant, in a conspicuous location near each major entrance to the public school. The chart also shall include in bold print the statement required to be included in a Consumer Confidence Report pursuant to 40 CFR s.141.154(a). The chart shall not include contaminants that are not detected.

c. The provisions of this section shall be enforced by the Department of Education. The Department of Education shall not be required to conduct on-site inspections to determine compliance with this section more frequently than any on-site inspections of public schools are conducted by the department pursuant to any other law.

C.18A:33-8 Posting of drinking water test reports by nonpublic schools.

7. a. The chief administrative officer of every nonpublic school required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996,"42 U.S.C.s.300f et al., or who receives a Consumer Confidence Report from the owner or operator of a public community water system, shall post each Consumer Confidence Report the chief administrative officer prepares or receives in a conspicuous location near each major entrance to the nonpublic school.

b. The chief administrative officer of every nonpublic school which is a supplier of water but is not required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996," and who is required to conduct tests of its drinking water by the Department of Environmental Protection, shall post a chart setting forth the results of the water tests, including the level of detection and, as appropriate for each contaminant, the maximum contaminant level, highest level allowed, action level, treatment technique, or other expression of an acceptable level, for each contaminant, in a conspicuous location near each major entrance to the nonpublic school. The chart also shall

include in bold print the statement required to be included in a Consumer Confidence Report pursuant to 40 CFR s.141.154(a). The chart shall not include contaminants that are not detected.

c. The provisions of this section shall be enforced by the Department of Education. The Department of Education shall not be required to conduct on-site inspections to determine compliance with this section more frequently than any on-site inspections of nonpublic schools are conducted by the department pursuant to any other law.

C.55:13A-7.18 Posting of drinking water test reports in multiple dwellings.

8. a. The owner of a multiple dwelling who is required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996,"42 U.S.C.s.300f et al., or who receives a Consumer Confidence Report from the owner or operator of a public community water system, shall post each Consumer Confidence Report it prepares or receives in each common area routinely used by the tenants living in the multiple dwelling unit, or, if there is no common area routinely used by the tenants, the owner of the multiple dwelling shall transmit a copy of the Consumer Confidence Report to each dwelling unit.

b. The owner of a multiple dwelling unit who is a supplier of water but is not required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996," and who is required to conduct tests of its drinking water by the Department of Environmental Protection, shall post a chart setting forth the results of the water tests, including the level of detection and, as appropriate for each contaminant, the maximum contaminant level, highest level allowed, action level, treatment technique, or other expression of an acceptable level, for each contaminant, in each common area routinely used by the tenants living in the multiple dwelling unit, or, if there is no common area routinely used by the tenants, the owner of the multiple dwelling shall transmit a copy of the chart to each dwelling unit. The chart also shall include in bold print the statement required to be included in a Consumer Confidence Report pursuant to 40 CFR s.141.154(a). The chart shall not include contaminants that are not detected.

c. The Commissioner of the Department of Community Affairs shall include in the statement of the established rights and responsibilities of residential tenants and landlords prepared pursuant to section 3 of P.L.1975, c.310 (C.46:8-45) the requirements imposed on owners of multiple dwellings pursuant to subsection a. and subsection b. of this section. The Department of Community Affairs shall enforce the provisions of this section. The Department of Community Affairs shall not be required to conduct on-site inspections to determine compliance with this section more

frequently than any on-site inspections of multiple dwellings are conducted by the department pursuant to any other law.

d. As used in this section, "multiple dwelling" and "dwelling unit" shall have the same meaning as in section 3 of P.L.1967, c.76 (C.55:13A-3).

C.58:12A-12.3 Certain notice exemption not exercised.

9. The authority granted pursuant to the "Safe Drinking Water Act Amendments of 1996," 42 U.S.C.s.300f et al., to exempt public community water systems serving fewer than 10,000 persons from the requirement to mail a Consumer Confidence Report to each customer shall not be exercised.

Repealer.

10. P.L.1997, c.314 (C.58:12A-8.1 et seq.) is repealed.

11. This act shall take effect immediately except that sections 3 through 8 shall take effect one year following enactment.

Approved January 14, 2000.

CHAPTER 363

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, 2000 and regulating the disbursement thereof," approved June 28, 1999 (P.L.1999, c.138).

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.1999, c.138, there is appropriated out of the General Fund the following sum for the purpose specified:

10 DEPARTMENT OF AGRICULTURE
40 Community Development and Environmental Management
49 Agricultural Resources, Planning, and Regulation
GRANTS-IN-AID

03-3330 Resource Development Services $200,000
Grants-In-Aid:
Deer Control Research for the Rutgers
Center for Wildlife Damage Control ..... ($200,000)

2. This act shall take effect immediately

Approved January 14, 2000.

CHAPTER 364

AN ACT concerning the provision of services to nonpublic school pupils and amending P.L.1977, c.193 and P.L.1977, c.192.

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

1. Section 9 of P.L.1977, c.193 (C.18A:46-19.7) is amended to read as follows:

C.18A:46-19.7 Contracting for examination, classification, speech correction services.

9. A board of education may contract with an educational improvement center, an educational services commission or other public or private agency approved by the commissioner other than a church or sectarian school, for the provision of examination, classification and speech correction services required by this act. Prior to any change in the provision of these services, the board shall provide timely and meaningful consultation with appropriate nonpublic school representatives, including parents.

2. Section 7 of P.L.1977, c.192 (C.18A:46A-7) is amended to read as follows:

C.18A:46A-7 Contract with certain agencies for provision of auxiliary services.

7. Any board of education may contract with an educational improvement center, an educational services commission or other public or private agency, other than a church or sectarian school, approved by the commissioner for the provision of auxiliary services. Prior to any change in the provision of these services, the board shall provide timely and meaningful consultation with appropriate nonpublic school representatives, including parents.

3. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 365

AN ACT exempting from the sales and use tax certain purchases by flood victims of Hurricane Floyd of motor vehicles and equipment, supplementing P.L.1966, c.30 (C.54:32B-1 et seq.).

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

1. a. Receipts from sales made during the recovery period of replacement motor vehicles, household goods, home repair materials including but not limited to sheet rock and lumber, heating and cooling systems and appliances, to victims of Hurricane Floyd residing in disaster areas, and sales of replacement motor vehicles purchased to replace motor vehicles damaged in flood waters caused by Hurricane Floyd within the federally designated disaster areas but owned by any resident of the State, are, subject to the conditions and limitations of subsection e. of this section, exempt from the tax imposed under the "Sales and Use Tax Act."

b. Receipts for services to install, replace or repair household goods, home repair materials, heating and cooling systems and appliances rendered during the recovery period for victims of Hurricane Floyd residing in disaster areas, and receipts for services to repair motor vehicles damaged by flood waters within the disaster areas are, subject to the conditions and limitations of subsection e. of this section, exempt from the tax imposed under the "Sales and Use Tax Act."

c. Notwithstanding the provisions of subsections a. and b. of this section, the vendor shall charge and collect from the purchaser on such sales and charges at the rate then in effect, and the tax shall be refunded to the purchaser by the filing of a claim on or before March 31, 2001, with the New Jersey Division of Taxation for a refund of sales and use taxes paid for the replacement or servicing of items damaged or destroyed by Hurricane Floyd. No refunds shall be made on claims filed after March 31, 2001.

d. (1) Except as to the motor vehicles owned by those who reside outside the disaster areas discussed in paragraph (2) of this subsection, proof of claim for refund shall be demonstrated by an approved Federal Emergency Management Agency application for disaster assistance, by insurance claim, or by such information deemed necessary by the director, including but not limited to proof of tax paid, for a prompt refund to be given to disaster victims for sales taxes paid to replace or service items damaged or destroyed in flood waters of Hurricane Floyd as the Director of the Division of Taxation shall prescribe by regulation.

(2) Proof of claim for refund for a motor vehicle damaged in flood waters caused by Hurricane Floyd within the disaster areas but owned by those outside the disaster areas shall be demonstrated by insurance claim or, if the vehicle was not covered by comprehensive insurance, by such other information or documentation as the director shall prescribe.

(3) Notwithstanding any provisions of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt, immediately upon filing with

the Office of Administrative Law, such regulations, including but not limited to terms and conditions governing application for and payment of refunds, as the director deems necessary to implement the provisions of this section, which regulations shall be effective for a period not to exceed 180 days from the date of filing. Such regulations may thereafter be amended, adopted or readopted by the director as the director deems necessary in accordance with the requirements of P.L.1968, c.410. The director shall, after receipt of appropriate forms and supporting documentation, refund the taxes paid by residents of the State.

e. (1) Determination of the refund amount from sales of home repair materials exempted by subsection a. of this section shall be based on the separately stated cost of the materials to the customer, or, if no cost for those materials is separately stated on the customer's contract, bill or invoice by the contractor, the exemption shall be based on fifty percent of the total amount of the sales price.

(2) Determination of the refund amount for sales of motor vehicles exempted by subsection a. of this section shall be based on the amount actually paid for the replacement motor vehicle, net of any credit for property of the same kind traded-in, up to the average retail value of the vehicle being replaced, as reported in the current National Automobile Dealers Association Guide, or $2,000, whichever is greater.

f. For the purposes of this section:

"Disaster areas" means the counties designated as disaster areas pursuant to the President's September 19, 1999 declaration of a major disaster in this State; and

"Recovery period" means September 17, 1999 through September 30, 2000.

2. This act shall take effect immediately and apply retroactively to sales made and services rendered on or after September 17, 1999.

Approved January 14, 2000.

CHAPTER 366

AN ACT concerning local flood aid and amending N.J.S.40A:4-54 and supplementing Title 40 of the Revised Statutes.

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

1. N.J.S.40A:4-54 is amended to read as follows:

Authorization of special emergency appropriations.

40A:4-54. A local unit may adopt a resolution authorizing special emergency appropriations to cover the cost of extraordinary expense for the repair, reconstruction of streets, roads or bridges, or other public property damaged by flood or hurricane where such expense was not foreseen at the time of the adoption of the budget. A municipality may adopt a resolution authorizing special emergency appropriations to cover the cost of extraordinary expense for the repair and reconstruction of private property damaged by flood or hurricane in accordance with rules and regulations promulgated by the Department of Community Affairs for a Municipal Natural Disaster Relief Grant Program authorized pursuant to section 2 of P.L.1999, c.366 (C.40:48-9.15).

C.40:48-9.15 Findings, declarations relative to disaster relief funding programs; authorization of grant programs.

2. a. The Legislature finds and declares that there may be circumstances when it is desirable for municipalities to supplement federal and State disaster relief programs for its residents whose real property was damaged by flood, hurricane or other natural disaster. It is therefore in the public interest to permit municipalities to provide limited grants to certain persons who require relief in addition to insurance or from federal or State loan programs in order to assure that those people are able to remain in the community and rebuild in order to rapidly return their real property to the tax rolls at its full and fair value prior to the disaster.

b. Following a flood, hurricane or other natural disaster for which the Governor has declared a state of emergency, a municipality in the affected area may establish, by resolution, a Municipal Natural Disaster Relief Grant Program pursuant to rules and regulations adopted by the Department of Community Affairs. Under such program the municipality may give grants of up to $5,000 to persons owning real property in the municipality who are without insurance that adequately covers the real property damage inflicted by the natural disaster and for whom the repayment of a low-interest loan under any federal or State program would constitute an extreme hardship based on their income and such other financial circumstances as are deemed relevant pursuant to rules and regulations promulgated by the Department of Community Affairs. Grant money received pursuant to a municipal program under this section shall be used solely for the repair and reconstruction of the owner's damaged real property situated within the municipality.

c. A municipality may not implement a Municipal Natural Disaster Relief Grant Program without submitting its resolution and a plan to implement the program to the Department of Community Affairs. A municipality shall not implement its plan, and shall not distribute grants

pursuant to that plan without receiving written approval from the Department of Community Affairs. The Department of Community Affairs shall develop criteria for approval of a municipality's plan. Any criteria developed by the department shall include, but not be limited to, provisions which (1) limit the financial burden of the program on taxpayers of the municipality and State; and (2) ensure that the program does not result in the duplication of benefits of applicable State or Federal programs.

d. Monies granted by a municipality pursuant to a Municipal Disaster Relief Grant Program may not be used for any damage or loss which is met by any other source.

e. The Department of Community Affairs shall adopt and promulgate rules and regulations within 120 days of enactment of P.L.1999, c.366 (C.40:48-9.15 et al.) pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this section. Such rules shall include, but not be limited to, criteria for approval of a municipality's plan, eligibility requirements for determining financial hardship, and procedures for approval and administration of grants.

3. This act shall take effect immediately and shall be applicable to damage resulting from floods, hurricanes or natural disasters for which the Governor has declared a state of emergency on or after September 15, 1999

Approved January 14, 2000.

CHAPTER 367

AN ACT concerning the governing boards of the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program and amending P.L.1992, c.161 and P.L.1992, c.162.

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

1. 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) a health service corporation;

(2) a health maintenance organization;

(3) an insurer authorized to write health insurance in 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.

2. 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 Senior Services 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) Three 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) A health service corporation;

(4) Two health maintenance organizations; and

(5) (Deleted by amendment, P.L.1995, c.298).

(6) (Deleted by amendment, P.L.1995, c.298).

(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.

The board shall hold an election for the two members added pursuant to P.L.1995, c.298 within 90 days of the date of enactment of that act. Initially, one of the two new members shall serve for a term of one year and one of the two new members shall serve for a term of two years. Thereafter, the new members shall serve for a term of three years. The terms of the risk-assuming carrier and reinsuring carrier shall terminate upon the election of the two new members added pursuant to P.L.1995, c.298, notwithstanding the provisions of this section to the contrary.

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. (Deleted by amendment, P.L.1995, c.298).

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.

3. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 368

AN ACT concerning higher education incentive funding and amending P.L.1999, c.226.

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

1. Section 4 of P.L.1999, c.226 (C.18A:62-32) is amended to read as follows:

C.18A:62-32 "Higher Education Incentive Endowment Fund."

4. There is created in the Department of the Treasury a non-lapsing fund, the "Higher Education Incentive Endowment Fund" (the "endowment fund"), which, subject to the availability of funds, shall be used to provide State matching funds against endowment contributions to four-year public institutions of higher education, two-year public institutions of higher education, and independent institutions of higher education that receive direct State aid, or their institutionally related foundations, in accordance with the provisions of sections 5 through 7 of this act and subject to the provisions of subsections a. and b. of section 12 of the act.

2. Section 5 of P.L.1999, c.226 (C.18A:62-33) is amended to read as follows:

C.18A:62-33 State matching funds for endowment contributions to four-year public institutions.

5. With respect to a fiscal year in which at least one person, corporation or other business entity, or foundation shall have made an endowment contribution to a four-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of $1,000,000 or more, the recipient institution or foundation shall be eligible to receive State matching funds in subsequent fiscal years as follows:

a. In the fiscal year first following the contribution year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the amount of each such contribution received in the contribution year. There shall be no limit on the number of such endowment contributions from single contributors in that contribution year in the amount of $1,000,000 or more each for which such application may be made. Any such application shall be made only with respect to the entire contribution year and may be submitted at any time after the close of that contribution year up until the application deadline established by the State Treasurer. Following the receipt of all applications, but not later than the 90th day following the application deadline, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this subsection and shall pay that amount from the endowment fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied; and

b. In the second fiscal year following the contribution year and in each of the eight subsequent fiscal years following the second fiscal year, the institution or foundation shall be entitled to receive from the endowment fund, without application, State matching funds in an amount equal to the amount paid under subsection a. of this section.

3. Section 6 of P.L.1999, c.226 (C.18A:62-34) is amended to read as follows:

C.18A:62-34 State matching funds for endowment contributions to two-year public institutions.

6. a. With respect to a fiscal year in which at least one person, corporation or other business entity, or foundation shall have made an endowment contribution to a two-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of $100,000 or more, the recipient institution or foundation shall be eligible to receive State matching funds in subsequent fiscal years as follows:

(1) In the fiscal year first following the contribution year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the amount of each such contribution received in the contribution year. There shall be no limit on the number of such endowment contributions from single contributors in that contribution year in the amount of $100,000 or more each for which such application may be made. Any such application shall be made only with respect to the entire contribution year and may be submitted at any time after the close of that contribution year up until the application deadline established by the State

Treasurer. Following the receipt of all applications, but not later than the 90th day following the application deadline, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this paragraph and shall pay that amount from the endowment fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied; and

(2) In the second fiscal year following the contribution year and in each of the eight subsequent fiscal years following the second fiscal year, the institution or foundation shall be entitled to receive from the endowment fund, without application, State matching funds in an amount equal to the amount paid under paragraph (1) of this subsection.

b. With respect to a fiscal year in which three or more persons, corporations or other business entities, or foundations each shall have made endowment contributions to a two-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of $50,000 or more but less than $100,000, and the cumulative amount in that fiscal year of those endowment contributions of $50,000 or more but less than $100,000 is at least $250,000, the recipient institution or foundation shall be eligible to receive State matching funds in subsequent fiscal years as follows:

(1) In the fiscal year first following the contribution year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the highest exact multiple of $250,000 that is less than or equal to that cumulative amount of such contributions received in the contribution year. There shall be no limit on the number of such endowment contributions from single contributors in that contribution year in the amount of $50,000 but less than $100,000 each with respect to which such application may be made. Any such application shall be made only with respect to the entire contribution year and may be submitted at any time after the close of that contribution year up until the application deadline established by the State Treasurer. Following the receipt of all applications, but not later than the 90th day following the application deadline, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this paragraph and shall pay that amount from the endowment fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied; and

(2) In the second fiscal year following the contribution year and in each of the eight subsequent fiscal years following the second fiscal year, the

institution or foundation shall be entitled to receive from the endowment fund, without application, State matching funds in an amount equal to the amount paid under paragraph (1) of this subsection.

4. Section 7 of P.L.1999, c.226 (C.18A:62-35) is amended to read as follows:

C.18A:62-35 State matching funds for endowment contributions to four-year independent institutions.

7. With respect to a fiscal year in which at least one person, corporation or other business entity, or foundation makes an endowment contribution to a four-year independent institution of higher education that receives direct State aid, or to a foundation institutionally related to such an institution, in the amount of $1,000,000 or more, the recipient institution or foundation shall be eligible to apply for and to receive State matching funds in the amount of $100,000 with respect to each such contribution. There shall be no limit on the number of such endowment contributions from single contributors in a contribution year in the amount of $1,000,000 or more each for which such application may be made. Any such application shall be made only with respect to the entire contribution year and may be submitted at any time after the close of that contribution year up until the application deadline established by the State Treasurer. Following the receipt of all applications, but not later than the 90th day following the application deadline, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this section and shall pay that amount from the endowment fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied. An institution or foundation that shall have received payment of State matching funds under this section with respect to a contribution year shall not thereafter receive additional State matching funds with respect to the same contribution year.

5. Section 8 of P.L.1999, c.226 (C.18A:62-36) is amended to read as follows:

C.18A:62-36 "Higher Education Incentive Grant Fund."

8. There is created in the Department of the Treasury a non-lapsing fund, the "Higher Education Incentive Grant Fund" (the "grant fund"), which, subject to the availability of funds, shall be used to provide State matching funds against donations to four-year public institutions of higher education, two-year public institutions of higher education, and independent institutions of higher education that receive direct State aid, or their

institutionally related foundations, in accordance with the provisions of sections 9 through 11 of this act and subject to the provisions of subsections a. and b. of section 12 of the act.

6. Section 9 of P.L.1999, c.226 (C.18A:62-37) is amended to read as follows:

C.18A:62-37 State matching funds for donations to four-year public institutions.

9. With respect to a fiscal year in which at least one person, corporation or other business entity, or foundation shall have made a donation to a four-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of $1,000,000 or more, the recipient institution or foundation shall be eligible to receive State matching funds under this section. In the fiscal year next following the donation year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the amount of each such donation received in the donation year. There shall be no limit on the number of such donations from single donors in that donation year in the amount of $1,000,000 or more each for which such application may be made. Any such application shall be made only with respect to the entire donation year and may be submitted at any time after the close of that donation year up until the application deadline established by the State Treasurer. Following the receipt of all applications, but not later than the 90th day following the application deadline, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this subsection and shall pay that amount from the grant fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied. An institution or foundation that shall have received payment of State matching funds under this section with respect to a donation year shall not thereafter receive additional State matching funds with respect to the same donation year.

7. Section 10 of P.L.1999, c.226 (C.18A:62-38) is amended to read as follows:

C.18A:62-38 State matching funds for donations to two-year public institutions.

10. a. With respect to a fiscal year in which at least one person, corporation or other business entity, or foundation shall have made a donation to a two-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of $100,000 or more, the recipient institution or foundation shall be eligible

to receive State matching funds under this subsection. In the fiscal year next following the donation year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the amount of each such donation received in the donation year. There shall be no limit on the number of such donations from single donors in that donation year in the amount of $100,000 or more each for which such application may be made. Any such application shall be made only with respect to the entire donation year and may be submitted at any time after the close of that donation year up until the application deadline established by the State Treasurer. Following the receipt of all applications, but not later than the 90th day following the application deadline, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this subsection and shall pay that amount from the grant fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied. An institution or foundation that shall have received payment of State matching funds under this subsection with respect to a donation year shall not thereafter receive additional State matching funds with respect to the same donation year.

b. With respect to every fiscal year in which three or more persons, corporations or other business entities, or foundations each shall have made donations to a two-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of $50,000 or more but less than $100,000, and the cumulative amount in that fiscal year of those donations of $50,000 or more but less than $100,000 is at least $250,000, the recipient institution or foundation shall be eligible to receive State matching funds under this subsection. In the fiscal year next following the donation year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the highest exact multiple of $250,000 that is less than or equal to that cumulative amount of such donations received in the donation year. There shall be no limit on the number of such donations from single donors in that donation year in the amount of $50,000 but less than $100,000 each with respect to which such application may be made. Any such application shall be made only with respect to the entire donation year and may be submitted at any time after the close of that donation year up until the application deadline established by the State Treasurer. Following the receipt of all applications, but not later than the 90th day following the application deadline, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this subsection and shall pay that amount from the grant fund to the institution

or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied. An institution or foundation that shall have received payment of State matching funds under this subsection with respect to a donation year shall not thereafter receive additional State matching funds with respect to the same donation year.

8. Section 11 of P.L.1999, c.226 (C.18A:62-39) is amended to read as follows:

C.18A:62-39 State matching funds for donations to four-year independent institutions.

11. With respect to a fiscal year in which at least one person, corporation or other business entity, or foundation makes a donation to a four-year independent institution of higher education that receives direct State aid, or to a foundation institutionally related to such an institution, in the amount of $1,000,000 or more, the recipient institution or foundation shall be eligible to apply for and to receive State matching funds in the amount of $100,000 with respect to each such donation. There shall be no limit on the number of such donations from single donors in that donation year in the amount of $1,000,000 or more for which such application may be made. Any such application shall be made only with respect to the entire donation year and may be submitted at any time after the close of that donation year up until the application deadline established by the State Treasurer. Following the receipt of all applications, but not later than the 90th day following the application deadline, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this section and shall pay that amount from the grant fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied. An institution or foundation that shall have received payment of State matching funds under this section with respect to a donation year shall not thereafter receive additional State matching funds with respect to the same donation year.

9. Section 12 of P.L.1999, c.226 (C.18A:62-40) is amended to read as follows:

C.18A:62-40 Ineligibility for receipt of State matching funds; use of matching funds.

12. a. No institution of higher education having a total endowment of more than $1,000,000,000, and no foundation institutionally related to such an institution, shall be eligible to receive State matching funds under this act.

b. No endowment contribution or donation to an institution of higher education from a foundation institutionally related to that institution shall be eligible to be matched with State funds under the provisions of this act.

c. The matching funds provided to an institution of higher education or to a foundation institutionally related to such an institution pursuant to sections 4 through 11 of this act shall be used by the institution or foundation exclusively for academic purposes and shall not be used to fund any activity, program or project unrelated or only incidentally related to those purposes, such as the award of athletic scholarships, except that the matching funds may be used for the payment of the cost of building construction, in accordance with the terms as to use for particular purposes stipulated by the donor of the endowment contribution or donation. The matching funds provided shall not be used for the purpose of sectarian instruction, the construction or maintenance of sectarian facilities, or for any other sectarian purpose or activity. These restrictions shall not apply to the use by the institution or foundation of any of the endowment contributions and donations with respect to which those matching funds were paid.

10. Section 13 of P.L.1999, c.226 (C.18A:62-41) is amended to read as follows:

C.18A:62-41 Documents included with application for State matching funds; information required.

13. In order for an institution or foundation to receive in a fiscal year State matching funds pursuant to an application therefor under the provisions of this act, the governing body of the institution or foundation shall provide the State Treasurer with a copy of the institution's annual independent financial audit, the institution's education foundation audit, or other financial certification, as deemed appropriate by the Treasurer, that verifies that the institution has raised the necessary amount through endowment contributions or donations to qualify for the State matching funds. An institution or foundation receiving State matching funds shall also provide in each fiscal year the annual average amount of endowment contributions and donations received in the contribution year and the donation year and in the five previous contribution and donation years.

11. Section 14 of P.L.1999, c.226 (C.18A:62-42) is amended to read as follows:

C.18A:62-42 Funds administered separately.

14. a. The endowment fund and the grant fund shall be administered separately by the State Treasurer. Each fund shall consist of moneys

appropriated or otherwise made available to it by the Legislature and any interest received on the investment of moneys in that fund.

b. If, in any fiscal year, the fund balance in either the endowment fund or the grant fund is insufficient to fund payment in full of the State matching funds authorized to be paid under the provisions of this act, the amount of available funds shall be prorated among all eligible applicants.

12. Section 17 of P.L.1999, c.226 is amended to read as follows:

17. This act shall take effect immediately and shall apply to endowment contributions and donations made during fiscal year 1999 and thereafter.

13. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 369

AN ACT excluding certain investment income of certain corporations of foreign nations from taxation under the corporation business tax, amending P.L.1945, c.162.

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

1. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to read as follows:

C.54:10A-4 Definitions.

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

(a) "Commissioner" shall mean the Director of the Division of Taxation of the State Department of the Treasury.

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

(c) "Corporation" shall mean any corporation, joint-stock company or association and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a certificate of interest or ownership or similar written instrument.

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

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

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

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

(f) "Investment company" shall mean any corporation whose business during the period covered by its report consisted, to the extent of at least 90% thereof of holding, investing and reinvesting in stocks, bonds, notes,

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

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

(h) "Taxpayer" shall mean any corporation required to report or to pay taxes, interest or penalties under this act.

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

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

(k) "Entire net income" shall mean total net income from all sources, whether within or without the United States, and shall include the gain derived from the employment of capital or labor, or from both combined, as well as profit gained through a sale or conversion of capital assets. For the purpose of this act, the amount of a taxpayer's entire net income shall be deemed prima facie to be equal in amount to the taxable income, before net operating loss deduction and special deductions, which the taxpayer is required to report to the United States Treasury Department for the purpose of computing its federal income tax; provided, however, that in the determination of such entire net income,

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

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

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

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

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

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

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

(F) (i) The amount by which depreciation reported to the United States Treasury Department for property placed in service on and after January 1, 1981, but prior to taxpayer fiscal or calendar accounting years beginning on and after the effective date of P.L.1993, c.172, for purposes of computing federal taxable income in accordance with section 168 of the Internal Revenue Code in effect after December 31, 1980, exceeds the amount of depreciation determined in accordance with the Internal Revenue Code provisions in effect prior to January 1, 1981, but only with respect to a taxpayer's accounting period ending after December 31, 1981; provided, however, that where a taxpayer's accounting period begins in 1981 and ends in 1982, no modification shall be required with respect to this paragraph (F) for the report filed for such period with respect to property placed in service during that part of the accounting period which occurs in 1981. The provisions of this subparagraph shall not apply to assets placed in service prior to January 1, 1998 of a gas, gas and electric, and electric public utility that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998.

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

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

(G) (i) The amount of any civil, civil administrative, or criminal penalty or fine, including a penalty or fine under an administrative consent order, assessed and collected for a violation of a State or federal environmental law, an administrative consent order, or an environmental ordinance or resolution of a local governmental entity, and any interest earned on the

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

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

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

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

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

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

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

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

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

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

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

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

(5) Entire net income shall exclude 100% of dividends which were included in computing such taxable income for federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of the 80% or more ownership of investment described in subsection (d) of this section. With respect to other dividends, entire net income shall not include 50% of the total included in computing such taxable income for federal income tax purposes.

(6) (A) Net operating loss deduction. There shall be allowed as a deduction for the taxable year the net operating loss carryover to that year.

(B) Net operating loss carryover. A net operating loss for any taxable year ending after June 30, 1984 shall be a net operating loss carryover to each of the seven years following the year of the loss. The entire amount of the net operating loss for any taxable year (the "loss year") shall be carried to the earliest of the taxable years to which the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of the loss over the sum of the entire net income, computed without the exclusions permitted in paragraphs (4) and (5) of this subsection or the net operating loss deduction provided by subparagraph (A) of this paragraph, for each of the prior taxable years to which the loss may be carried.

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

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

(7) The entire net income of gas, electric and gas and electric public utilities that were subject to the provisions of P.L.1940, c.5 (C.54:30A-49

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

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

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

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

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

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

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

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

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

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

(m) "Financial business corporation" shall mean any corporate enterprise which is (1) in substantial competition with the business of national banks and which (2) employs moneyed capital with the object of making profit by its use as money, through discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of debt; buying and selling exchange; making of or dealing in secured or unsecured loans and discounts; dealing in securities and shares of corporate stock by purchasing and selling such securities and stock without recourse, solely upon the order and for the account of customers; or investing and reinvesting in marketable obligations evidencing indebtedness of any person,

copartnership, association or corporation in the form of bonds, notes or debentures commonly known as investment securities; or dealing in or underwriting obligations of the United States, any state or any political subdivision thereof, or of a corporate instrumentality of any of them. This shall include, without limitation of the foregoing, business commonly known as industrial banks, dealers in commercial paper and acceptances, sales finance, personal finance, small loan and mortgage financing businesses, as well as any other enterprise employing moneyed capital coming into competition with the business of national banks; provided that the holding of bonds, notes, or other evidences of indebtedness by individual persons not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with the business of national banks, shall not be deemed financial business. Nor shall "financial business" include national banks, production credit associations organized under the Farm Credit Act of 1933 or the Farm Credit Act of 1971, Pub.L. 92-181 (12 U.S.C.s.2091 et seq.), stock and mutual insurance companies duly authorized to transact business in this State, security brokers or dealers or investment companies or bankers not employing moneyed capital coming into competition with the business of national banks, real estate investment trusts, or any of the following entities organized under the laws of this State: credit unions, savings banks, savings and loan and building and loan associations, pawnbrokers, and State banks and trust companies.

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

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

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

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

2. This act shall take effect immediately and apply to privilege periods ending on or after the July 1 next following enactment.

Approved January 14, 2000.

CHAPTER 370

AN ACT requiring certain motor carrier employees to be paid overtime wage rates and amending P.L.1966, c.113.

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

1. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to read as follows:

C.34:11-56a4 Minimum wage rate; exemptions.

5. Every employer shall pay to each of his employees wages at a rate of not less than $5.05 per hour as of April 1, 1992 and, after January 1, 1999 the minimum hourly wage rate set by section 6(a)(1) of the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206(a)(1)) for 40 hours of working time in any week and 1 1/2 times such employee's regular hourly wage for each hour of working time in excess of 40 hours in any week, except this overtime rate shall not include any individual employed in a bona fide executive, administrative, or professional capacity or, if an applicable wage order has been issued by the commissioner under section 17 (C.34:11-56a16) of this act, not less than the wages prescribed in said order. The wage rates fixed in this section shall not be applicable to part-time employees primarily engaged in the care and tending of children in the home of the employer, to persons under the age of 18 not possessing a special vocational school graduate permit issued pursuant to section 15 of P.L.1940, c.153 (C.34:2-21.15), or to persons employed as salesmen of motor vehicles, or to persons employed as outside salesmen as such terms shall be defined and delimited in regulations adopted by the commissioner, or to persons employed in a volunteer capacity and receiving only incidental benefits at a county or other agricultural fair by a nonprofit or religious

corporation or a nonprofit or religious association which conducts or participates in that fair.

The provisions of this section for the payment to an employee of not less than 1 1/2 times such employee's regular hourly rate for each hour of working time in excess of 40 hours in any week shall not apply to employees engaged to labor on a farm or employed in a hotel or to an employee of a common carrier of passengers by motor bus or to a limousine driver who is an employee of an employer engaged in the business of operating limousines or to employees engaged in labor relative to the raising or care of livestock.

Employees engaged on a piece-rate or regular hourly rate basis to labor on a farm shall be paid for each day worked not less than the minimum hourly wage rate multiplied by the total number of hours worked.

Full-time students may be employed by the college or university at which they are enrolled at not less than 85% of the effective minimum wage rate.

Notwithstanding the provisions of this section to the contrary, every trucking industry employer shall pay to all drivers, helpers, loaders and mechanics for whom the Secretary of Transportation may prescribe maximum hours of work for the safe operation of vehicles, pursuant to section 31502(b) of the federal Motor Carrier Act, 49 U.S.C. s.31502(b), an overtime rate not less than 1 1/2 times the minimum wage required pursuant to this section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking industry shall be paid no less than the minimum wage rate as provided in this section and N.J.A.C. 12:56-3.1. As used in this section, "trucking industry employer" means any business or establishment primarily operating for the purpose of conveying property from one place to another by road or highway, including the storage and warehousing of goods and property. Such an employer shall also be subject to the jurisdiction of the Secretary of Transportation pursuant to the federal Motor Carrier Act, 49 U.S.C. s.31501 et seq., whose employees are exempt under section 213(b)(1) of the federal Fair Labor Standards Act, 29 U.S.C. s.213(b)(1), which provides an exemption to employees regulated by section 207 of the federal Fair Labor Standards Act, 29 U.S.C. s.207, and the Interstate Commerce Act, 49 U.S.C. s.501 et al.

2. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 371

AN ACT appropriating funds to the State Agriculture Development Committee for soil and water conservation projects.

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

1. There is appropriated from the General Fund to the State Agriculture Development Committee the sum of $560,000 for the purpose of providing grants to landowners for up to 50 percent of the cost of soil and water conservation projects approved as eligible for funding.

2. In determining grants to landowners for soil and water conservation projects pursuant to section 1 of this act, the State Agriculture Development Committee shall give consideration to applications pursuant to the following priority:

a. Lands from which a development easement has been conveyed pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 39 of P.L.1999, c.152 (C.13:8C-39), section 40 of P.L.1999, c.152 (C.13:8C-40), or section 1 of P.L.1999, c.180 (C.4:1C-43.1);

b. Lands certified by the State Agriculture Development Committee to be within a municipally approved program or other farmland preservation program on or before September 30, 1999 pursuant to P.L.1983, c.32;

c. Lands certified by the State Agriculture Development Committee to be within a municipally approved program or other farmland preservation program subsequent to September 30, 1999 pursuant to P.L.1983, c.32.

3. There is appropriated from the General Fund to the State Agriculture Development Committee the sum of $40,000 for the purpose of reimbursing local soil conservation districts for costs incurred in performing their duties in reviewing and approving soil and water conservation projects.

4. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 372

AN ACT allowing taxpayers a deduction against gross income for qualified contributions of certain interests in real property for conservation purposes, 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:3-6 Deduction for qualified conservation contribution.

1. A taxpayer shall be allowed a deduction against gross income for a qualified conservation contribution, as defined under subsection (h) of section 170 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.170, made by the taxpayer of a qualified real property interest in property located in this State. The amount of the deduction in a taxable year shall be equal to the amount of the contribution allowed in the taxable year as a deduction pursuant to section 170 of the federal Internal Revenue Code of 1986 in computing the taxpayer's taxable income for federal income tax purposes.

2. This act shall take effect immediately and shall be applicable to qualified conservation contributions made during taxable years beginning on or after January 1 of the calendar year in which this act takes effect

Approved January 14, 2000.

CHAPTER 373

AN ACT concerning the waiver of juvenile cases and amending P.L.1982, c.77.

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

1. Section 7 of P.L.1982, c.77 (C.2A:4A-26) is amended to read as follows:

C.2A:4A-26 Referral to another court without juvenile's consent.

7. Referral to another court without juvenile's consent.

a. On motion of the prosecutor, the court shall, without the consent of the juvenile, waive jurisdiction over a case and refer that case from the Superior Court, Chancery Division, Family Part to the appropriate court and prosecuting authority having jurisdiction if it finds, after hearing, that:

(1) The juvenile was 14 years of age or older at the time of the charged delinquent act; and

(2) There is probable cause to believe that the juvenile committed a delinquent act or acts which if committed by an adult would constitute:

(a) Criminal homicide other than death by auto, strict liability for drug induced deaths, pursuant to N.J.S.2C:35-9, robbery which would constitute a crime of the first degree, carjacking, aggravated sexual assault, sexual

assault, aggravated assault which would constitute a crime of the second degree, kidnapping or aggravated arson; or

(b) A crime committed at a time when the juvenile had previously been adjudicated delinquent, or convicted, on the basis of any of the offenses enumerated in subsection a.(2)(a); or

(c) A crime committed at a time when the juvenile had previously been sentenced and confined in an adult penal institution; or

(d) An offense against a person committed in an aggressive, violent and willful manner, other than an offense enumerated in subsection a.(2)(a) of this section, or the unlawful possession of a firearm, destructive device or other prohibited weapon, arson or death by auto if the juvenile was operating the vehicle under the influence of an intoxicating liquor, narcotic, hallucinogenic or habit producing drug; or

(e) A violation of N.J.S.2C:35-3, N.J.S.2C:35-4, or N.J.S.2C:35-5; or

(f) Crimes which are a part of a continuing criminal activity in concert with two or more persons and the circumstances of the crimes show the juvenile has knowingly devoted himself to criminal activity as a source of livelihood; or

(g) An attempt or conspiracy to commit any of the acts enumerated in paragraph (a), (d) or (e) of this subsection; or

(h) Theft of an automobile pursuant to chapter 20 of Title 2C of the New Jersey Statutes; or

(i) Possession of a firearm with a purpose to use it unlawfully against the person of another under subsection a. of N.J.S.2C:39-4, or the crime of aggravated assault, aggravated criminal sexual contact, burglary or escape if, while in the course of committing or attempting to commit the crime including the immediate flight therefrom, the juvenile possessed a firearm; and

(3) Except with respect to any of the acts enumerated in subparagraph (a) or (i) of paragraph (2) of subsection a. of this section, or with respect to any acts enumerated in subparagraph (e) of paragraph (2) of subsection a. of this section which involve the distribution for pecuniary gain of any controlled dangerous substance or controlled substance analog while on any property used for school purposes which is owned by or leased to any school or school board, or within 1,000 feet of such school property or while on any school bus, or any attempt or conspiracy to commit any of those acts, the State has shown that the nature and circumstances of the charge or the prior record of the juvenile are sufficiently serious that the interests of the public require waiver.

b. (Deleted by amendment, P.L.1999, c.373).

c. An order referring a case shall incorporate therein not only the alleged act or acts upon which the referral is premised, but also all other delinquent acts arising out of or related to the same transaction.

d. A motion seeking waiver shall be filed by the prosecutor within 30 days of receipt of the complaint. This time limit shall not, except for good cause shown, be extended.

e. If the juvenile can show that the probability of his rehabilitation by the use of the procedures, services and facilities available to the court prior to the juvenile reaching the age of 19 substantially outweighs the reasons for waiver, waiver shall not be granted. This subsection shall not apply with respect to a juvenile 16 years of age or older who is charged with committing any of the acts enumerated in subparagraph (a) or (i) of paragraph (2) of subsection a. of this section or with respect to a violation of N.J.S.2C:35-3, N.J.S.2C:35-4 or section 1 of P.L.1998, c.26 (C.2C:39-4.1).

f. The Attorney General shall develop for dissemination to the county prosecutors those guidelines or directives deemed necessary or appropriate to ensure the uniform application of this section throughout the State.

2. This act shall take effect on the 60th day following enactment.

Approved January 14, 2000.

CHAPTER 374

AN ACT concerning special license plates and supplementing chapter 3 of Title 39 of the Revised Statutes and amending P.L.1955, c.155.

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

C.39:3-27.114 Special license plates for former municipal mayor.

1. a. Upon the application of a person who has served as a municipal mayor for one term or longer but who presently does not occupy that position, the Director of the Division of Motor Vehicles shall issue special registration plates for a motor vehicle owned or leased by that person. The plates shall be of a design approved by the director and shall convey appropriate recognition of the person's service as a mayor, in addition to containing the markings or identification otherwise required by law.

b. In addition to the fees otherwise prescribed by law for the registration of motor vehicles, an application for these special plates shall be accompanied by a fee of $50 which shall be retained by the Division of Motor Vehicles to defray the cost of producing and distributing the plates. The application also shall be accompanied by proof, in a form specified by the director, that the applicant served as mayor of a municipality in this State for at least one term.

C.39:3-27.115 Special license plates for former legislator.

2. a. Upon the application of a former member of the New Jersey State Legislature, the Director of the Division of Motor Vehicles shall issue special registration plates for a motor vehicle owned or leased by the former member. The plates shall identify the holder as a "Senate-Former Member" or "General Assembly-Former Member"; provided however, if the former member served in both the General Assembly and the Senate, the former member shall receive plates identifying him as a former member of the Senate. The plates also shall contain the Shield of the State of New Jersey, in addition to the registration number and other markings or identification otherwise prescribed by law. The identifying characters displayed on the license plate shall be in a form as to adapt to the size of the license plate. The director shall design the special plates, subject to approval by the President of the Senate and Speaker of the General Assembly.

b. In addition to the fees otherwise prescribed by law for the registration of motor vehicles, an application for these special plates shall be accompanied by a fee of $50, which shall be retained by the Division of Motor Vehicles, to defray the cost of producing and distributing the plates. The application also shall be accompanied by proof, in a form specified by the director, that the applicant served as a member of the New Jersey General Assembly or State Senate.

3. Section 1 of P.L.1955, c.155 (C.52:2-3) is amended to read as follows:

C.52:2-3 Persons authorized to use the Great Seal.

1. The Governor of the State, the head of any principal executive department of the State, the members of the Legislature of the State, the former members of the Legislature of the State as provided in section 2 of P.L.1999, c.374 (C.39:3-27.115), the Justices of the Supreme Court, the judges of the Superior Court, the county prosecutors, county clerks, surrogates and sheriffs, the Secretary of the Senate, the Clerk of the General Assembly and members of the Congress of the United States and each of them, are authorized to use, exhibit and display the Great Seal of the State of New Jersey, in whole or in part, including such use, exhibition and display on their motor vehicle license plates.

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

Approved January 14, 2000.

CHAPTER 375

AN ACT concerning the expiration of certain municipal taxes, amending and supplementing P.L.1970, c.326.

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

1. Section 19 of P.L.1970, c.326 (C.40:48C-19) is amended to read as follows:

C.40:48C-19 Municipal payroll tax, imposition.

19. a. Except as provided in subsection b. of this section no tax shall be imposed under any ordinance adopted pursuant to this article with respect to services performed prior to January 1, 1971, or in a calendar quarter prior to that in which the ordinance is adopted, or in a municipality that has not within two years prior to July 1, 1995 collected taxes or enacted an ordinance imposing a tax, or on or after December 31, 2004; but any such ordinance shall remain in effect with respect to the right of the municipality to receive reports and enforce and collect taxes due thereunder for any period prior to December 31, 2004.

b. An employer payroll tax imposed by a municipality that is subject to the provisions of P.L.1999, c.216 (C.54:1-35.51 et al.) shall not be authorized under subsection a. of this section on or after September 30, 2000, however, such tax may be continued pursuant to the provisions of P.L.1999, c.216 (C.54:1-35.51 et al.).

2. Section 8 of P.L.1970, c.326 (C.40:48C-8) is amended to read as follows:

C.40:48C-8 Parking tax, duration.

8. a. Except as provided in subsection b. of this section no tax shall be imposed under any ordinance adopted pursuant to this article with respect to parking services provided on or after December 31, 2004.

b. A tax with respect to parking services imposed by a municipality that is subject to the provisions of P.L.1999, c.216 (C.54:1-35.51 et al.) shall not be authorized under subsection a. of this section on or after September 30, 2000, however, such tax may be continued pursuant to the provisions of P.L.1999, c.216 (C.54:1-35.51 et al.).

C.40:48C-42 Inapplicability of exemption for parking taxes to certain State entities.

3. Without limiting the applicability of the "Local Tax Authorization Act," P.L.1970, c.326 (C.40:48C-1 et seq.), the exemption provided in

section 7 of P.L.1972, c.201 (C.40:48C-41) to parking taxes authorized under that act shall not be applicable to bodies corporate and politic or instrumentalities of the State of New Jersey.

4. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 376

AN ACT concerning the sentencing and treatment of drug and alcohol dependent persons and amending N.J.S.2C:35-2, N.J.S.2C:35-14, and N.J.S.2C:35-15.

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

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

Definitions.

2C:35-2. Definitions. As used in this chapter:

"Administer" means the direct application of a controlled dangerous substance or controlled substance analog, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (1) a practitioner (or, in his presence, by his lawfully authorized agent), or (2) the patient or research subject at the lawful direction and in the presence of the practitioner.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser but does not include a common or contract carrier, public warehouseman, or employee thereof.

"Controlled dangerous substance" means a drug, substance, or immediate precursor in Schedules I through V, any substance the distribution of which is specifically prohibited in N.J.S.2C:35-3, in section 3 of P.L.1997, c.194 (C.2C:35-5.2) or in section 5 of P.L.1997, c. 194 (C.2C:35-5.3) and any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance in the human body. When any statute refers to controlled dangerous substances, or to a specific controlled dangerous substance, it shall also be deemed to refer to any drug or substance which, when ingested, is metabolized or otherwise becomes a controlled dangerous substance or the specific controlled dangerous substance, and to any substance that is an immediate precursor of a

controlled dangerous substance or the specific controlled dangerous substance. The term shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in R.S.33:1-1 et seq., or tobacco and tobacco products. The term, wherever it appears in any law or administrative regulation of this State, shall include controlled substance analogs.

"Controlled substance analog" means a substance that has a chemical structure substantially similar to that of a controlled dangerous substance and that was specifically designed to produce an effect substantially similar to that of a controlled dangerous substance. The term shall not include a substance manufactured or distributed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1052 (21 U.S.C. s. 355).

"Counterfeit substance" means a controlled dangerous substance or controlled substance analog which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled dangerous substance or controlled substance analog, whether or not there is an agency relationship.

"Dispense" means to deliver a controlled dangerous substance or controlled substance analog to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. "Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled dangerous substance or controlled substance analog. "Distributor" means a person who distributes.

"Drugs" means (a) substances recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (c) substances (other than food) intended to affect the structure or any function of the body of man or other animals; and (d) substances intended for use as a component of any article specified in subsections (a), (b) and (c) of this section; but does not include devices or their components, parts or accessories.

"Drug or alcohol dependent person" means a person who as a result of using a controlled dangerous substance or controlled substance analog or alcohol has been in a state of psychic or physical dependence, or both, arising from the use of that controlled dangerous substance or controlled substance analog or alcohol on a continuous or repetitive basis. Drug or alcohol dependence is characterized by behavioral and other responses, including but not limited to a strong compulsion to take the substance on a recurring basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

"Hashish" means the resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin.

"Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled dangerous substance or controlled substance analog, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled dangerous substance or controlled substance analog by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled dangerous substance: (1) by a practitioner as an incident to his administering or dispensing of a controlled dangerous substance or controlled substance analog in the course of his professional practice, or (2) by a practitioner (or under his supervision) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

"Marijuana" means all parts of the plant Genus Cannabis L., whether growing or not; the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds, except those containing resin extracted from such plant; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium, coca leaves, and opiates;

(b) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(c) A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in subsections (a) and (b), except that the words "narcotic drug" as used in this act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecogine.

"Opiate" means any dangerous substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled pursuant to the provisions of section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

"Person" means any corporation, association, partnership, trust, other institution or entity or one or more individuals.

"Plant" means an organism having leaves and a readily observable root formation, including, but not limited to, a cutting having roots, a rootball or root hairs.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, veterinarian, scientific investigator, laboratory, pharmacy, hospital or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance or controlled substance analog in the course of professional practice or research in this State.

(a) "Physician" means a physician authorized by law to practice medicine in this or any other state and any other person authorized by law to treat sick and injured human beings in this or any other state.

(b) "Veterinarian" means a veterinarian authorized by law to practice veterinary medicine in this State.

(c) "Dentist" means a dentist authorized by law to practice dentistry in this State.

(d) "Hospital" means any federal institution, or any institution for the care and treatment of the sick and injured, operated or approved by the appropriate State department as proper to be entrusted with the custody and professional use of controlled dangerous substances or controlled substance analogs.

(e) "Laboratory" means a laboratory to be entrusted with the custody of narcotic drugs and the use of controlled dangerous substances or controlled substance analogs for scientific, experimental and medical purposes and for

purposes of instruction approved by the State Department of Health and Senior Services.

"Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled dangerous substance or controlled substance analog.

"Immediate precursor" means a substance which the State Department of Health and Senior Services has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance or controlled substance analog, the control of which is necessary to prevent, curtail, or limit such manufacture.

"Residential treatment facility" means any facility licensed and approved by the Department of Health and Senior Services and which is approved by any county probation department for the inpatient treatment and rehabilitation of drug or alcohol dependent persons.

"Schedules I, II, III, IV, and V" are the schedules set forth in sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified by any regulations issued by the Commissioner of Health and Senior Services pursuant to his authority as provided in section 3 of P.L.1970, c.226 (C.24:21-3).

"State" means the State of New Jersey.

"Ultimate user" means a person who lawfully possesses a controlled dangerous substance or controlled substance analog for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household.

"Prescription legend drug" means any drug which under federal or State law requires dispensing by prescription or order of a licensed physician, veterinarian or dentist and is required to bear the statement "Caution: Federal law prohibits dispensing without a prescription" and is not a controlled dangerous substance or stramonium preparation.

"Stramonium preparation" means a substance prepared from any part of the stramonium plant in the form of a powder, pipe mixture, cigarette, or any other form with or without other ingredients.

"Stramonium plant" means the plant Datura Stramonium Linne, including Datura Tatula Linne.

2. N.J.S.2C:35-14 is amended to read as follows:

Rehabilitation program for drug and alcohol dependent persons; criteria for imposing special probation; ineligible offenders; prosecutorial objections; mandatory commitment to residential treatment facilities; presumption of revocation; brief incarceration in lieu of permanent revocation.

2C:35-14. Rehabilitation Program for Drug and Alcohol Dependent Persons; Criteria for Imposing Special Probation; Ineligible Offenders;

Prosecutorial Objections; Mandatory Commitment to Residential Treatment Facilities; Presumption of Revocation; Brief Incarceration in Lieu of Permanent Revocation.

a. Notwithstanding the presumption of incarceration pursuant to the provisions of subsection d. of N.J.S.2C:44-1, and except as provided in subsection c. of this section, whenever a drug or alcohol dependent person is convicted of or adjudicated delinquent for an offense, other than one described in subsection b. of this section, the court, upon notice to the prosecutor, may, on motion of the person, or on the court's own motion, place the person on special probation, which shall be for a term of five years, provided that the court finds on the record that:

(1) the person has undergone a professional diagnostic assessment to determine whether and to what extent the person is drug or alcohol dependent and would benefit from treatment; and

(2) the person is a drug or alcohol dependent person within the meaning of N.J.S.2C:35-2 and was drug or alcohol dependent at the time of the commission of the present offense; and

(3) the present offense was committed while the person was under the influence of a controlled dangerous substance, controlled substance analog or alcohol or was committed to acquire property or monies in order to support the person's drug or alcohol dependency; and

(4) substance abuse treatment and monitoring will serve to benefit the person by addressing his drug or alcohol dependency and will thereby reduce the likelihood that the person will thereafter commit another offense; and

(5) the person did not possess a firearm at the time of the present offense and did not possess a firearm at the time of any pending criminal charge; and

(6) the person has not been previously convicted on two or more separate occasions of crimes of the first, second or third degree, other than crimes defined in N.J.S.2C:35-10; and

(7) the person has not been previously convicted or adjudicated delinquent for, and does not have a pending charge of murder, aggravated manslaughter, manslaughter, robbery, kidnapping, aggravated assault, aggravated sexual assault or sexual assault, or a similar crime under the laws of any other state or the United States; and

(8) a suitable treatment facility licensed and approved by the Department of Health and Senior Services is able and has agreed to provide appropriate treatment services in accordance with the requirements of this section; and

(9) no danger to the community will result from the person being placed on special probation pursuant to this section.

In determining whether to sentence the person pursuant to this section, the court shall consider all relevant circumstances, and shall take judicial

notice of any evidence, testimony or information adduced at the trial, plea hearing or other court proceedings, and shall also consider the presentence report and the results of the professional diagnostic assessment to determine whether and to what extent the person is drug or alcohol dependent and would benefit from treatment.

As a condition of special probation, the court shall order the person to enter a treatment program at a facility licensed and approved by the Department of Health and Senior Services, to comply with program rules and the requirements of the course of treatment, to cooperate fully with the treatment provider, and to comply with such other reasonable terms and conditions as may be required by the court or by law, pursuant to N.J.S.2C:45-1, and which shall include periodic urine testing for drug or alcohol usage throughout the period of special probation. Subject to the requirements of subsection d. of this section, the conditions of special probation may include different methods and levels of community-based or residential supervision.

b. A person shall not be eligible for special probation pursuant to this section if the person is convicted of or adjudicated delinquent for:

(1) a crime of the first degree;

(2) a crime of violence as defined in subsection d. of N.J.S.2C:43-7.2;

(3) a crime, other than that defined in N.J.S.2C:35-7, for which a mandatory minimum period of incarceration is prescribed under chapter 35 of this Title or any other law; or

(4) an offense that involved the distribution or the conspiracy or attempt to distribute a controlled dangerous substance or controlled substance analog to a juvenile near or on school property.

c. A person convicted of or adjudicated delinquent for an offense under section 1 of P.L.1987, c.101 (C.2C:35-7), subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1), or any crime for which there exists a presumption of imprisonment pursuant to subsection d. of N.J.S.2C:44-1 or any other statute, or who has been previously convicted of an offense under subsection a. of N.J.S.2C:35-5 or a similar offense under any other law of this State, any other state or the United States, shall not be eligible for sentence in accordance with this section if the prosecutor objects to the person being placed on special probation. The court shall not place a person on special probation over the prosecutor's objection except upon a finding by the court of a gross and patent abuse of prosecutorial discretion. If the court makes a finding of a gross and patent abuse of prosecutorial discretion and imposes a sentence of special probation notwithstanding the objection of the prosecutor, the sentence of special probation imposed pursuant to this section shall not become final for 10 days in order to permit the appeal of such sentence by the prosecution.

d. A person convicted of or adjudicated delinquent for a crime of the second degree or of a violation of section 1 of P.L.1987, c.101 (C.2C:35-7), or who previously has been convicted of or adjudicated delinquent for an offense under subsection a. of N.J.S.2C:35-5 or a similar offense under any other law of this State, any other state or the United States, who is placed on special probation under this section shall be committed to the custody of a residential treatment facility licensed and approved by the Department of Health and Senior Services, whether or not residential treatment was recommended by the person conducting the diagnostic assessment. The person shall be committed to the residential treatment facility immediately, unless the facility cannot accommodate the person, in which case the person shall be incarcerated to await commitment to the residential treatment facility. The term of such commitment shall be for a minimum of six months, or until the court, upon recommendation of the treatment provider, determines that the person has successfully completed the residential treatment program, whichever is later, except that no person shall remain in the custody of a residential treatment facility pursuant to this section for a period in excess of five years. Upon successful completion of the required residential treatment program, the person shall complete the period of special probation, as authorized by subsection a. of this section, with credit for time served for any imprisonment served as a condition of probation and credit for each day during which the person satisfactorily complied with the terms and conditions of special probation while committed pursuant to this section to a residential treatment facility. The person shall not be eligible for early discharge of special probation pursuant to N.J.S.2C:45-2, or any other provision of the law. The court, in determining the number of credits for time spent in residential treatment, shall consider the recommendations of the treatment provider. A person placed into a residential treatment facility pursuant to this section shall be deemed to be subject to official detention for the purposes of N.J.S.2C:29-5 (escape).

e. The probation department or other appropriate agency designated by the court to monitor or supervise the person's special probation shall report periodically to the court as to the person's progress in treatment and compliance with court-imposed terms and conditions. The treatment provider shall promptly report to the probation department or other appropriate agency all significant failures by the person to comply with any court imposed term or condition of special probation or any requirements of the course of treatment, including but not limited to a positive drug or alcohol test or the unexcused failure to attend any session or activity, and shall immediately report any act that would constitute an escape. The probation department or other appropriate agency shall immediately notify the court and the prosecutor in the event that the person refuses to submit to a periodic drug or alcohol test

or for any reason terminates his participation in the course of treatment, or commits any act that would constitute an escape.

f. (1) Upon a first violation of any term or condition of the special probation authorized by this section or of any requirements of the course of treatment, the court in its discretion may permanently revoke the person's special probation.

(2) Upon a second or subsequent violation of any term or condition of the special probation authorized by this section or of any requirements of the course of treatment, the court shall, subject only to the provisions of subsection g. of this section, permanently revoke the person's special probation unless the court finds on the record that there is a substantial likelihood that the person will successfully complete the treatment program if permitted to continue on special probation, and the court is clearly convinced, considering the nature and seriousness of the violations, that no danger to the community will result from permitting the person to continue on special probation pursuant to this section. The court's determination to permit the person to continue on special probation following a second or subsequent violation pursuant to this paragraph may be appealed by the prosecution.

(3) In making its determination whether to revoke special probation, and whether to overcome the presumption of revocation established in paragraph (2) of this subsection, the court shall consider the nature and seriousness of the present infraction and any past infractions in relation to the person's overall progress in the course of treatment, and shall also consider the recommendations of the treatment provider. The court shall give added weight to the treatment provider's recommendation that the person's special probation be permanently revoked, or to the treatment provider's opinion that the person is not amenable to treatment or is not likely to complete the treatment program successfully.

(4) If the court permanently revokes the person's special probation pursuant to this subsection, the court shall impose any sentence that might have been imposed, or that would have been required to be imposed, originally for the offense for which the person was convicted or adjudicated delinquent. The court shall conduct a de novo review of any aggravating and mitigating factors present at the time of both original sentencing and resentencing. If the court determines or is required pursuant to any other provision of this chapter or any other law to impose a term of imprisonment, the person shall receive credit for any time served in custody pursuant to N.J.S.2C:45-1 or while awaiting placement in a treatment facility pursuant to this section, and for each day during which the person satisfactorily complied with the terms and conditions of special probation while committed pursuant to this section to a residential treatment facility. The court, in determining the

number of credits for time spent in a residential treatment facility, shall consider the recommendations of the treatment provider.

(5) Following a violation, if the court permits the person to continue on special probation pursuant to this section, the court shall order the person to comply with such additional terms and conditions, including but not limited to more frequent drug or alcohol testing, as are necessary to deter and promptly detect any further violation.

(6) Notwithstanding any other provision of this subsection, if the person at any time refuses to undergo urine testing for drug or alcohol usage as provided in subsection a. of this section, the court shall, subject only to the provisions of subsection g. of this section, permanently revoke the person's special probation. Notwithstanding any other provision of this section, if the person at any time while committed to the custody of a residential treatment facility pursuant to this section commits an act that would constitute an escape, the court shall forthwith permanently revoke the person's special probation.

(7) An action for a violation under this section may be brought by a probation officer or prosecutor or on the court's own motion. Failure to complete successfully the required treatment program shall constitute a violation of the person's special probation. A person who fails to comply with the terms of his special probation pursuant to this section and is thereafter sentenced to imprisonment in accordance with this subsection shall thereafter be ineligible for entry into the Intensive Supervision Program.

g. When a person on special probation is subject to a presumption of revocation on a second or subsequent violation pursuant to paragraph (2) of subsection f. of this section, or when the person refuses to undergo drug or alcohol testing pursuant to paragraph (6) of subsection f. of this section, the court may, in lieu of permanently revoking the person's special probation, impose a term of incarceration for a period of not less than 30 days nor more than six months, after which the person's term of special probation pursuant to this section may be reinstated. In determining whether to order a period of incarceration in lieu of permanent revocation pursuant to this subsection, the court shall consider the recommendations of the treatment provider with respect to the likelihood that such confinement would serve to motivate the person to make satisfactory progress in treatment once special probation is reinstated. This disposition may occur only once with respect to any person unless the court is clearly convinced that there are compelling and extraordinary reasons to justify reimposing this disposition with respect to the person. Any such determination by the court to reimpose this disposition may be appealed by the prosecution. Nothing in this subsection shall be construed to limit the authority of the court at any time during the period of special probation to order a person on special

probation who is not subject to a presumption of revocation pursuant to paragraph (2) of subsection f. of this section to be incarcerated over the course of a weekend, or for any other reasonable period of time, when the court in its discretion determines that such incarceration would help to motivate the person to make satisfactory progress in treatment.

h. The court, as a condition of its order, and after considering the person's financial resources, shall require the person to pay that portion of the costs associated with his participation in any rehabilitation program or period of residential treatment imposed pursuant to this section which, in the opinion of the court, is consistent with the person's ability to pay, taking into account the court's authority to order payment or reimbursement to be made over time and in installments.

i. The court shall impose, as a condition of the special probation, any fine, penalty, fee or restitution applicable to the offense for which the person was convicted or adjudicated delinquent.

3. N.J.S.2C:35-15 is amended to read as follows:

Mandatory drug enforcement and demand reduction penalties; collection; disposition; suspension.

2C:35-15. a. In addition to any disposition authorized by this title, the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), or any other statute indicating the dispositions that can be ordered for an adjudication of delinquency, every person convicted of or adjudicated delinquent for a violation of any offense defined in this chapter or chapter 36 of this title shall be assessed for each such offense a penalty fixed at:

(1) $3,000.00 in the case of a crime of the first degree;

(2) $2,000.00 in the case of a crime of the second degree;

(3) $1,000.00 in the case of a crime of the third degree;

(4) $750.00 in the case of a crime of the fourth degree;

(5) $500.00 in the case of a disorderly persons or petty disorderly persons offense.

Every person placed in supervisory treatment pursuant to the provisions of N.J.S.2C:36A-1 or N.J.S.2C:43-12 for a violation of any offense defined in this chapter or chapter 36 of this title shall be assessed the penalty prescribed herein and applicable to the degree of the offense charged, except that the court shall not impose more than one such penalty regardless of the number of offenses charged. If the person is charged with more than one offense, the court shall impose as a condition of supervisory treatment the penalty applicable to the highest degree offense for which the person is charged.

All penalties provided for in this section shall be in addition to and not in lieu of any fine authorized by law or required to be imposed pursuant to the provisions of N.J.S.2C:35-12.

b. All penalties provided for in this section shall be collected as provided for collection of fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4), and shall be forwarded to the Department of the Treasury as provided in subsection c. of this section.

c. All moneys collected pursuant to this section shall be forwarded to the Department of the Treasury to be deposited in a nonlapsing revolving fund to be known as the "Drug Enforcement and Demand Reduction Fund." Moneys in the fund shall be appropriated by the Legislature on an annual basis for the purposes of funding in the following order of priority: (1) the Alliance to Prevent Alcoholism and Drug Abuse and its administration by the Governor's Council on Alcoholism and Drug Abuse; (2) the "Alcoholism and Drug Abuse Program for the Deaf, Hard of Hearing and Disabled" established pursuant to section 2 of P.L.1995, c.318 (C.26:2B-37); (3) the "Partnership for a Drug Free New Jersey," the State affiliate of the "Partnership for a Drug Free America"; and (4) other alcohol and drug abuse programs.

Moneys appropriated for the purpose of funding the "Alcoholism and Drug Abuse Program for the Deaf, Hard of Hearing and Disabled" shall not be used to supplant moneys that are available to the Department of Health and Senior Services as of the effective date of P.L.1995, c.318 (C.26:2B-36 et al.), and that would otherwise have been made available to provide alcoholism and drug abuse services for the deaf, hard of hearing and disabled, nor shall the moneys be used for the administrative costs of the program.

d. (Deleted by amendment, P.L.1991, c.329).

e. The court may suspend the collection of a penalty imposed pursuant to this section; provided the person is ordered by the court to participate in a drug or alcohol rehabilitation program approved by the court; and further provided that the person agrees to pay for all or some portion of the costs associated with the rehabilitation program. In this case, the collection of a penalty imposed pursuant to this section shall be suspended during the person's participation in the approved, court-ordered rehabilitation program. Upon successful completion of the program, as determined by the court upon the recommendation of the treatment provider, the person may apply to the court to reduce the penalty imposed pursuant to this section by any amount actually paid by the person for his participation in the program. The court shall not reduce the penalty pursuant to this subsection unless the person establishes to the satisfaction of the court that he has successfully completed the rehabilitation program. If the person's participation is for any reason terminated before his successful completion of the rehabilitation program, collection of the entire penalty imposed pursuant to this section

shall be enforced. Nothing in this section shall be deemed to affect or suspend any other criminal sanctions imposed pursuant to this chapter or chapter 36 of this title.

4. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 377

AN ACT providing for the preservation of certain Civil War monuments and supplementing P.L.1970, c.268 (C.13:1B-15.128 et seq.).

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

C.13:1B-15.131a Preservation of certain Civil War monuments.

1. a. The Commissioner of Environmental Protection, in consultation with the Historic Sites Council, shall use volunteer services of appropriate historical organizations and the resources of the department to conduct, and update on a periodic basis, a survey of Civil War monuments located within this State. Civil War monuments which, based on the results of the survey, are determined to have significant historical value shall be included in the New Jersey Register of Historic Places.

b. In addition to the protections provided by section 4 of P.L.1970, c.268 (C.13:1B-15.131), the State, a county or municipality, or an instrumentality thereof, shall not approve any application or permit for any activity which will encroach upon, damage or destroy any Civil War monument listed in the New Jersey Register of Historic Places without first applying for the authorization of the commissioner in the manner provided in that section.

c. As used in this section, "Civil War monument" means any area, site, structure or object, publicly or privately owned, relating to the American Civil War.

2. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 378

AN ACT concerning workers' compensation coverage provided through the New Jersey Horse Racing Injury Compensation Board and amending and supplementing P.L.1995, c.329.

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

1. Section 3 of P.L.1995, c.329 (C.34:15-131) is amended to read as follows:

C.34:15-131 Definitions regarding the New Jersey Horse Racing Injury Compensation Board.

3. As used in this act:

"Board" means the New Jersey Horse Racing Injury Compensation Board established by section 4 of this act.

"Commission" means the New Jersey Racing Commission established pursuant to section 1 of P.L.1940, c.17 (C.5:5-22).

"Horse racing industry employee" means a jockey, jockey apprentice, or driver engaged in performing services for an owner in connection with the racing of a horse in New Jersey. In addition, a trainer who otherwise would be considered an employee of the owner pursuant to R.S.34:15-1 et seq., as well as any person assisting such trainer who is licensed or required to be licensed by the commission, is a horse racing industry employee for the purposes of this act.

C.34:15-134.1 Trainer to carry compensation insurance for employees.

2. Notwithstanding any provision of P.L.1995, c.329 (C.34:15- 129 et seq.) as amended, a trainer shall carry compensation insurance covering the trainer's employees as required by law.

3. Section 6 of P.L.1995, c.329 (C.34:15-134) is amended to read as follows:

C.34:15-134 Insurance coverage; assessments.

6. a. The board shall secure workers' compensation insurance coverage for horse racing industry employees.

b. The board shall assess and collect sufficient funds to pay the costs of the insurance or self insurance coverage required by this act and by the workers' compensation laws of this State and to pay any additional costs necessary to carry out its other duties. The board shall ascertain the total funding necessary, establish the sums that are to be paid and establish by regulation the method of assessing and collecting these moneys. Assessments shall include, but shall not be limited to, deductions from gross overnight purses paid to owners, so long as such deductions do not exceed 3% of such purses, and additional assessments may be collected from horse owners as needed. Track owners shall not be assessed for such costs.

c. Assessments for workers' compensation insurance coverage pursuant to this act shall be calculated and allocated separately for the thoroughbred and standardbred industries, based on their respective loss

experience, and any assessments pursuant to subsection b. of this section shall be allocated accordingly. No public funds, other than the moneys collected pursuant to subsection b. of this section, shall be used for the purpose of self insurance or for paying the costs of workers' compensation insurance or workers' compensation benefits pursuant to this act.

4. Section 7 of P.L.1995, c.329 (C.34:15-135) is amended to read as follows:

C.34:15-135 Employee, employer relationship under the act.

7. a. For the purposes of this act and R.S.34:15-36, a horse racing industry employee shall be deemed to be in the employment of the New Jersey Horse Racing Injury Compensation Board and in the employment of all owners who are licensed or required to be licensed by the commission at the time of any occurrence for which workers' compensation benefits are payable pursuant to R.S.34:15-1 et seq. as supplemented by this act, and not solely in the employment of a particular owner. A horse racing industry employee shall not be deemed to be in the employment of the New Jersey Horse Racing Injury Compensation Board for any other purpose.

b. For the purposes of this act and R.S.34:15-36, the New Jersey Horse Racing Injury Compensation Board and all owners who are licensed or required to be licensed by the commission shall be deemed the employer of a horse racing industry employee at the time of any event for which workers' compensation benefits are payable pursuant to R.S.34:15-1 et seq. as supplemented by this act. The New Jersey Racing Injury Compensation Board shall not be deemed the employer of a horse racing industry employee for any other purpose.

c. With respect to horse racing industry employees, the requirements of R.S.34:15-1 et seq. regarding the provision of workers' compensation insurance by employers are satisfied in full by compliance with the requirements imposed upon owners by this act and any rules or regulations promulgated hereunder. If the responsible owner fails to comply with the requirements of this act or any rules or regulations promulgated hereunder and if the board is still required to pay the award on behalf of that owner who has been found to have violated this act or any rule or regulation promulgated hereunder, then the board shall be entitled to collect from that owner any assessment which was not paid but which should have been paid by that owner as provided by this act.

d. The provisions of this act shall not apply to employees of an owner who are not horse racing industry employees. To the extent that a horse racing industry employee is also covered by duplicate coverage procured

pursuant to another policy of workers' compensation insurance, the coverage procured by the board pursuant to this act shall be considered primary.

5. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 379

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, 2000 and regulating the disbursement thereof," approved June 28, 1999 (P.L.1999, c.138).

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 sum is appropriated:

FEDERAL FUNDS
98 THE JUDICIARY
10 PUBLIC SAFETY AND CRIMINAL JUSTICE
15 Judicial Services

07-9844	Probation Services	$200,000
07-9854	Probation Services	$196,320
07-9864	Probation Services	$200,000
07-9944	Probation Services.	$24,218
	TOTAL APPROPRIATION, JUDICIAL SERVICES	$620,538

Special Purpose:
Drug Court. ($620,538)

The unexpended balance as of June 30, 1999, in this account is appropriated.

2. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 380

AN ACT concerning the annual salaries for certain public officers, creating a salary review commission, and concerning mandatory retirement for

certain Executive Branch judges, amending various parts of the statutory law and supplementing chapter 14 of Title 52 of the Revised Statutes, Title 34 of the Revised Statutes, and P.L.1978, c.67 (C.52:14F-1 et seq.).

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

1. Section 1 of P.L.1973, c.357 (C.52:14-15.104c) is amended to read as follows:

C.52:14-15.104c Annual salary of Governor.

1. The annual salary of the Governor shall be fixed and established at $130,000. Beginning with the commencement of the term of office of the Governor inaugurated in January of 2002 and thereafter, the annual salary of the Governor shall be fixed and established at $175,000.

2. Section 1 of P.L.1974, c.55 (C.52:14-15.107) is amended to read as follows:

C.52:14-15.107 Department officers; annual salaries.

1. Notwithstanding the provisions of the annual appropriations act and section 7 of P.L.1974, c.55 (C.52:14-15.110), the Governor shall fix and establish the annual salary, not to exceed $133,330 in calendar year 2000, $137,165 in calendar year 2001 and $141,000 in calendar year 2002 and thereafter, for each of the following officers:

Title

Agriculture Department
Secretary of Agriculture
Community Affairs Department
Commissioner of Community Affairs
Corrections Department.
Commissioner of Corrections
Education Department
Commissioner of Education
Environmental Protection Department
Commissioner of Environmental Protection
Health and Senior Services Department
Commissioner of Health and Senior Services
Human Services Department
Commissioner of Human Services
Banking and Insurance Department
Commissioner of Banking and Insurance

Labor Department
Commissioner of Labor
Law and Public Safety Department
Attorney General
Military and Veterans' Affairs Department
Adjutant General
Personnel Department
Commissioner of Personnel
State Department
Secretary of State
Transportation Department
Commissioner of Transportation
Treasury Department
State Treasurer
Members, Board of Public Utilities

Notwithstanding the provisions of this section to the contrary, the Chief Executive Officer and Secretary of the New Jersey Commerce and Economic Growth Commission shall receive such salary as shall be fixed by the Governor pursuant to subsection b. of section 8 of P.L.1998, c.44 (C.52:27C-68).

3. Section 53 of P.L.1977, c.110 (C.5:12-53) is amended to read as follows:

C.5:12-53 Compensation of members.

53. Compensation of members. Each member of the commission shall receive an annual salary to be fixed and established by the Governor at an amount not to exceed $133,330 in calendar year 2000, $137,165 in calendar year 2001 and $141,000 in calendar year 2002 and thereafter.

4. Section 1 of P.L.1968, c.266 (C.52:9M-1) is amended to read as follows:

C.52:9M-1 State Commission of Investigation.

1. There is hereby created a temporary State Commission of Investigation. The commission shall consist of four members, to be known as commissioners.

Two members of the commission shall be appointed by the Governor. One each shall be appointed by the President of the Senate and by the Speaker of the General Assembly. Each member shall serve for a term of three years and until the appointment and qualification of his successor. No person shall serve, in succession, more than two three-year terms and any portion of an unexpired term as a member of the commission. The Governor shall designate one of the members to serve as chairman of the commission.

The members of the commission appointed by the President of the Senate and the Speaker of the General Assembly and at least one of the members appointed by the Governor shall be attorneys admitted to the bar of this State. No member or employee of the commission shall hold any other public office or public employment. Not more than two of the members shall belong to the same political party.

Each member of the commission shall receive an annual salary of $35,000. Each member shall also be entitled to reimbursement for his expenses actually and necessarily incurred in the performance of his duties, including expenses of travel outside of the State.

Vacancies on the commission shall be filled for the unexpired terms in the same manner as original appointments. Vacancies on the commission shall be filled by the appropriate appointing authority within 90 days. If the appropriate appointing authority does not fill a vacancy within that time period, the vacancy shall be filled by the Chief Justice of the Supreme Court within 60 days. A vacancy on the commission shall not impair the right of the remaining members to exercise all the powers of the commission.

Any determination made by the commission shall be by majority vote. "Majority vote" means the affirmative vote of at least three members of the commission if there are no vacancies on the commission or the affirmative vote of at least two members of the commission if there is a vacancy.

5. N.J.S.2A:158-10 is amended to read as follows:

Salaries of county prosecutors.

2A:158-10. County prosecutors shall receive annual salaries to be fixed by the governing body of the county at $133,330 in calendar year 2000, $137,165 in calendar year 2001 and $141,000 in calendar year 2002 and thereafter.

There shall be appropriated annually to the Department of Community Affairs for payment to each county for additional salary costs resulting from the increase in the salary of county prosecutors an amount equal to the amount by which the annual salary paid to the county prosecutor under this section exceeds $100,000.00.

6. N.J.S.2B:2-4 is amended to read as follows:

Judicial salaries.

2B:2-4. Judicial Salaries. Annual salaries of justices and judges for calendar year 2000 shall be:

Chief Justice of the Supreme Court	$149,018
Associate Justice of the Supreme Court	$145,881
Judge of the Superior Court, Appellate Division	$141,176
Judge of the Superior Court, Assignment Judge	$138,036

Judge of the Superior Court; Judge of the Tax Court $133,330

Annual salaries of justices and judges for calendar year 2001 shall be:

Chief Justice of the Supreme Court $156,634
Associate Justice of the Supreme Court $152,191
Judge of the Superior Court, Appellate Division $145,588
Judge of the Superior Court, Assignment Judge $142,393
Judge of the Superior Court; Judge of the Tax Court $137,165

Annual salaries of justices and judges for calendar year 2002 and thereafter shall be:

Chief Justice of the Supreme Court $164,250
Associate Justice of the Supreme Court $158,500
Judge of the Superior Court, Appellate Division $150,000
Judge of the Superior Court, Assignment Judge $146,750
Judge of the Superior Court; Judge of the Tax Court $141,000

7. R.S.34:15-49 is amended to read as follows:

Jurisdiction of division; salaries, qualifications, tenure of judges, etc.

34:15-49. a. The Division of Workers' Compensation shall have the exclusive original jurisdiction of all claims for workers' compensation benefits under this chapter. The judges of the Division of Workers' Compensation shall hereinafter be appointed on a bipartisan basis by the Governor, with the advice and consent of the Senate, to initial terms of three years at an annual salary, for the first year, in an amount equal to 75% of the annual salary of a Judge of the Superior Court. During the initial three-year term, each judge shall be subject to a program of evaluation developed by the Director of the Division of Workers' Compensation. Upon receipt of a satisfactory annual evaluation from the director, the annual salary of a nontenured judge shall be increased to 78 2/3% of the annual salary of a Judge of the Superior Court after one year; 81 2/3% of the annual salary of a Judge of the Superior Court after two years; and, after three years and upon tenure as provided pursuant to the provisions of this section, the annual salary of a tenured judge of compensation shall be 85% of the annual salary of a Judge of the Superior Court. Reappointment of a judge shall be by the Governor, with the advice and consent of the Senate. The director's evaluations shall be made available to the Senate Judiciary Committee if the candidate has been renominated by the Governor. Upon confirmation after the initial three-year term, a judge of the Division of Workers' Compensation shall have tenure, and shall serve during good behavior. All judges of compensation appointed prior to the effective date of P.L.1991, c.513 shall continue to have tenure and shall continue to serve during good behavior.

The annual salary of the director shall be 89% of the annual salary of a Judge of the Superior Court. The Chief Judge of Compensation shall be the Director of the Division of Workers' Compensation and may be known as the Director/Chief Judge of the division.

In addition to salary, a judge of compensation regularly assigned as an administrative supervisory judge of compensation by the director shall receive additional compensation of $2,500 per annum during the period of such assignment; and a judge of compensation regularly assigned as a supervising judge of compensation by the director shall receive additional compensation of $1,500 per annum during the period of such assignment.

Judges of compensation shall not engage in the practice of law, shall devote full time to their judicial duties, and shall have been licensed attorneys in the State of New Jersey for 10 years prior to their appointments. The director of the division shall have the same qualifications for appointment and be subject to the same restrictions as a judge of compensation.

All judges of compensation shall be retired upon attaining the age of 70 years.

b. An increase in an annual salary of a judge or the director under subsection a. of this section that results due to the increase in the salary of a Judge of the Superior Court provided in N.J.S.2B:2-4 as amended in section 1 of P.L.1995, c.424 (N.J.S.2B:2-4) shall not be granted until July 1, 1996.

8. Section 3 of P.L.1978, c.67 (C.52:14F-3) is amended to read as follows:

C.52:14F-3 Director.

3. The head of the office shall be the director who shall be an attorney-at-law of this State for a minimum of five years. The director shall be appointed by the Governor with the advice and consent of the Senate.

The director shall serve for a term of six years. As used in this act, "director" shall mean the Director of the Office of Administrative Law and Chief Administrative Law Judge.

The director shall devote full time to the duties of the office and shall receive an annual salary equal to 89% of the annual salary of a Judge of the Superior Court. Any vacancy occurring in the office of the director shall be filled in the same manner as the original appointment, but for the unexpired term only.

9. Section 4 of P.L.1978, c.67 (C.52:14F-4) is amended to read as follows:

C.52:14F-4 Administrative law judges; compensation.

4. Permanent administrative law judges shall be appointed by the Governor with the advice and consent of the Senate to initial terms of one year. During this initial term, each judge shall be subject to a program of evaluation as delineated in section 5 of P.L.1978, c. 67 (C.52:14F-5). First

reappointment of a judge after this initial term shall be by the Governor for a term of four years and until the appointment and qualification of the judge's successor.

Administrative law judges nominated by the Governor before July 1, 1981 shall, upon their confirmation by the Senate, serve for terms of five years and until the appointment and qualification of their successors.

Subsequent reappointments of a judge shall be by the Governor with the advice and consent of the Senate to terms of five years and until the appointment and qualification of the judge's successor. The advice and consent of the Senate, as provided in this section, shall be exercised within 45 days after a nomination for appointment has been submitted to the Senate, and if no action has been taken within the 45-day period, the nomination shall be deemed confirmed. This 45-day period shall not apply to any person nominated by the Governor for the position of administrative law judge prior to July 1, 1981.

The annual salary for an administrative law judge during the initial term of one year shall be equal to 75% of the annual salary of a Judge of the Superior Court. The annual salary for a judge during the first year of the first reappointment shall be increased to 78 2/3 % of the annual salary of a Judge of the Superior Court. Upon receipt of satisfactory annual evaluations, the annual salary for a judge shall be increased to 81 2/3 % of the annual salary of a Judge of the Superior Court for the second year of the first reappointment and to 85% of the annual salary of a Judge of the Superior Court for the third year of the first reappointment. The annual salary shall be 85% of the annual salary of a Judge of the Superior Court for the fourth year of the first reappointment and for each year of subsequent reappointments thereafter.

In addition to salary, an administrative law judge regularly assigned as an assignment judge shall receive $2,500 annually as additional compensation, and a judge regularly assigned other administrative or supervisory duties shall receive $1,500 annually as additional compensation.

All administrative law judges, including the Chief Administrative Law Judge, shall be retired upon attaining the age of 70 years.

10. Section 5 of P.L.1978, c.67 (C.52:14F-5) is amended to read as follows:

C.52:14F-5 Powers, duties of director.

5. The Director and Chief Administrative Law Judge of the Office of Administrative Law shall:

a. Administer and cause the work of the office to be performed in such manner and pursuant to such program as may be required or appropriate;

b. Organize and reorganize the office, and establish such bureaus as may be required or appropriate;

c. Except as otherwise provided in subsections l. and t., below, appoint, pursuant to the provisions of Title 11A of the New Jersey Statutes, such clerical assistants and other personnel as may be required for the conduct of the office;

d. Assign and reassign personnel to employment within the office;

e. Develop uniform standards, rules of evidence, and procedures, including but not limited to standards for determining whether a summary or plenary hearing should be held to regulate the conduct of contested cases and the rendering of administrative adjudications;

f. Promulgate and enforce such rules for the prompt implementation and coordinated administration of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as may be required or appropriate;

g. Administer and supervise the procedures relating to the conduct of contested cases and the making of administrative adjudications, as defined by section 2 of P.L.1968, c.410 (C.52:14B-2);

h. Advise agencies concerning their obligations under the Administrative Procedure Act, subject to the provisions of subsections b. and e. of section 4 of P.L.1944, c.20 (C.52:17A-4);

i. Assist agencies in the preparation, consideration, publication and interpretation of administrative rules required or appropriate pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.);

j. Employ the services of the several agencies and of the employees thereof in such manner and to such extent as may be agreed upon by the director and the chief executive officer of such agency;

k. Have access to information concerning the several agencies to assure that they properly promulgate all rules required by law;

l. Assign permanent administrative law judges at supervisory and other levels who are qualified in the field of administrative law or in subject matter relating to the hearing functions of a State agency.

Administrative law judges shall receive such salaries as provided by section 4 of P.L.1978, c.67 (C.52:14F-4), as amended by P.L.1999, c.380, shall not engage in the practice of law and shall devote full time to their judicial duties.

Administrative law judges appointed after the effective date of this amendatory act shall have been attorneys-at-law of this State for a minimum of five years. An administrative law judge appointed prior to the effective date of this amendatory act shall not be required to be an attorney or, if an attorney, shall not be required to have been an attorney-at-law for five years in order to be reappointed;

m. Appoint additional administrative law judges, qualified in the field of administrative law or in a subject matter relating to the hearing functions of a State agency, on a temporary or case basis as may be necessary during emergency or unusual situations for the proper performance of the duties of the office, pursuant to a reasonable fee schedule established in advance by the director. Administrative law judges appointed pursuant to this procedure shall have the same qualifications for appointment as permanent administrative law judges;

n. Assign administrative law judges to conduct contested cases as required by sections 9 and 10 of P.L.1968, c.410 (C.52:14B-9 and 52:14B-10). Proceedings shall be scheduled for suitable locations, either at the offices of the Office of Administrative Law or elsewhere in the State, taking into consideration the convenience of the witnesses and parties, as well as the nature of the cases and proceedings;

o. Assign an administrative law judge or other personnel, if so requested by the head of an agency and if the director deems appropriate, to any agency to conduct or assist in administrative duties and proceedings other than those related to contested cases or administrative adjudications, including but not limited to rule-making and investigative hearings;

p. Assign an administrative law judge not engaged in the conduct of contested cases to perform other duties vested in or required of the office;

q. Secure, compile and maintain all reports of administrative law judges issued pursuant to this act, and such reference materials and supporting information as may be appropriate;

r. Develop and maintain a program for the continuing training and education of administrative law judges and agencies in regard to their responsibilities under this act;

s. Develop and implement a program of judicial evaluation to aid himself in the performance of his duties, and to assist in the making of reappointments under section 4 of P.L.1978, c.67 (C.52:14F-4). This program of evaluation shall focus on three areas of judicial performance: competence, productivity, and demeanor. It shall include consideration of: industry and promptness in adhering to schedules, making rulings and rendering decisions; tolerance, courtesy, patience, attentiveness, and self-control in dealing with litigants, witnesses and counsel, and in presiding over contested cases; legal skills and knowledge of the law and new legal developments; analytical talents and writing abilities; settlement skills; quantity, nature and quality of caseload disposition; impartiality and conscientiousness. The director shall develop standards and procedures for this program, which shall include taking comments from selected litigants and lawyers who have appeared before a judge. The methods used by the judge but not the result arrived at by the judge in any case may be used in

evaluating a judge. Before implementing any action based on the findings of the evaluation program, the director shall discuss the findings and the proposed action with the affected judge. The evaluation by the director and supporting data shall be submitted to the Governor at least 90 days before the expiration of any term. These documents shall remain confidential and shall be exempted from the requirements of P.L.1963, c.73 (C.47:1A-1 et seq.);

t. Promulgate and enforce rules for reasonable sanctions, including assessments of costs and attorneys' fees which may be imposed on a party, and attorney or other representative of a party who, without just excuse, fails to comply with any procedural order or with any standard or rule applying to a contested case and including the imposition of a fine not to exceed $1,000.00 for misconduct which obstructs or tends to obstruct the conduct of contested cases; and

u. Have power in connection with contested case hearings (1) to administer oaths to any and all persons, (2) to compel by subpoena the attendance of witnesses and the production of books, records, accounts, papers, and documents of any person or persons, (3) to entertain objections to subpoenas, and (4) to rule upon objections to subpoenas except, that any orders of administrative law judges regarding these objections may be reviewed by the agency head before the completion of the contested case in accordance with procedural rules, adopted by the Director and Chief Administrative Law Judge of the Office of Administrative Law. Misconduct by any party, attorney or representative of a party or witness which obstructs or tends to obstruct the conduct of a contested case or the failure of any witness, when duly subpoenaed to attend, give testimony or produce any record, or the failure to pay any sanction assessed pursuant to subsection t. of this section, shall be punishable by the Superior Court in the same manner as such failure is punishable by such court in a case pending therein.

11. Section 2 of P.L.1974, c.55 (C.52:14-15.108) is amended to read as follows:

C.52:14-15.108 Salary ranges for departmental officers, directors.

2. The salary ranges for the following positions shall be as established by the Department of Personnel with the approval of the Director, Division of Budget and Accounting. The salary rate for any such position shall be the salary step in such range next above the salary currently being paid; provided, however, that any sums appropriated for salaries may be made available for salary adjustments therein arising from various exigencies of the State service and for normal merit salary increments as the Commissioner of Personnel, the State Treasurer and the Director of the Division of Budget and Accounting shall determine; and provided, further, that nothing

in this act shall reduce the salary rate for any such position below that which is being paid on the effective date of this act:

Personnel Department
Chief Examiner and Secretary
Community Affairs Department
Assistant Commissioner of Community Affairs
Director, Division of State and Regional Planning
Director, Division of Local Government Services
Director, Division of Housing and Urban Renewal
Director, Office of Aging Programs
Director, Office on Women
Environmental Protection Department
Director, Division of Water Resources
Director, Division of Parks and Forestry
Director of Fish, Game and Shell Fisheries
Director, Division of Marine Services
Director, Division of Environmental Quality
Health and Senior Services Department
Director, Division, of Narcotic and Drug Abuse Control
Corrections Department
Chairman, State Parole Board
Associate Member, State Parole Board
Public Defender
Labor Department
Director, Workplace Standards
Law and Public Safety Department
Colonel and Superintendent, State Police
Director, Division of Motor Vehicles
State Medical Examiner
Director, Division of Alcoholic Beverage Control
State Superintendent of Weights and Measures
Public Utilities Department
Director, Office of Cable Television
Executive Director, Public Broadcasting
State Department
Transportation Department
Assistant Commissioner for Highways
Assistant Commissioner for Public Transportation
Treasury Department
Director, Division of Budget and Accounting
Director, Division of Taxation
Director, Division of Purchase and Property

Director, Division of Pensions and Benefits
Director, Division of State Lottery.

12. Section 1 of P.L.1948, c.16 (C.52:10A-1) is amended to read as follows:

C.52:10A-1 Salaries of legislators.

1. Members of the Senate and General Assembly shall receive annually, during the term for which they shall have been elected and while they shall hold their office, compensation in the sum of $35,000.00 beginning with the 1990 legislative year and compensation in the sum of $49,000 beginning with the 2002 legislative year and thereafter. The President of the Senate and the Speaker of the General Assembly, each by virtue of his office, shall receive an additional allowance, equal to 1/3 of his compensation as a member. The compensation herein provided shall be paid to each member upon his qualifying into office as such member, and the additional allowance herein provided to the President of the Senate and the Speaker of the General Assembly shall be paid upon his qualifying into office as such officer.

C.52:14-15.115 "Public Officers Salary Review Commission."

13. a. There is hereby established a commission to be known as the "Public Officers Salary Review Commission." The commission shall consist of seven members: two members appointed by the Governor, no more than one of whom shall be of the same political party; one member appointed by the President of the Senate; one member appointed by the Senate minority leader; one member appointed by the Speaker of the General Assembly; one member appointed by the Assembly minority leader; and one member appointed by the Chief Justice of the New Jersey Supreme Court. In appointing members to the commission, the Governor, the President of the Senate, the Speaker of the General Assembly, the Senate and Assembly minority leaders, and the Chief Justice shall not appoint members who are in positions that would be affected by the commission's recommendations. The appointments shall be made no later than September 1 of each year in which the commission is to review salaries and submit a report with proposed recommendations. The appointments shall expire upon the submission of a report to the Governor and Legislature.

b. The commission shall review the salaries of the Governor, cabinet officers, members of the Board of Public Utilities, members of the Casino Control Commission, Workers' Compensation judges, members of the Legislature, members of the State Commission of Investigation, Justices of the Supreme Court, judges of the Superior Court, judges of the Tax Court, administrative law judges and county prosecutors and shall submit a report to

the Governor and Legislature with proposed recommendations, if any, concerning changes in these salaries. In reviewing these salaries, the commission shall consider: the responsibilities of each office; the number of hours per week required to perform the responsibilities of each office; comparable positions in the public and private sectors within and outside of the State; the current state of the State and national economies; projections of future economic growth or decline; and past, and projections of future, cost of living increases or decreases. The commission shall submit its first report with proposed recommendations, if any, on or before December 1, 2003, and then on or before December 1 of every fourth calendar year thereafter.

c. The commission shall organize as soon as possible after the appointment of its members and shall select a chairperson and a vice chairperson from among its members. The chairperson shall appoint a secretary who need not be a member of the commission. Vacancies in the membership shall be filled in the same manner as the original appointments.

d. Commission members shall serve without compensation. The commission shall be entitled to call to its assistance and avail itself of the services of employees of any State, county, or municipal department, board, bureau, commission or agency as it may require and as may be made available to it for its purposes. The commission shall further be entitled to employ stenographic or other clerical assistance and incur traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

14. R.S.54:3-6 is amended to read as follows:

Salaries of board members.

54:3-6. The salaries of the members of the several boards shall be paid biweekly in a biweekly amount by the State Treasurer upon warrants drawn by the Director of the Division of Budget and Accounting in the Department of the Treasury. Each biweekly payment shall be made at a time fixed by the State Treasurer and the Director of the Division of Budget and Accounting, but not later than the tenth working day following the biweekly period for which the salary is due. Salaries shall not be less than the amounts that follow: In counties having a population of more than 500,000, an annual salary of $20,125; in counties having at least 275,000 and not more than 500,000 inhabitants, an annual salary of $18,250; in counties having at least 200,000 and less than 275,000 inhabitants, an annual salary of $17,625; in counties having at least 150,000 and less than 200,000 inhabitants, an annual salary of $17,000; except as hereinafter provided, in counties having between 75,000 and 150,000 inhabitants an annual salary

of $16,375; except as hereinafter provided, in counties having not more than 75,000 inhabitants, an annual salary of $15,750; in counties bordering upon the Atlantic ocean, and having not less than 50,000 nor more than 150,000 inhabitants, an annual salary of $17,000.

The president of each county board shall, in addition to the above, receive the further sum of $2,000.00 per annum. For the purposes of this section, "population" means the most recent official population count of each county of this State as reported by the New Jersey Department of Labor, Office of Demographic and Economic Analysis.

15. Section 1 of P.L.1938, c.295 (C.10:3-1) is amended to read as follows:

C.10:3-1 Age discrimination prohibited; exceptions.

1. In the selection of persons for employment in the service of the State, or of any county or municipality thereof, no appointing officer shall discriminate against any such applicant because such applicant has attained the age of at least 40 years, at the time of said application for employment. Any provisions of law, executive order, rule or regulation to the contrary notwithstanding, no person other than a justice of the Supreme Court or a judge of the Superior Court pursuant to Article VI, Section VI, paragraph 3 of the Constitution of the State of New Jersey, or a judge of the Tax Court, or a judge of the Office of Administrative Law or a judge of the Division of Workers' Compensation, or a member of the Division of State Police, employed in the service of the State, or of any county or municipality thereof, or a member of a police or fire department employed in the service of the State or of any county or municipality thereof, shall be required to retire upon the attainment of a particular age unless the public employer can show that the retirement age bears a manifest relationship to the employment in question or that the person in the service of the State, or of any county or municipality thereof, is unable to adequately perform the person's duties. A contract of tenure or similar arrangement providing for tenure shall not bar a public employer from showing that a retirement age bears a manifest relationship to the employment in question or that the person in the service of the State, or of any county or municipality thereof, is unable to adequately perform the person's duties. A person in the employ of the State, or of any county or municipality thereof, who is required to retire upon the attainment of a particular age in violation of this section shall be entitled to reinstatement with back pay and interest.

16. Section 47 of P.L.1954, c.84 (C.43:15A-47) is amended to read as follows:

C.43:15A-47 Retirement based on age.

47. a. A member who has attained 60 years of age may retire on a service retirement allowance by filing with the retirement system a written application, duly attested, stating at which time subsequent to the execution and filing thereof the member desires to be retired. The board of trustees shall retire him at the time specified or at such other time within one month after the date so specified as the board finds advisable.

b. Any member in service who attains 70 years of age shall be retired by the board of trustees on a service retirement allowance forthwith on the first day of the next calendar month, or at such time within one month thereafter as it finds advisable, except that an employee attaining 70 years of age, other than a judge of the Office of Administrative Law or a judge of the Division of Workers' Compensation, may be continued in service on an annual basis upon written notice to the retirement system by the head of the State department or employer where the employee is employed.

C.52:14F-4.1 Inapplicability of mandatory retirement for administrative law judges, certain.

17. The mandatory retirement provisions implemented pursuant to this act, P.L.1999, c.380 (C.52:14-15.115 et al.), shall be inapplicable for three years after the effective date of this act to any judge of the Office of Administrative Law who is in service on the effective date of this act.

C.34:15-49.2 Inapplicability of mandatory retirement for worker's compensation judges, certain.

18. The mandatory retirement provisions implemented pursuant to this act, P.L.1999, c.380 (C.52:14-15.115 et al.), shall be inapplicable for three years after the effective date of this act to any judge of the Division of Workers' Compensation who is in service on the effective date of this act.

C.52:14F-4.2 Certain administrative law judges permitted to work beyond age 70.

19. Notwithstanding the provisions of this act, P.L.1999, c.380 (C.52:14-15.115 et al.), to the contrary, any judge of the Office of Administrative Law who is 60 years of age or older on the effective date of this act shall be permitted to continue service as a judge until attaining 10 years of service under the "Public Employees' Retirement System Act," P.L.1954, c.84 (C.43:15A-1 et seq.).

C.34:15-49.3 Certain worker's compensation judges permitted to work beyond age 70.

20. Notwithstanding the provisions of this act, P.L.1999, c.380 (C.52:14-15.115 et al.), to the contrary, any judge of the Division of Workers' Compensation who is 60 years of age or older on the effective date of this act shall be permitted to continue service as a judge until attaining 10

years of service under the "Public Employees' Retirement System Act," P.L.1954, c.84 (C.43:15A-1 et seq.).

Severability.

21. If any provision of this act, P.L.1999, c.380 (C.52:14-15.115 et al.), or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the sections which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

22. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 381

AN ACT concerning assault 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, school administrator, teacher, school bus driver 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 any school bus driver employed by an operator under contract to a school board while clearly identifiable as being engaged in the performance of his duties or because of his status as a school bus driver; 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

(f) Any justice of the Supreme Court, judge of the Superior Court, judge of the Tax Court or municipal judge while clearly identifiable as being engaged in the performance of judicial duties or because of his status as a member of the judiciary; or

(g) Any operator of a motorbus or the operator's supervisor or any employee of a rail passenger service while clearly identifiable as being engaged in the performance of his duties or because of his status as an operator of a motorbus or as the operator's supervisor or as an employee of a rail passenger service; 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; or

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

(8) Causes bodily injury by knowingly or purposely starting a fire or causing an explosion in violation of N.J.S.2C:17-1 which results in bodily injury to any emergency services personnel involved in fire suppression activities, rendering emergency medical services resulting from the fire or explosion or rescue operations, or rendering any necessary assistance at the scene of the fire or explosion, including any bodily injury sustained while responding to the scene of a reported fire or explosion. For purposes of this subsection, "emergency services personnel" shall include, but not be limited to, any paid or volunteer fireman, any person engaged in emergency first-aid or medical services and any law enforcement officer. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this paragraph upon proof of a violation of N.J.S.2C:17-1 which resulted in bodily injury to any emergency services personnel; or

(9) Knowingly, under circumstances manifesting extreme indifference to the value of human life, points or displays a firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer; or

(10) Knowingly points, displays or uses an imitation firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer with the purpose to intimidate, threaten or attempt to put the officer in fear of bodily injury or for any unlawful purpose; or

(11) Uses or activates a laser sighting system or device, or a system or device which, in the manner used, would cause a reasonable person to believe that it is a laser sighting system or device, against a law enforcement officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority. As used in this paragraph, "laser sighting system or device" means any system or device that is integrated with or affixed to a firearm and emits a laser light beam that is used to assist in the sight alignment or aiming of the firearm.

Aggravated assault under subsections b. (1) and b. (6) is a crime of the second degree; under subsections b. (2), b. (7) , b. (9) and b. (10) 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. Aggravated assault under subsection b.(8) is a crime of the third degree if the victim suffers bodily injury; if the victim suffers significant bodily injury or serious bodily injury it is a crime of the second degree. Aggravated assault under subsection b.(11) is a crime of the third degree.

c. (1) 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.

(2) Assault by auto or vessel is a crime of the third degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily injury results and is a crime of the fourth degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

(3) Assault by auto or vessel is a crime of the second degree if serious bodily injury results from the defendant operating the auto or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

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

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

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

Assault by auto or vessel is a crime of the third degree if bodily injury results from the defendant operating auto or vessel in violation of this paragraph.

A map or true copy of a map depicting the location and boundaries of the area on or within 1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board produced pursuant to section 1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under subparagraph (a) of paragraph (3) of this section.

It shall be no defense to a prosecution for a violation of subparagraph (a) or (b) of paragraph (3) of this subsection that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be a defense to a prosecution under subparagraph (a) or (b) of paragraph (3) of this subsection that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session.

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 with a purpose to intimidate an individual or group of individuals because of race, color, religion, gender, handicap, sexual orientation, or ethnicity.

2. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 382

AN ACT concerning the health care benefits in retirement of certain county college employees and amending P.L.1992, c.126.

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

1. Section 2 of P.L.1992, c.126 (C.52:14-17.32f1) is amended to read as follows:

C.52:14-17.32f1 Applicability of C.52:14-17.32f.

2. The provisions of section 3 of P.L.1987, c.384 (C.52:14-17.32f) shall apply to:

a. any employee of a board of education who retires on a benefit based upon 25 or more years of service credit in the Public Employees' Retirement System (P.L.1954, c.84; C.43:15A-1 et seq.), or retires on a disability pension based upon fewer years of service credit in that system, or elected deferred retirement based upon 25 or more years of service credit and receives a retirement allowance from that system;

b. any employee of a county college who retires on a benefit based upon 25 or more years of service credit in the Public Employees' Retirement System (P.L.1954, c.84; C.43:15A-1 et seq.), or retires on a disability pension based upon fewer years of service credit in that system, or elected deferred retirement based upon 25 or more years of service credit and receives a retirement allowance from that system; or who retires on a benefit based upon 25 or more years of service credit in the alternate benefit program (P.L.1969, c.242; C.18A:66-167 et seq.), or who receives a disability benefit pursuant to section 18 of P.L.1969, c.242 (C.18A:66-184); and

c. any employee of a county college who retires on a benefit based upon 10 or more years of service credit in the alternate benefit program (P.L.1969, c.242; C.18A:66-167 et seq.) and who has additional years of

service credited in another defined contribution retirement program as an employee of a private institution of higher education which, under contract with a county government, provided services as a county college and subsequently merged with a county technical institute to become a county college, which additional years of service when added to the service credited in the alternate benefit program totals 25 or more years and any such employee who retired prior to the effective date of P.L.1999, c.382 if the employee applies to the program for coverage within one year after the effective date of P.L.1999, c.382, except that the costs of the premium or periodic charges for the benefits and reimbursement of medicare premiums provided to a retiree and the dependents of the retiree under this section shall be paid by the State.

2. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 383

AN ACT concerning workers' compensation and amending R.S.34:15-36.

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

1. R.S.34:15-36 is amended to read as follows:

Definitions.

34:15-36. "Willful negligence" within the intent of this chapter shall consist of (1) deliberate act or deliberate failure to act, or (2) such conduct as evidences reckless indifference to safety, or (3) intoxication, operating as the proximate cause of injury, or (4) unlawful use of a controlled dangerous substance as defined in the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.).

"Employer" is declared to be synonymous with master, and includes natural persons, partnerships, and corporations; "employee" is synonymous with servant, and includes all natural persons, including officers of corporations, who perform service for an employer for financial consideration, exclusive of (1) employees eligible under the federal "Longshore and Harbor Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C.s.901 et seq.), for benefits payable with respect to accidental death or injury, or occupational disease or infection; and (2) casual employments, which shall

be defined, if in connection with the employer's business, as employment the occasion for which arises by chance or is purely accidental; or if not in connection with any business of the employer, as employment not regular, periodic or recurring; provided, however, that forest fire wardens and forest firefighters employed by the State of New Jersey shall, in no event, be deemed casual employees.

A self-employed person, partners of a limited liability partnership, members of a limited liability company or partners of a partnership who actively perform services on behalf of the self-employed person's business, the limited liability partnership, limited liability company or the partnership shall be deemed an "employee" of the business, limited liability partnership, limited liability company or partnership for purposes of receipt of benefits and payment of premiums pursuant to this chapter, if the business, limited liability partnership, limited liability company or partnership elects, when the workers' compensation policy of the business, limited liability partnership, limited liability company or partnership is purchased or renewed, to obtain coverage for the person, the limited liability partners, the limited liability company members or the partners. If the business, limited liability partnership, limited liability company or partnership elects to obtain coverage for the self-employed person, limited liability partners, limited liability company members or the partners, the election may only be made at purchase or at renewal and may not be withdrawn during the policy term. If the business, limited liability partnership, limited liability company or partnership performs services covered under a homeowner's policy or other policies providing comprehensive personal liability insurance for domestic servants, household employees or the dependents thereof, the workers' compensation policy of the business, limited liability partnership, limited liability company or partnership shall have primary responsibility for the payment of benefits. Notwithstanding the provisions of R.S.34:15-71 and 34:15-72, the business, limited liability partnership, limited liability company or partnership shall not be required to purchase a policy unless the business, limited liability partnership, limited liability company or partnership is an "employer" of a least one employee as defined in this section who is not a self-employed person, limited liability partner, limited liability company member or partner actively performing services on behalf of the business, limited liability partnership, limited liability company or partnership.

Notwithstanding any other provision of law to the contrary, no insurer or insurance producer as defined in section 2 of P.L.1987, c.293 (C.17:22A-2) shall be liable in an action for damages on account of the failure of a business, limited liability partnership, limited liability company or partnership to elect to obtain workers' compensation coverage for a self-employed person, limited liability partner, limited liability company

member or partner, unless the insurer or insurance producer causes damage by a willful, wanton or grossly negligent act of commission or omission. Every application for workers' compensation made on or after the effective date of this amendatory act shall include notice, as approved by the Commissioner of Banking and Insurance, concerning the availability of workers' compensation coverage for self-employed persons, limited liability partners, limited liability company members or partners. That application shall also contain a notice of election of coverage and shall clearly state that coverage for self-employed persons, limited liability partners, limited liability company members and partners shall not be provided under the policy unless the application containing the notice of election is executed and filed with the insurer or insurance producer. The application containing the notice of election shall also contain a statement that the insurer or insurance producer shall not be liable in an action for damages on account of the failure of a business, limited liability partnership, limited liability company or partnership to elect to obtain workers' compensation coverage for a self-employed person, limited liability partner, limited liability company member or partner, unless the insurer or insurance producer causes damage by a willful, wanton or grossly negligent act of commission or omission. The failure of a self-employed person, limited liability partnership, limited liability company or partnership to elect to obtain workers' compensation coverage for the self-employed person, the limited liability partners, the limited liability company members or the partners shall not affect benefits available under any other accident or health policy.

Employment shall be deemed to commence when an employee arrives at the employer's place of employment to report for work and shall terminate when the employee leaves the employer's place of employment, excluding areas not under the control of the employer; provided, however, when the employee is required by the employer to be away from the employer's place of employment, the employee shall be deemed to be in the course of employment when the employee is engaged in the direct performance of duties assigned or directed by the employer; but the employment of employee paid travel time by an employer for time spent traveling to and from a job site or of any employee who utilizes an employer authorized vehicle shall commence and terminate with the time spent traveling to and from a job site or the authorized operation of a vehicle on business authorized by the employer. Travel by a policeman, fireman, or a member of a first aid or rescue squad, in responding to and returning from an emergency, shall be deemed to be in the course of employment.

Employment shall also be deemed to commence when an employee is traveling in a ridesharing arrangement between his or her place of residence or terminal near such place and his or her place of employment, if one of the following

conditions is satisfied: the vehicle used in the ridesharing arrangement is owned, leased or contracted for by the employer, or the employee is required by the employer to travel in a ridesharing arrangement as a condition of employment.

"Disability permanent in quality and partial in character" means a permanent impairment caused by a compensable accident or compensable occupational disease, based upon demonstrable objective medical evidence, which restricts the function of the body or of its members or organs; included in the criteria which shall be considered shall be whether there has been a lessening to a material degree of an employee's working ability. Subject to the above provisions, nothing in this definition shall be construed to preclude benefits to a worker who returns to work following a compensable accident even if there be no reduction in earnings. Injuries such as minor lacerations, minor contusions, minor sprains, and scars which do not constitute significant permanent disfigurement, and occupational disease of a minor nature such as mild dermatitis and mild bronchitis shall not constitute permanent disability within the meaning of this definition.

"Disability permanent in quality and total in character" means a physical or neuropsychiatric total permanent impairment caused by a compensable accident or compensable occupational disease, where no fundamental or marked improvement in such condition can be reasonably expected.

Factors other than physical and neuropsychiatric impairments may be considered in the determination of permanent total disability, where such physical and neuropsychiatric impairments constitute at least 75% or higher of total disability.

"Ridesharing" means the transportation of persons in a motor vehicle, with a maximum carrying capacity of not more than 15 passengers, including the driver, where such transportation is incidental to the purpose of the driver. This term shall include such ridesharing arrangements known as carpools and vanpools.

"Medical services, medical treatment, physicians' services and physicians' treatment" shall include, but not be limited to, the services which a chiropractor is authorized by law to perform and which are authorized by an employer pursuant to the provisions of R.S.34:15-1 et seq.

2. This act shall take effect on the 90th day following enactment and apply to all policies issued on or after that date.

Approved January 14, 2000.

CHAPTER 384

AN ACT concerning multiple dwellings and amending P.L.1967, c.76.

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

1. Section 3 of P.L.1967, c.76 (C.55:13A-3) is amended to read as follows:

C.55:13A-3 Definitions.

3. The following terms whenever used or referred to in this act shall have the following respective meanings for the purposes of this act, except in those instances where the context clearly indicates otherwise:

(a) The term "act" shall mean this act, any amendments or supplements thereto, and any rules and regulations promulgated thereunder.

(b) The term "accessory building" shall mean any building which is used in conjunction with the main building of a hotel, whether separate therefrom or adjoining thereto.

(c) The term "board" shall mean the Hotel and Multiple Dwelling Health and Safety Board created by subsection (a) of section 5 of this act in the Division of Housing and Development of the Department of Community Affairs.

(d) The term "bureau" shall mean the Bureau of Housing Inspection in the Department of Community Affairs.

(e) (Deleted by amendment.)

(f) The term "commissioner" shall mean the Commissioner of the Department of Community Affairs.

(g) The term "department" shall mean the Department of Community Affairs.

(h) The term "unit of dwelling space" or the term "dwelling unit" shall mean any room or rooms, or suite or apartment thereof, whether furnished or unfurnished, which is occupied, or intended, arranged or designed to be occupied, for sleeping or dwelling purposes by one or more persons, including but not limited to the owner thereof, or any of his servants, agents or employees, and shall include all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy thereof.

(i) The term "protective equipment" shall mean any equipment, device, system or apparatus, whether manual, mechanical, electrical or otherwise, permitted or required by the commissioner to be constructed or installed in any hotel or multiple dwelling for the protection of the occupants or intended occupants thereof, or of the public generally.

(j) The term "hotel" shall mean any building, including but not limited to any related structure, accessory building, and land appurtenant thereto, and any part thereof, which contains 10 or more units of dwelling space or has sleeping facilities for 25 or more persons and is kept, used, maintained,

advertised as, or held out to be, a place where sleeping or dwelling accommodations are available to transient or permanent guests.

This definition shall also mean and include any hotel, motor hotel, motel, or established guesthouse, which is commonly regarded as a hotel, motor hotel, motel, or established guesthouse, as the case may be, in the community in which it is located; provided, that this definition shall not be construed to include any building or structure defined as a multiple dwelling in this act, registered as a multiple dwelling with the Commissioner of Community Affairs as hereinafter provided, and occupied or intended to be occupied as such nor shall this definition be construed to include a rooming house or a boarding house as defined in the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) or, except as otherwise set forth in P.L.1987, c.270 (C.55:13A-7.5, 55:13A-7.6, 55:13A-12.1, 55:13A-13.2), any retreat lodging facility, as defined in this section.

(k) The term "multiple dwelling" shall mean any building or structure of one or more stories and any land appurtenant thereto, and any portion thereof, in which three or more units of dwelling space are occupied, or are intended to be occupied by three or more persons who live independently of each other. This definition shall also mean any group of ten or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two units of dwelling space are occupied or intended to be occupied by two persons or households living independently of each other, and any land appurtenant thereto, and any portion thereof. This definition shall not include:

(1) any building or structure defined as a hotel in this act, or registered as a hotel with the Commissioner of Community Affairs as hereinafter provided, or occupied or intended to be occupied exclusively as such;

(2) a building section containing not more than four dwelling units, provided the building has at least two exterior walls unattached to any adjoining building section and the dwelling units are separated exclusively by walls of such fire-resistant rating as comports with the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) at the time of their construction or with a rating as shall be established by the bureau in conformity with recognized standards and the building is held under a condominium or cooperative form of ownership, or by a mutual housing corporation, provided that if any units within such a building section are not occupied by an owner of the unit, then that unit and the common areas within that building section shall not be exempted from the definition of a multiple dwelling for the purposes of P.L.1967, c.76 (C.55:13A-1 et seq.). A condominium association, or a cooperative or mutual housing corporation shall provide the bureau with any information necessary to justify an exemption for a dwelling unit pursuant to this paragraph; or

(3) any building of three stories or less, owned or controlled by a nonprofit corporation organized under any law of this State for the primary purpose to provide for its shareholders or members housing in a retirement community as same is defined under the provisions of the "Retirement Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et seq.), provided that the corporation meets the requirements of section 2 of P.L.1983, c.154 (C.55:13A-13.1).

(l) The term "owner" shall mean the person who owns, purports to own, or exercises control of any hotel or multiple dwelling. The term "owner" shall also mean and include any person who owns, purports to own, or exercises control over three or more dwelling units within a multiple dwelling.

(m) The term "person" shall mean any individual, corporation, association, or other entity, as defined in R.S.1:1-2.

(n) The term "continuing violation" shall mean any violation of this act or any regulation promulgated thereunder, where notice is served within two years of the date of service of a previous notice and where violation, premise and person cited in both notices are substantially identical.

(o) The term "project" shall mean a group of buildings subject to the provisions of this act, which are or are represented to be under common or substantially common ownership and which stand on a single parcel of land or parcels of land which are contiguous and which group of buildings is named, designated or advertised as a common entity. The contiguity of such parcels shall not be adversely affected by public rights-of-way incidental to such buildings.

(p) The term "mutual housing corporation" means a corporation not-for-profit incorporated under the laws of New Jersey on a mutual or cooperative basis within the scope of Title VI, s.607 of the "Lanham Public War Housing Act," 54 Stat. 1125, 42 U.S.C. s.1501 et seq., as amended, which acquired a National Defense Housing Project pursuant to said act.

(q) "Condominium" means the form of ownership so defined in the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).

(r) "Cooperative" means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by said corporation or association, or to lease or purchase a dwelling constructed or to be constructed by said corporation or association.

(s) "Retreat lodging facility" means a building or structure, including but not limited to any related structure, accessory building, and land appurtenant thereto, and any part thereof, owned by a nonprofit corporation or association which has tax-exempt charitable status under the federal Internal Revenue Code and which has sleeping facilities used exclusively on a transient basis by persons participating in programs of a religious, cultural or educational nature, conducted under the sole

auspices of one or more corporations or associations having tax-exempt charitable status under the federal Internal Revenue Code, which are made available without any mandatory charge to such participants.

2. This act shall take effect immediately.

Approved January 14, 2000.

CHAPTER 385

AN ACT concerning State aid for kindergarten programs in certain charter schools and supplementing P.L.1995, c.426 (C.18A:36A-1 et seq.).

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

1. State aid, in addition to all funds to which a charter school is entitled pursuant to section 12 of P.L.1995, c.426 (C.18A:36A-12), shall be distributed to any charter school which operates a full-day kindergarten program and which is located in an Abbott district as defined in section 3 of P.L.1996, c.138 (C.18A:7F-3) according to the following formula:

Aid = (KPP - ECP) x KE provided that Aid shall not be less than 0; and where

KPP is the amount paid by the district to the charter school for each kindergarten pupil pursuant to section 12 of P.L.1995, c.426 (C.18A:36A-12);

KE is the enrollment of full-time kindergarten pupils in the charter school for the budget year; and

ECP is the per pupil early childhood program aid payable to the charter school for the budget year.

2. This act shall take effect for the 1999-2000 school year and shall expire after the 2000-2001 school year.

Approved January 14, 2000.

CHAPTER 386

AN ACT concerning voluntary contributions through gross income tax returns to organ donor and tissue sharing education programs, supplementing chapter 9 of Title 54A of the New Jersey Statutes.

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

C.54A:9-25.17 "Organ and Tissue Donor Awareness Education Fund."

1. a. There is established in the Department of the Treasury a special fund to be known as the "Organ and Tissue Donor Awareness Education Fund."

b. Each taxpayer shall have the opportunity to indicate on the taxpayer's New Jersey gross income tax return that a portion of the taxpayer's tax refund or an enclosed contribution shall be deposited in the special fund.

c. 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 "Organ and Tissue Donor Awareness Education Fund."

C.54A:9-25.18 Appropriation of funds in Organ and Tissue Donor Awareness Education Fund.

2. The Legislature shall annually appropriate all funds deposited in the "Organ and Tissue Donor Awareness Education Fund" established pursuant to this act to the organ procurement organizations designated by the federal government to provide services in this State. These funds shall be proportionally distributed to the organ procurement organizations, based upon the adjusted population base specified by the federal Health Care Financing Administration for these organizations, for expenses and educational materials concerning organ donor and tissue sharing Statewide.

3. This act shall take effect immediately and apply to taxable years beginning on or after January 1 next following enactment.

Approved January 14, 2000.

CHAPTER 387

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, 1998 and regulating the disbursement thereof," approved June 27, 1997 (P.L.1997, c.131).

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

1. The Legislature finds and declares that the Underground Railroad was the most dramatic protest action against slavery in the history of New Jersey and the United States; and that the operation of the Underground Railroad, which cut a path through the State of New Jersey, began during the colonial period, later became part of organized abolitionist activity in the nineteenth century, and reached its peak in the thirty-year period preceding the Civil War.

The Legislature further finds and declares that, before the Civil War, more than 50,000 slaves were led to freedom by operators of the Underground Railroad in New Jersey; that the Underground Railroad rapidly expanded, with the assistance of the Quaker population in southwestern New Jersey, and involved numerous sites and structures and a vast network of paths and roads; and that the paths traversed swamps, crossed mountains, and ran along and across rivers, encompassing every route the enslaved took to reach freedom from bondage.

The Legislature further finds and declares that the furtive movement of slaves made it difficult to trace the stations of the Underground Railroad; that without adequate preservation or interpretation, many sites and structures involved in the Underground Railroad are in danger of being lost, both physically and in the public consciousness; and that while a tremendous amount of interest still exists in the heroic struggle, there is little organized coordination and communication among interested individuals and organizations.

The Legislature therefore determines that more should be done to document the role New Jersey played in destroying the institution of slavery through the State's participation in the Underground Railroad; and that it is altogether fitting and proper for the State, through the New Jersey Historical Commission, to engage in a study to identify and preserve the Underground Railroad for the instruction of future generations.

2. In addition to the amounts appropriated under P.L.1997, c.131, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES
74 DEPARTMENT OF STATE
30 Educational, Cultural and Intellectual Development
37 Cultural and Intellectual Development Services

07-2540 Development of Historical Resources $74,500
Special Purpose:
New Jersey Underground Railroad
Designation Project . . . . . ($74,500)

3. Monies appropriated pursuant to section 2 of this act shall be used by the New Jersey Historical Commission for a project to study the history

and identify the location of the Underground Railroad in New Jersey. Within one year of the effective date of this act, the commission shall provide the Legislature with a progress report on the project. No later than February 1, 2000, the commission shall provide the Legislature with the project's findings and recommendations for future actions including, but not necessarily limited to, the designation of historic sites, houses, and other buildings related to the Underground Railroad. No later than August 1, 2000, the commission shall prepare and publish, or provide for the publication of, a reference and guidebook to the Underground Railroad in New Jersey, which shall include the commission's research on the history of the Underground Railroad and color photographs and locations of sites, houses, and other buildings related to the Underground Railroad. The reference and guidebook to the Underground Railroad in New Jersey shall be designed to enable members of the public to locate and visit the sites, houses, and other buildings related to the Underground Railroad in New Jersey. The commission shall provide the State Library and every county library, county college library, and community college library with a copy of the reference and guidebook to the Underground Railroad in New Jersey. The commission, in conjunction with the Division of Travel and Tourism in the Department of Commerce and Economic Development, shall promote the Underground Railroad as a major tourist attraction in New Jersey and shall encourage tourists to visit the sites, houses, and other buildings related to the Underground Railroad in New Jersey.

4. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 388

AN ACT concerning the New Jersey Housing and Mortgage Finance Agency and amending P.L.1983, c.530.

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

1. Section 4 of P.L.1983, c.530 (C.55:14K-4) is amended to read as follows:

C.55:14K-4 New Jersey Housing and Mortgage Finance Agency.

4. a. The New Jersey Housing Finance Agency, created by section 4 of P.L.1967, c.81 (C.55:14J-4) and the New Jersey Mortgage Finance Agency

created by section 4 of P.L.1970, c.38 (C.17:1B-7) are hereby consolidated into a single agency which shall be known as the New Jersey Housing and Mortgage Finance Agency, which shall be a continuance of the corporate existence of those agencies.

b. In this section, the words "original agencies" refer to the agencies which are consolidated pursuant to subsection a. of this section before their consolidation, and the word "agency" refers to the single agency resulting from that consolidation.

c. All property, rights and powers of each of the original agencies are hereby vested in and shall be exercised by the agency, subject, however, to all pledges, covenants, agreements and trusts made or created by the original agencies, respectively.

d. All debts, liabilities, obligations, agreements and covenants of the original agencies are hereby imposed upon the agency. Any property of the original agencies in which a mortgage or security interest has been granted to any bondholders or other creditors of either of the original agencies shall continue to be subject to that mortgage or security interest until the mortgage or security interest is defeased or terminated in accordance with its terms. All bondholders and other creditors of the original agencies and persons having claims against or contracts with the original agencies of any kind or character may enforce those debts, claims and contracts against the agency in the same manner as they might have against the original agencies respectively, and the rights and remedies of those bondholders, creditors and persons having claims or contracts shall not be limited or restricted in any manner by this act.

e. In continuing the functions and carrying out the contracts, obligations and duties of the original agencies, the agency is hereby authorized to act in its own name or in the name of either of the original agencies as may be convenient or advisable.

f. Any references to either of the original agencies in any other law or regulation shall be deemed to refer to and apply to the agency.

g. All regulations of the original agencies shall continue to be in effect as the regulations of the agency until amended, supplemented or rescinded by the agency in accordance with law.

h. All employees of the original agencies shall become employees of the agency. Nothing in this title shall affect the civil service status, if any, of those employees or their rights, privileges, obligations or status with respect to any pension or retirement system.

i. The agency is hereby established in, but not of, the Department of Community Affairs and constituted a body politic and corporate and an instrumentality exercising public and essential governmental functions, and

the exercise by the agency of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

j. The agency shall consist of nine members as follows: the Commissioner of the Department of Community Affairs, the State Treasurer, the Attorney General, the Commissioner of Human Services and the Commissioner of Banking and Insurance, who shall be members ex officio, and four members appointed by the Governor with the advice and consent of the Senate for terms of three years. The four members appointed by the Governor shall be residents of the State and shall have knowledge in the areas of housing design, construction or operation; finance; urban redevelopment; or community relations. The members first appointed by the Governor shall serve for terms of one year, two years and three years respectively. Each member shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. A member of the agency shall be eligible for reappointment.

k. Each ex officio member of the agency may designate an officer or employee of his department or agency to represent him at meetings of the agency, and each designee may lawfully vote and otherwise act on behalf of the member for whom he constitutes the designee. Any designation shall be in writing, delivered to the agency and shall continue in effect until revoked or amended by writing, delivered to the agency.

l. Each member of the agency may be removed from office by the Governor, for cause, after a public hearing and may be suspended by the Governor pending the completion of such a hearing. Each member of the agency before entering upon his duties shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of his ability. A record of these oaths shall be filed in the office of the Secretary of State.

m. Any vacancies in the membership of the agency occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

n. The Commissioner of the Department of Community Affairs shall be the chairman of the agency and the members shall elect one of their number as vice-chairman thereof. The agency shall elect a secretary and a treasurer who need not be members; but the same person may be elected to serve both as secretary and treasurer. The powers of the agency shall be vested in the members thereof in office from time to time and five members (which shall include at least two ex officio members) of the agency shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the agency at any meeting thereof by the affirmative vote of at least five members of the agency, which shall include at least two ex officio members. No vacancy in the membership of the

agency shall impair the right of a quorum to exercise all the powers and perform all the duties of the agency.

o. A true copy of the minutes of every meeting of the agency shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the agency shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after such copy of the minutes shall have been so delivered unless during such 10-day period the Governor shall approve the same in which case such action shall become effective upon such approval. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the agency or any member thereof at such meeting, such action shall be null and void and of no effect. The Governor may approve all or part of the action taken at such meeting prior to the expiration of the said 10-day period.

p. The members of the agency shall serve without compensation, but the agency shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties.

q. Notwithstanding the provisions of any other law, no officer or employee of the State shall be deemed to have forfeited or shall forfeit his office or employment or any benefits or emoluments thereof by reason of acceptance of the office of member of the agency or his services in such office.

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

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 389

AN ACT concerning development in the Pinelands and supplementing P.L.1979, c.111 (C.13:18A-1 et seq.).

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

C.13:18A-5.1 Pinelands Commission, approval for certain reconstruction of single family dwellings, exempt.

1. a. Except for the development of an historic resource as designated by the Pinelands Commission, a person shall be exempt from the Pinelands

Commission approval of an application for development pursuant to section 14 of P.L.1979, c.111 (C.13:18A-15) for the improvement, expansion or reconstruction within five years of destruction or demolition of a single family dwelling or appurtenance thereto.

b. The Pinelands Commission, in reviewing any application for development for the improvement or reconstruction of a single family dwelling or appurtenance thereto five years or more after destruction or demolition of the single family dwelling, shall determine that such improvement or reconstruction is in conformance with the comprehensive management plan adopted pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8) if the person submitting the application for development for the improvement or reconstruction demonstrates:

(1) the improvement or reconstruction does not involve an historic resource as designated by the Pinelands Commission;

(2) the improvement or reconstruction is performed within 25 years of the destruction or demolition of a single family dwelling unit or appurtenance thereto;

(3) the foundation of the demolished or destroyed single family dwelling unit is intact, will be used for the development and will constitute the footprint of the improvement or reconstruction; and

(4) the destroyed or demolished building was a single family dwelling.

The Pinelands Commission shall transmit any determination made pursuant to this subsection, in writing, to the person who submitted the application.

2. This act shall take effect 90 days following enactment.

Approved January 18, 2000.

CHAPTER 390

AN ACT concerning certain managed care health benefits plans and supplementing P.L.1997, c.192 (C.26:2S-1 et seq.).

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

C.26:2S-9.1 Managed care plan, continuing treatment of certain patients by physician no longer employed by plan; required.

1. a. Notwithstanding the provisions of any law to the contrary, a carrier which offers a managed care plan shall provide in that plan that if a covered person is receiving post-operative follow-up care, oncological treatment,

psychiatric treatment or obstetrical care by a physician who is employed by or under contract with a carrier at the time the treatment is initiated, the covered person may continue to be treated by that physician for the duration of the treatment in the event that the physician is no longer employed by or under contract with the carrier as follows:

(1) for a period not to exceed six months in the case of post-operative follow-up care;

(2) for a period not to exceed one year in the case of oncological treatment and psychiatric treatment; and

(3) through the duration of a pregnancy and up to six weeks after delivery in the case of obstetrical care.

The continuation of treatment by a particular physician as provided for in this subsection shall be at the option of the covered person.

The carrier shall provide that health care benefits or services, as appropriate, shall be provided for the treatment of the conditions provided in this subsection to the same extent as such benefits or services were provided while the physician was employed by or under contract with the carrier. Reimbursement for the health care services shall be pursuant to the same fee schedule used to reimburse for the services when the physician was employed by or under contract with the carrier.

b. A carrier which offers a managed care plan shall also provide in that plan for continued coverage of other health care services by a physician who was employed by or under contract with the carrier at the time the treatment was initiated, but is no longer employed by or under contract with the carrier, for up to 120 calendar days in cases where it is medically necessary for the covered person to continue treatment with that physician.

Health care benefits or services, as applicable, shall be provided by the health benefits plan for medically necessary treatment as provided in this subsection to the same extent as such benefits or services were provided while the physician was employed by or under contract with the carrier. Reimbursement for the health care services shall be pursuant to the same fee schedule used to reimburse for the services when the physician was employed by or under contract with the carrier.

c. During the period of time a covered person is continuing to receive treatment pursuant to subsection a. or b. of this section by a physician who is no longer employed by or under contract with the carrier, the carrier shall provide in its plan for reimbursement for any treatment or services provided or delivered to the covered person in an acute care hospital, regardless of whether the acute care hospital is under contract or agreement with the carrier.

d. The carrier shall not be liable for any inappropriate treatment provided to the covered person by a physician who is no longer employed by or under contract with the carrier.

e. The provisions of this section shall not apply to health care services provided by a physician who is the subject of disciplinary action by the State Board of Medical Examiners.

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 391

AN ACT concerning unemployment compensation for certain victims of domestic violence and amending R.S.43:21-5.

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

1. R.S.43:21-5 is amended to read as follows:

Disqualification for benefits.

43:21-5. An individual shall be disqualified for benefits:

(a) For the week in which the individual has left work voluntarily without good cause attributable to such work, and for each week thereafter until the individual becomes reemployed and works four weeks in employment, which may include employment for the federal government, and has earned in employment at least six times the individual's weekly benefit rate, as determined in each case. This subsection shall apply to any individual seeking unemployment benefits on the basis of employment in the production and harvesting of agricultural crops, including any individual who was employed in the production and harvesting of agricultural crops on a contract basis and who has refused an offer of continuing work with that employer following the completion of the minimum period of work required to fulfill the contract.

(b) For the week in which the individual has been suspended or discharged for misconduct connected with the work, and for the five weeks which immediately follow that week (in addition to the waiting period), as determined in each case. In the event the discharge should be rescinded by the employer voluntarily or as a result of mediation or arbitration, this subsection (b) shall not apply, provided, however, an individual who is restored to employment with back pay shall return any benefits received under this chapter for any week of unemployment for which the individual is subsequently compensated by the employer.

If the discharge was for gross misconduct connected with the work because of the commission of an act punishable as a crime of the first, second, third or fourth degree under the "New Jersey Code of Criminal Justice," N.J.S.2C:1-1 et seq., the individual shall be disqualified in accordance with the disqualification prescribed in subsection (a) of this section and no benefit rights shall accrue to any individual based upon wages from that employer for services rendered prior to the day upon which the individual was discharged.

The director shall insure that any appeal of a determination holding the individual disqualified for gross misconduct in connection with the work shall be expeditiously processed by the appeal tribunal.

(c) If it is found that the individual has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the director or to accept suitable work when it is offered, or to return to the individual's customary self-employment (if any) when so directed by the director. The disqualification shall continue for the week in which the failure occurred and for the three weeks which immediately follow that week (in addition to the waiting period), as determined:

(1) In determining whether or not any work is suitable for an individual, consideration shall be given to the degree of risk involved to health, safety, and morals, the individual's physical fitness and prior training, experience and prior earnings, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, and the distance of the available work from the individual's residence. In the case of work in the production and harvesting of agricultural crops, the work shall be deemed to be suitable without regard to the distance of the available work from the individual's residence if all costs of transportation are provided to the individual and the terms and conditions of hire are as favorable or more favorable to the individual as the terms and conditions of the individual's base year employment.

(2) Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (a) if the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) if the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) If it is found that this unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other

premises at which the individual is or was last employed. No disqualification under this subsection shall apply if it is shown that:

(1) The individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(2) The individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; provided that if in any case in which (1) or (2) above applies, separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises.

(e) For any week with respect to which the individual is receiving or has received remuneration in lieu of notice.

(f) For any week with respect to which or a part of which the individual has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States; provided that if the appropriate agency of the other state or of the United States finally determines that the individual is not entitled to unemployment benefits, this disqualification shall not apply.

(g) (1) For a period of one year from the date of the discovery by the division of the illegal receipt or attempted receipt of benefits contrary to the provisions of this chapter, as the result of any false or fraudulent representation; provided that any disqualification may be appealed in the same manner as any other disqualification imposed hereunder; and provided further that a conviction in the courts of this State arising out of the illegal receipt or attempted receipt of these benefits in any proceeding instituted against the individual under the provisions of this chapter or any other law of this State shall be conclusive upon the appeals tribunal and the board of review.

(2) A disqualification under this subsection shall not preclude the prosecution of any civil, criminal or administrative action or proceeding to enforce other provisions of this chapter for the assessment and collection of penalties or the refund of any amounts collected as benefits under the provisions of R.S.43:21-16, or to enforce any other law, where an individual obtains or attempts to obtain by theft or robbery or false statements or representations any money from any fund created or established under this chapter or any negotiable or nonnegotiable instrument for the payment of money from these funds, or to recover money erroneously or illegally obtained by an individual from any fund created or established under this chapter.

(h) (1) Notwithstanding any other provisions of this chapter (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied benefits for any week

because the individual is in training approved under section 236(a)(1) of the Trade Act of 1974, Pub.L.93-618, 19 U.S.C.s.2296, nor shall the individual be denied benefits by reason of leaving work to enter this training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this chapter (R.S.43:21-1 et seq.), or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work.

(2) For purposes of this subsection (h), the term "suitable" employment means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974, Pub.L.93-618, 19 U.S.C.s.2102 et seq.), and wages for this work at not less than 80% of the individual's average weekly wage, as determined for the purposes of the Trade Act of 1974.

(i) For benefit years commencing after June 30, 1984, for any week in which the individual is a student in full attendance at, or on vacation from, an educational institution, as defined in subsection (y) of R.S.43:21-19; except that this subsection shall not apply to any individual attending a training program approved by the division to enhance the individual's employment opportunities, as defined under subsection (c) of R.S.43:21-4; nor shall this subsection apply to any individual who, during the individual's base year, earned sufficient wages, as defined under subsection (e) of R.S.43:21-4, while attending an educational institution during periods other than established and customary vacation periods or holiday recesses at the educational institution, to establish a claim for benefits. For purposes of this subsection, an individual shall be treated as a full-time student for any period:

(1) During which the individual is enrolled as a full-time student at an educational institution, or

(2) Which is between academic years or terms, if the individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term.

(j) Notwithstanding any other provisions of this chapter (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied benefits because the individual left work or was discharged due to circumstances resulting from the individual being a victim of domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19). No employer's account shall be charged for the payment of benefits to an individual who left work due to circumstances resulting from the individual being a victim of domestic violence.

For the purposes of this subsection (j), the individual shall be treated as being a victim of domestic violence if the individual provides one or more of the following:

(1) A restraining order or other documentation of equitable relief issued by a court of competent jurisdiction;

(2) A police record documenting the domestic violence;

(3) Documentation that the perpetrator of the domestic violence has been convicted of one or more of the offenses enumerated in section 3 of P.L.1991, c.261 (C.2C:25-19);

(4) Medical documentation of the domestic violence;

(5) Certification from a certified Domestic Violence Specialist or the director of a designated domestic violence agency that the individual is a victim of domestic violence; or

(6) Other documentation or certification of the domestic violence provided by a social worker, member of the clergy, shelter worker or other professional who has assisted the individual in dealing with the domestic violence.

For the purposes of this subsection (j):

"Certified Domestic Violence Specialist" means a person who has fulfilled the requirements of certification as a Domestic Violence Specialist established by the New Jersey Association of Domestic Violence Professionals; and "designated domestic violence agency" means a county-wide organization with a primary purpose to provide services to victims of domestic violence, and which provides services that conform to the core domestic violence services profile as defined by the Division of Youth and Family Services in the Department of Human Services and is under contract with the division for the express purpose of providing such services.

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 392

AN ACT concerning the registration of certain motor vehicles and amending R.S.39:3-8 and P.L.1968, c.439.

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

1. R.S.39:3-8 is amended to read as follows:

Registration fee for passenger automobile; other vehicles.

39:3-8. The applicant for registration for any passenger automobile manufactured in any model year prior to the 1971 model year shall pay to the director for each registration a fee of $14 for each such vehicle having a manufacturer's shipping weight of less than 2,700 pounds, a fee of $23 for

each such vehicle having a manufacturer's shipping weight of 2,700 pounds or more, but not greater than 3,800 pounds, and a fee of $44 for each vehicle having a manufacturer's shipping weight in excess of 3,800 pounds; provided, however, an applicant who has been issued a handicapped person identification card pursuant to section 2 of P.L.1949, c.280 (C.39:4-205) and is registering a private passenger van manufactured in any model year prior to the 1971 model year which has been equipped with a wheelchair lift for the handicapped, or any other specially designed mechanical device for the handicapped as designated by the director that specifically requires installation only in a private passenger van because of the device's dimensions, operating characteristics or manufacturer's installation requirements, shall pay a fee of $14 for that vehicle. The applicant for registration for any passenger automobile manufactured in model year 1971 and thereafter, except as determined hereinafter, shall pay to the director for each registration a fee of $17 for each such vehicle having a manufacturer's shipping weight of less than 2,700 pounds, a fee of $28 for each such vehicle having a manufacturer's shipping weight of 2,700 pounds or more, but not greater than 3,800 pounds, and a fee of $51 for each such vehicle having a manufacturer's shipping weight in excess of 3,800 pounds; provided, however, an applicant who has been issued a handicapped person identification card pursuant to section 2 of P.L.1949, c.280 (C.39:4-205) and is registering a private passenger van manufactured in model year 1971 or thereafter, except as determined hereinafter, which has been equipped with a wheelchair lift for the handicapped, or any other specially designed mechanical device for the handicapped as designated by the director that specifically requires installation only in a private passenger van because of the device's dimensions, operating characteristics or manufacturer's installation requirements, shall pay a fee of $17 for that vehicle. The applicant for registration for any 1980 or thereafter model year passenger automobile registered on or after March 1, 1979 shall pay to the director for each registration a fee of $25 for each such vehicle having a manufacturer's shipping weight not greater than 3,500 pounds and a fee of $50 for each vehicle having a manufacturer's shipping weight in excess of 3,500 pounds; provided, however, an applicant who has been issued a handicapped person identification card pursuant to section 2 of P.L.1949, c.280 (C.39:4-205) and is registering any 1980 or thereafter model year private passenger van which has been equipped with a wheelchair lift for the handicapped, or any other specially designed mechanical device for the handicapped as designated by the director that specifically requires installation only in a private passenger van because of the device's dimensions, operating characteristics or manufacturer's installation requirements, shall pay a fee of $25 for that vehicle. The director shall determine manufacturer's shipping

weight and model year for each passenger automobile on the basis of the information contained in the certificate of origin, the application for registration or for renewal of registration, or the records of the division, or any or all of these; and any case in which the manufacturer's shipping weight of any particular passenger automobile is unavailable, or in doubt or dispute, the director may require that such automobile be weighed on a scale designated by him, and such actual weight shall be considered the manufacturer's shipping weight for the purposes of this section; but in all cases the director's determination of the manufacturer's shipping weight of any such automobile shall be final. The applicant for registration for passenger automobile shall also pay to the director the inspection fee fixed in R.S.39:8-2 in addition to the fees described hereinabove.

The director may also license private utility and house type semitrailers and trailers with a gross load not in excess of 2,000 pounds at a fee of $4.00 per annum and all other such utility and house-type semitrailers and trailers at $9.00 per annum. Application for such registration shall be made on a blank to be furnished by the division and the application shall contain a statement to the effect that the vehicle so registered will not be used for the commercial transportation of goods, wares and merchandise, or for hire.

Except as provided in R.S.39:3-84 for recreation vehicles, no private utility or house type semitrailer or trailer with an outside width of more than 96 inches, a maximum height of 13 feet 6 inches, a maximum length for a single vehicle of more than 35 feet, a maximum length for a semitrailer and its towing vehicle of more than 45 feet, and a maximum length for a trailer and its towing vehicle of more than 50 feet, shall be operated on any highway in this State, except that a vehicle exceeding the above limitations may be operated when a special permit so to operate is secured in advance from the director. A house type semitrailer or trailer with an outside width of no more than 16 feet shall be entitled to operate with such a special permit if the vehicle is a manufactured home on a transportation system that is designed in accordance with the "Manufactured Home Construction and Safety Standards," 24 CFR part 3280.901 et seq., promulgated by the United States Department of Housing and Urban Development, as amended and supplemented, provided that the operator complies with the provisions of this Title and the rules and regulations issued thereunder. If such a vehicle has an outside width of more than 16 feet, it shall be entitled to operate with such a special permit if it is transported on a commercial type low-bed trailer, semitrailer or properly registered dolly wheels pursuant to rules and regulations established by the director. The application for such permit shall be accompanied by a fee fixed by the director. A special permit issued by the director shall be in the possession of the operator of the vehicle for which such permit was issued. In computing any dimensions of a vehicle,

for the purposes of this section, there shall not be included in the dimensional limitations safety equipment such as mirrors or lights, provided such appliances do not exceed the overall limitations established by the director by rule or regulation.

2. Section 2 of P.L.1968, c.439 (C.39:3-8.1) is amended to read as follows:

C.39:3-8.1 Licensing of noncommercial trucks.

2. The director may license noncommercial trucks at the same weight fees set forth in Revised Statutes 39:3-20; provided, however, applicants for registration who have been issued handicapped person identification cards pursuant to section 2 of P.L.1949, c.280 (C.39:4-205) and are registering a noncommercial truck which has been equipped with a wheelchair lift for the handicapped, or any other specially designed mechanical device for the handicapped as designated by the director that specifically requires installation only in a noncommercial truck or van because of the device's dimensions, operating characteristics or manufacturer's installation requirements, shall pay the same weight fees set forth in R.S.39:3-8 for similarly modified passenger automobiles of the same model year. Application for such registration shall be made on a form to be furnished by the division and the application shall contain a statement to the effect that the vehicle so registered will not be used for the commercial transportation of goods, wares and merchandise, or for hire, and that vehicles so registered will not contain any advertising, signs, lettering, names or addresses on its exterior, excepting trademarks and labels of the manufacturer and dealer.

3. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 393

AN ACT concerning procedures in civil actions alleging sexual abuse and amending P.L.1992, c.109.

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

1. Section 1 of P.L.1992, c.109 (C.2A:61B-1) is amended to read as follows:

C.2A:61B-1 Definitions; accrual of actions; proceedings.

1. a. As used in this act:

(1) "Sexual abuse" means an act of sexual contact or sexual penetration between a child under the age of 18 years and an adult. A parent, foster parent, guardian or other person standing in loco parentis within the household who knowingly permits or acquiesces in sexual abuse by any other person also commits sexual abuse, except that it is an affirmative defense if the parent, foster parent, guardian or other person standing in loco parentis was subjected to, or placed in, reasonable fear of physical or sexual abuse by the other person so as to undermine the person's ability to protect the child.

(2) "Sexual contact" means an intentional touching by the victim or actor, either directly or through clothing, of the victim's or actor's intimate parts for the purpose of sexually arousing or sexually gratifying the actor. Sexual contact of the adult with himself must be in view of the victim whom the adult knows to be present.

(3) "Sexual penetration" means vaginal intercourse, cunnilingus, fellatio or anal intercourse between persons or insertion of the hand, finger or object into the anus or vagina either by the adult or upon the adult's instruction.

(4) "Intimate parts" means the following body parts: sexual organs, genital area, anal area, inner thigh, groin, buttock or breast of a person.

(5) "Injury or illness" includes psychological injury or illness, whether or not accompanied by physical injury or illness.

b. In any civil action for injury or illness based on sexual abuse, the cause of action shall accrue at the time of reasonable discovery of the injury and its causal relationship to the act of sexual abuse. Any such action shall be brought within two years after reasonable discovery.

c. Nothing in this act is intended to preclude the court from finding that the statute of limitations was tolled in a case because of the plaintiff's mental state, duress by the defendant, or any other equitable grounds. Such a finding shall be made after a plenary hearing. At the plenary hearing the court shall hear all credible evidence and the Rules of Evidence shall not apply, except for Rule 403 or a valid claim of privilege. The court may order an independent psychiatric evaluation of the plaintiff in order to assist in the determination as to whether the statute of limitations was tolled.

d. (1) Evidence of the victim's previous sexual conduct shall not be admitted nor reference made to it in the presence of a jury except as provided in this subsection. When the defendant seeks to admit such evidence for any purpose, the defendant must apply for an order of the court before the trial or preliminary hearing, except that the court may allow the motion to be made during trial if the court determines that the evidence is newly discovered and could not have been obtained earlier through the

exercise of due diligence. After the application is made, the court shall conduct a hearing in camera to determine the admissibility of the evidence. If the court finds that evidence offered by the defendant regarding the sexual conduct of the victim is relevant and that the probative value of the evidence offered is not outweighed by its collateral nature or by the probability that its admission will create undue prejudice, confusion of the issues, or unwarranted invasion of the privacy of the victim, the court shall enter an order setting forth with specificity what evidence may be introduced and the nature of the questions which shall be permitted, and the reasons why the court finds that such evidence satisfies the standards contained in this section. The defendant may then offer evidence under the order of the court.

(2) In the absence of clear and convincing proof to the contrary, evidence of the victim's sexual conduct occurring more than one year before the date of the offense charged is presumed to be inadmissible under this section.

(3) Evidence of the victim's previous sexual conduct shall not be considered relevant unless it is material to proving that the source of semen, pregnancy or disease is a person other than the defendant. For the purposes of this subsection, "sexual conduct" shall mean any conduct or behavior relating to sexual activities of the victim, including but not limited to previous or subsequent experience of sexual penetration or sexual contact, use of contraceptives, living arrangement and life style.

e. (1) The court may, on motion and after conducting a hearing in camera, order the taking of the testimony of a victim on closed circuit television at the trial, out of the view of the jury, defendant, or spectators upon making findings as provided in paragraph (2) of this subsection.

(2) An order under this section may be made only if the court finds that the victim is 16 years of age or younger and that there is a substantial likelihood that the victim would suffer severe emotional or mental distress if required to testify in open court. The order shall be specific as to whether the victim will testify outside the presence of spectators, the defendant, the jury, or all of them and shall be based on specific findings relating to the impact of the presence of each.

(3) A motion seeking closed circuit testimony under paragraph (1) of this subsection may be filed by:

(a) The victim or the victim's attorney, parent or legal guardian;

(b) The defendant or the defendant's counsel; or

(c) The trial judge on the judge's own motion.

(4) The defendant's counsel shall be present at the taking of testimony in camera. If the defendant is not present, he and his attorney shall be able to confer privately with each other during the testimony by a separate audio system.

(5) If testimony is taken on closed circuit television pursuant to the provisions of this act, a stenographic recording of that testimony shall also

be required. A typewritten transcript of that testimony shall be included in the record on appeal. The closed circuit testimony itself shall not constitute part of the record on appeal except on motion for good cause shown.

f. (1) The name, address, and identity of a victim or a defendant shall not appear on the complaint or any other public record as defined in P.L.1963, c.73 (C.47:1A-1 et seq.). In their place initials or a fictitious name shall appear.

(2) Any report, statement, photograph, court document, complaint or any other public record which states the name, address and identity of a victim shall be confidential and unavailable to the public.

(3) The information described in this subsection shall remain confidential and unavailable to the public unless the victim consents to the disclosure or if the court, after a hearing, determines that good cause exists for the disclosure. The hearing shall be held after notice has been made to the victim and to the defendant and the defendant's counsel.

(4) Nothing contained herein shall prohibit the court from imposing further restrictions with regard to the disclosure of the name, address, and identity of the victim when it deems it necessary to prevent trauma or stigma to the victim.

g. In accordance with R.5:3-2 of the Rules Governing the Courts of the State of New Jersey, the court may, on its own or a party's motion, direct that any proceeding or portion of a proceeding involving a victim sixteen years of age or younger be conducted in camera.

h. A plaintiff who prevails in a civil action pursuant to this act shall be awarded damages in the amount of $10,000, plus reasonable attorney's fees, or actual damages, whichever is greater. Actual damages shall consist of compensatory and punitive damages and costs of suit, including reasonable attorney's fees. Compensatory damages may include, but are not limited to, damages for pain and suffering, medical expenses, emotional trauma, diminished childhood, diminished enjoyment of life, costs of counseling, and lost wages.

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 394

AN ACT concerning the designation of children's hospitals and supplementing Title 26 of the Revised Statutes.

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

1. The Legislature finds and declares:

a. It is well established that large numbers of families living in New Jersey use out-of-State hospitals when a family member has a serious illness, requires surgery or needs inpatient hospitalization;

b. The out-migration of New Jersey patients to out-of-State hospitals is especially true for families seeking treatment for ill children;

c. This out-migration of New Jersey patients to out-of-State hospitals causes great hardships for the families of ill children and results in a major negative impact on the State's economy;

d. Market research confirms that when a child requires serious surgery or inpatient hospitalization, parents are more likely to select a New Jersey hospital if that institution is designated as a children's hospital;

e. The health care industry has evolved into one of high specialization of care providers; and

f. The establishment of objective, Statewide criteria for the evaluation and designation of children's hospitals in the State would: require hospitals to guarantee a minimum level of health care services specially geared for the care of children; give assurance and comfort to parents that a hospital designated as a children's hospital provides a higher, specialized level of care to children; and enable a hospital designated as a children's hospital to compete fairly with out-of-State hospitals for the care of New Jersey's children.

2. a. On or after the effective date of this act, no health care facility in the State shall be designated as a children's hospital unless the facility's purposes are consistent with those of the National Association of Children's Hospitals and Related Institutions, Inc., and the facility meets the requirements of this act.

b. In order to be eligible for designation as a children's hospital, a health care facility shall generally meet one of the following classifications:

(1) a nonprofit, self governing independent children's hospital that cares for patients with conditions normally requiring an inpatient stay of under 30 days;

(2) a nonprofit, self-governing independent specialty or psychiatric children's hospital, which includes hospitals with clinical specialization in orthopedics, rehabilitation, or chronic diseases, and hospitals that provide psychiatric services for the diagnosis and treatment of mental illness in children and youth; or

(3) a nonprofit hospital, on behalf of an integral children's program that cares for patients with conditions normally requiring an inpatient stay of under 30 days and meets the criteria provided in section 3 of this act.

c. A health care facility seeking designation as a children's hospital shall certify to the commissioner, in a manner prescribed by the commissioner, that the facility meets the requirements of this act. The designation

shall be effective 46 days after the commissioner receives the facility's certification unless the commissioner notifies the facility within 45 days, in writing, that it does not meet the requirements of this act. If the commissioner determines that the facility does not meet the requirements of this act, he shall specify the reasons for his determination.

3. A children's program established pursuant to paragraph (3) of subsection b. of section 2 of this act shall meet the following criteria:

a. The program shall be the primary teaching site of an organized academic department of pediatrics of an approved medical school. For the purposes of this act, "primary teaching site" means the location of required undergraduate clerkships and graduate medical education, where the academic chairman and core faculty direct clinical activities, as defined and recognized by the Association of Medical School Pediatric Department Chairmen, Inc.

b. The program shall demonstrate that application for designation by the Department of Health and Senior Services has been approved by the hospital's governing body with acknowledgment and support of the standards and goals set forth herein.

c. The organizational structure of the program shall include:

(1) an organizational mechanism which meets the following responsibilities: safeguarding the pediatric program's resources; approving the pediatric program's long range plan; and approving the pediatric program's operation plans through (a) a separate, autonomous governing mechanism, such as a subsidiary corporation of a multi-hospital system, or (b) a standing committee of the governing body charged with ongoing program review, together with a foundation or community-based entity which raises funds solely for the children's program, relates to the leadership of the children's program and reports periodically to the standing committee.

(2) a medical staff and teaching program which includes:

(a) within the organized clinical medical staff, an organized clinical Department of Pediatrics, which clinical pediatric staff includes appropriate specialties and subspecialties to meet adequately the needs of a comprehensive teaching program. The organized clinical medical staff shall adopt rules concerning the care of children;

(b) an organized clinical research program;

(c) a pediatric teaching program that is approved by the Residency Review Committee of the American Board of Pediatrics or an equivalent appropriate body for a minimum of 12 pediatric resident positions;

(d) organized outpatient clinics for children, and a defined emergency room protocol for the provision of children's emergency treatment; and

(e) a minimum average daily inpatient census of 45, excluding normal newborns; and a hospital policy on the housing of patients under an established age.

(3) an individual responsible for the administration of the children's program and for patient care services, particularly the coordination and direction of nursing services, who is accountable to the standing committee of the governing body. This requirement shall be accomplished by separate and autonomous administration for the children's program, or an administrator expressly assigned to the children's program.

d. The program shall meet resource allocation requirements by demonstrating a commitment to community needs and adequate resources for the provision of comprehensive child health care by establishing either:

(1) Fiscal autonomy, as indicated by a separate Medicare provider number or separate budget and control of income and expenses; or

(2) Defined costs for the children's program with: discrete cost centers that allocate the cost of all services provided, overhead costs and indirect costs; and a separate staffing plan.

e. The program shall have a discrete public, community identity through devices such as: a distinct name or visual evidence; a discrete and dedicated entrance, admitting or emergency facilities; separate fund-raising activities or auxiliary; and separate and dedicated publications.

f. The program shall have adequate physical space and facilities provided in either a separate building or defined and contiguous space within a building reserved for the housing of children. The contiguous space shall include inpatient facilities, separate from obstetrics, clinic space reserved for children at scheduled times, and research facilities for the Department of Pediatrics.

4. A health care facility designated as a children's hospital pursuant to this act shall be exempt from the requirement to obtain a certificate of need pursuant to section 7 of P.L.1971, c.136 (C.26:2H-7) to establish the hospital, but shall comply with applicable certificate of need requirements regarding the establishment of specific health care services within the hospital.

5. The provisions of this act shall not apply to a hospital designated as a children's hospital pursuant to section 2 of P.L.1985, c.306 (C.26:2H-18a), section 3 of P.L.1987, c.299 (C.26:2H-18c), section 1 of P.L.1992, c.181 (C.26:2H-18d) or P.L.1993, c.374 (C.26:2H-18e).

6. This act shall take effect immediately and shall expire on the 180th day after enactment. Any designation of a health care facility as a children's hospital pursuant to this act shall not be affected by the expiration of this act.

Approved January 18, 2000.

CHAPTER 395

AN ACT concerning certain prescription drug plans and amending P.L.1993, c.378.

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

1. Section 1 of P.L.1993, c.378 (C.17:48-6j) is amended to read as follows:

C.17:48-6j Requirements for hospital service corporation providing benefits for pharmacy services.

1. a. Notwithstanding any other provision of law to the contrary, no group or individual hospital service corporation contract which provides benefits for pharmacy services, prescription drugs, or for participation in a prescription drug plan, shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State on or after the effective date of this act, unless the contract:

(1) Permits the subscriber, at the time of issuance, amendment or renewal, to select benefit coverage allowing the subscriber to choose a pharmacy or pharmacist for the provision of prescription drugs or pharmacy services, provided that any pharmacist or pharmacy selected by the subscriber is registered pursuant to R.S.45:14-1 et seq.;

(2) Provides that no pharmacy or pharmacist shall be denied the right to participate as a preferred provider or as a contracting provider, under the same terms and conditions currently applicable to all other preferred or contracting providers, if the contract provides for coverage by contracted or preferred providers for pharmaceutical services, provided the pharmacy or pharmacist is registered pursuant to R.S.45:14-1 et seq., and accepts the terms and conditions of the contract;

(3) Provides that no copayment, fee, or other condition shall be imposed upon a subscriber selecting a participating or contracting pharmacist or pharmacy that is not also equally imposed upon all subscribers selecting a participating or contracting pharmacist or pharmacy;

(4) (a) Provides that no subscriber shall be required to obtain pharmacy services and prescription drugs from a mail service pharmacy;

(b) Provides for no differential in any copayment applicable to any prescription drug of the same strength, quantity and days' supply, whether obtained from a mail service pharmacy or a non-mail service pharmacy, provided that the non-mail service pharmacy agrees to the same terms, conditions, price and services applicable to the mail service pharmacy; and

(c) Provides that the limit on days' supply is the same whether the prescription drug is obtained from a mail service pharmacy or a non-mail service pharmacy, and that the limit shall not be less than 90 days;

(5) Sets forth the auditing procedures to be used by the hospital service corporation and includes a provision that any audit shall take place at a time mutually agreeable to the pharmacy or pharmacist and the auditor. No audit by a hospital service corporation shall include a review of any document relating to any person or prescription plan other than those reimbursable by the hospital service corporation;

(6) Provides that the hospital service corporation, or any agent or intermediary thereof, including a third party administrator, shall not restrict or prohibit, directly or indirectly, a pharmacy from charging the subscriber for services rendered by the pharmacy that are in addition to charges for the drug, for dispensing the drug or for prescription counseling. Services rendered by the pharmacy for which additional charges are imposed shall be subject to the approval of the Board of Pharmacy. A pharmacy shall disclose to the purchaser the charges for the additional services and the purchaser's out-of-pocket cost for those services prior to dispensing the drug. A pharmacy shall not impose any additional charges for patient counseling or for other services required by the Board of Pharmacy or State or federal law;

(7) The provisions of P.L.1999, c.395 shall apply to all contracts delivered. issued or renewed on or after the effective date of P.L.1999, c.395.

b. Nothing in this section shall be construed to operate to add any benefit, to increase the scope of any benefit, or to increase any benefit level under any contract.

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

2. Section 2 of P.L.1993, c.378 (C.17:48A-7i) is amended to read as follows:

C.17:48A-7i Requirements for medical service corporation providing benefits for pharmacy services.

2. a. Notwithstanding any other provision of law to the contrary, no group or individual medical service corporation contract which provides benefits for pharmacy services, prescription drugs, or for participation in a prescription drug plan, shall be delivered, issued, executed or renewed in this State or approved for issuance in this State on or after the effective date of this act, unless the contract:

(1) Permits the subscriber, at the time of issuance, amendment or renewal, to select benefit coverage allowing the subscriber to choose a pharmacy or pharmacist for the provision of prescription drugs or pharmacy services, provided that any pharmacist or pharmacy selected by the subscriber is registered pursuant to R.S.45:14-1 et seq.;

(2) Provides that no pharmacy or pharmacist shall be denied the right to participate as a preferred provider or as a contracting provider, under the same terms and conditions currently applicable to all other preferred or contracting providers, if the contract provides for coverage by contracted or preferred providers for pharmaceutical services, provided the pharmacy or pharmacist is registered pursuant to R.S.45:14-1 et seq., and accepts the terms and conditions of the contract;

(3) Provides that no copayment, fee, or other condition shall be imposed upon a subscriber selecting a participating or contracting pharmacist or pharmacy that is not also equally imposed upon all subscribers selecting a participating or contracting pharmacist or pharmacy;

(4) (a) Provides that no subscriber shall be required to obtain pharmacy services and prescription drugs from a mail service pharmacy;

(b) Provides for no differential in any copayment applicable to any prescription drug of the same strength, quantity and days' supply, whether obtained from a mail service pharmacy or a non-mail service pharmacy, provided that the non-mail service pharmacy agrees to the same terms, conditions, price and services applicable to the mail service pharmacy; and

(c) Provides that the limit on days' supply is the same whether the prescription drug is obtained from a mail service pharmacy or a non-mail service pharmacy, and that the limit shall not be less than 90 days;

(5) Sets forth the auditing procedures to be used by the medical service corporation and includes a provision that any audit shall take place at a time mutually agreeable to the pharmacy or pharmacist and the auditor. No audit by a medical service corporation shall include a review of any document relating to any person or prescription plan other than those reimbursable by the medical service corporation;

(6) Provides that the medical service corporation, or any agent or intermediary thereof, including a third party administrator, shall not restrict or prohibit, directly or indirectly, a pharmacy from charging the subscriber for services rendered by the pharmacy that are in addition to charges for the drug, for dispensing the drug or for prescription counseling. Services rendered by the pharmacy for which additional charges are imposed shall be subject to the approval of the Board of Pharmacy. A pharmacy shall disclose to the purchaser the charges for the additional services and the purchaser's out-of-pocket cost for those services prior to dispensing the drug. A pharmacy shall not impose any additional charges for patient

counseling or for other services required by the Board of Pharmacy or State or federal law;

(7) The provisions of P.L.1999, c.395 shall apply to all contracts delivered. issued or renewed on or after the effective date of P.L.1999, c.395.

b. Nothing in this section shall be construed to operate to add any benefit, to increase the scope of any benefit, or to increase any benefit level under any contract.

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

3. Section 3 of P.L.1993, c.378 (C.17:48E-35.7) is amended to read as follows:

C.17:48E-35.7 Requirements for health service corporation providing benefits for pharmacy services.

3. a. Notwithstanding any other provisions of law to the contrary, no group or individual health service corporation contract which provides benefits for pharmacy services, prescription drugs, or for participation in a prescription drug plan, shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State on or after the effective date of this act, unless the contract:

(1) Permits the subscriber, at the time of issuance, amendment or renewal, to select benefit coverage allowing the subscriber to choose a pharmacy or pharmacist for the provision of prescription drugs or pharmacy services, provided that any pharmacist or pharmacy selected by the subscriber is registered pursuant to R.S.45:14-1 et seq.;

(2) Provides that no pharmacy or pharmacist shall be denied the right to participate as a preferred provider or as a contracting provider, under the same terms and conditions currently applicable to all other preferred or contracting providers, if the contract provides for coverage by contracted or preferred providers for pharmaceutical services, provided the pharmacy or pharmacist is registered pursuant to R.S.45:14-1 et seq., and accepts the terms and conditions of the contract;

(3) Provides that no copayment, fee, or other condition shall be imposed upon a subscriber selecting a participating or contracting pharmacist or pharmacy that is not also equally imposed upon all subscribers selecting a participating or contracting pharmacist or pharmacy;

(4) (a) Provides that no subscriber shall be required to obtain pharmacy services and prescription drugs from a mail service pharmacy;

(b) Provides for no differential in any copayment applicable to any prescription drug of the same strength, quantity and days' supply, whether

obtained from a mail service pharmacy or a non-mail service pharmacy, provided that the non-mail service pharmacy agrees to the same terms, conditions, price and services applicable to the mail service pharmacy; and

(c) Provides that the limit on days' supply is the same whether the prescription drug is obtained from a mail service pharmacy or a non-mail service pharmacy, and that the limit shall not be less than 90 days;

(5) Sets forth the auditing procedures to be used by the health service corporation and includes a provision that any audit shall take place at a time mutually agreeable to the pharmacy or pharmacist and the auditor. No audit by a health service corporation shall include a review of any document relating to any person or prescription plan other than those reimbursable by the health service corporation;

(6) Provides that the health service corporation, or any agent or intermediary thereof, including a third party administrator, shall not restrict or prohibit, directly or indirectly, a pharmacy from charging the subscriber for services rendered by the pharmacy that are in addition to charges for the drug, for dispensing the drug or for prescription counseling. Services rendered by the pharmacy for which additional charges are imposed shall be subject to the approval of the Board of Pharmacy. A pharmacy shall disclose to the purchaser the charges for the additional services and the purchaser's out-of-pocket cost for those services prior to dispensing the drug. A pharmacy shall not impose any additional charges for patient counseling or for other services required by the Board of Pharmacy or State or federal law;

(7) The provisions of P.L.1999, c.395 shall apply to all contracts delivered. issued or renewed on or after the effective date of P.L.1999, c.395.

b. Nothing in this section shall be construed to operate to add any benefit, to increase the scope of any benefit, or to increase any benefit level under any contract.

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

4. Section 4 of P.L.1993, c.378 (C.17B:26-2.1i) is amended to read as follows:

C.17B:26-2.1i Requirements for individual health insurer providing benefits for pharmacy services.

4. a. Notwithstanding any other provision of law to the contrary, no individual health insurance policy which provides benefits for pharmacy services, prescription drugs, or for participation in a prescription drug plan, shall be delivered, issued, executed or renewed in this State, or approved for

issuance or renewal in this State on or after the effective date of this act, unless the policy:

(1) Permits the insured, at the time of issuance, amendment or renewal, to select benefit coverage allowing the insured to choose a pharmacy or pharmacist for the provision of prescription drugs or pharmacy services, provided that any pharmacist or pharmacy selected by the insured is registered pursuant to R.S.45:14-1 et seq.;

(2) Provides that no pharmacy or pharmacist shall be denied the right to participate as a preferred provider or as a contracting provider, under the same terms and conditions currently applicable to all other preferred or contracting providers, if the policy provides for coverage by contracted or preferred providers for pharmaceutical services, provided the pharmacy or pharmacist is registered pursuant to R.S.45:14-1 et seq., and accepts the terms and conditions of the policy;

(3) Provides that no copayment, fee, or other condition shall be imposed upon an insured selecting a participating or contracting pharmacist or pharmacy that is not also equally imposed upon all insureds selecting a participating or contracting pharmacist or pharmacy;

(4) (a) Provides that no insured shall be required to obtain pharmacy services and prescription drugs from a mail service pharmacy;

(b) Provides for no differential in any copayment applicable to any prescription drug of the same strength, quantity and days' supply, whether obtained from a mail service pharmacy or a non-mail service pharmacy, provided that the non-mail service pharmacy agrees to the same terms, conditions, price and services applicable to the mail service pharmacy; and

(c) Provides that the limit on days' supply is the same whether the prescription drug is obtained from a mail service pharmacy or a non-mail service pharmacy, and that the limit shall not be less than 90 days;

(5) Sets forth the auditing procedures to be used by the insurer and includes a provision that any audit shall take place at a time mutually agreeable to the pharmacy or pharmacist and the auditor. No audit by an insurer shall include a review of any document relating to any person or prescription plan other than those reimbursable by the insurer;

(6) Provides that the insurer, or any agent or intermediary thereof, including a third party administrator, shall not restrict or prohibit, directly or indirectly, a pharmacy from charging the insured for services rendered by the pharmacy that are in addition to charges for the drug, for dispensing the drug or for prescription counseling. Services rendered by the pharmacy for which additional charges are imposed shall be subject to the approval of the Board of Pharmacy. A pharmacy shall disclose to the purchaser the charges for the additional services and the purchaser's out-of-pocket cost for those services prior to dispensing the drug. A pharmacy shall not impose any

additional charges for patient counseling or for other services required by the Board of Pharmacy or State or federal law;

(7) The provisions of P.L.1999, c.395 shall apply to all policies delivered. issued or renewed on or after the effective date of P.L.1999, c.395.

b. Nothing in this section shall be construed to operate to add any benefit, to increase the scope of any benefit, or to increase any benefit level under any policy.

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

5. Section 5 of P.L.1993, c.378 (C.17B:27-46.1i) is amended to read as follows:

C.17B:27-46.1i Requirements for group health insurer providing benefits for pharmacy services.

5. a. Notwithstanding any other provision of law to the contrary, no group health insurance policy which provides benefits for pharmacy services, prescription drugs, or for participation in a prescription drug plan, shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State, on or after the effective date of this act, unless the policy:

(1) Permits the insured, at the time of issuance, amendment or renewal, to select benefit coverage allowing the insured to choose a pharmacy or pharmacist for the provision of prescription drugs or pharmacy services, provided that any pharmacist or pharmacy selected by the insured is registered pursuant to R.S.45:14-1 et seq.;

(2) Provides that no pharmacy or pharmacist shall be denied the right to participate as a preferred provider or as a contracting provider, under the same terms and conditions currently applicable to all other preferred or contracting providers, if the policy provides for coverage by contracted or preferred providers for pharmaceutical services, provided the pharmacy or pharmacist is registered pursuant to R.S.45:14-1 et seq., and accepts the terms and conditions of the policy;

(3) Provides that no copayment, fee, or other condition shall be imposed upon an insured selecting a participating or contracting pharmacist or pharmacy that is not also equally imposed upon all insureds selecting a participating or contracting pharmacist or pharmacy;

(4) (a) Provides that no insured shall be required to obtain pharmacy services and prescription drugs from a mail service pharmacy;

(b) Provides for no differential in any copayment applicable to any prescription drug of the same strength, quantity and days' supply, whether obtained from a mail service pharmacy or a non-mail service pharmacy,

provided that the non-mail service pharmacy agrees to the same terms, conditions, price and services applicable to the mail service pharmacy; and

(c) Provides that the limit on days' supply is the same whether the prescription drug is obtained from a mail service pharmacy or a non-mail service pharmacy, and that the limit shall not be less than 90 days;

(5) Sets forth the auditing procedures to be used by the insurer and includes a provision that any audit shall take place at a time mutually agreeable to the pharmacy or pharmacist and the auditor. No audit by an insurer shall include a review of any document relating to any person or prescription plan other than those reimbursable by the insurer;

(6) Provides that the insurer, or any agent or intermediary thereof, including a third party administrator, shall not restrict or prohibit, directly or indirectly, a pharmacy from charging the insured for services rendered by the pharmacy that are in addition to charges for the drug, for dispensing the drug or for prescription counseling. Services rendered by the pharmacy for which additional charges are imposed shall be subject to the approval of the Board of Pharmacy. A pharmacy shall disclose to the purchaser the charges for the additional services and the purchaser's out-of-pocket cost for those services prior to dispensing the drug. A pharmacy shall not impose any additional charges for patient counseling or for other services required by the Board of Pharmacy or State or federal law;

(7) The provisions of P.L.1999, c.395 shall apply to all policies delivered. issued or renewed on or after the effective date of P.L.1999, c.395.

b. Nothing in this section shall be construed to operate to add any benefit, to increase the scope of any benefit, or to increase any benefit level under any policy.

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

6. Section 6 of P.L.1993, c.378 (C.26:2J-4.7) is amended to read as follows:

C.26:2J-4.7 Requirements for health maintenance organization providing benefits for pharmacy services.

6. a. Notwithstanding any provision of law to the contrary, a certificate of authority to establish and operate a health maintenance organization in this State shall not be issued or continued on or after the effective date of this act for a health maintenance organization which provides pharmacy services, prescription drugs, or a prescription drug plan, unless the coverage for health care services:

(1) Permits the enrollee, at the time of enrollment, to select benefit coverage allowing the enrollee to choose a pharmacy or pharmacist for the provision of

prescription drugs or pharmacy services, provided that any pharmacist or pharmacy selected by the enrollee is registered pursuant to R.S.45:14-1 et seq.;

(2) Provides that no pharmacy or pharmacist shall be denied the right to participate as a preferred provider or as a contracting provider, under the same terms and conditions currently applicable to all other preferred or contracting providers, if the health maintenance organization provides for coverage by contracted or preferred providers for pharmaceutical services, provided the pharmacy or pharmacist is registered pursuant to R.S.45:14-1 et seq., and accepts the terms and conditions of the health maintenance organization;

(3) Provides that no copayment, fee, or other condition shall be imposed upon an enrollee selecting a participating or contracting pharmacist or pharmacy that is not also equally imposed upon all enrollees selecting a participating or contracting pharmacist or pharmacy;

(4) (a) Provides that no enrollee shall be required to obtain pharmacy services and prescription drugs from a mail service pharmacy;

(b) Provides for no differential in any copayment applicable to any prescription drug of the same strength, quantity and days' supply, whether obtained from a mail service pharmacy or a non-mail service pharmacy, provided that the non-mail service pharmacy agrees to the same terms, conditions, price and services applicable to the mail service pharmacy; and

(c) Provides that the limit on days' supply is the same whether the prescription drug is obtained from a mail service pharmacy or a non-mail service pharmacy, and that the limit shall not be less than 90 days except for any health care-related programs funded in whole or in part with State funds, including, but not limited to, the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and the "Children's Health Care Coverage Program" established pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.);

(5) Sets forth the auditing procedures to be used by the health maintenance organization and includes a provision that any audit shall take place at a time mutually agreeable to the pharmacy or pharmacist and the auditor, unless authorized by the Division of Medical Assistance and Health Services in the Department of Human Services with regard to any health care-related programs funded in whole or in part with State funds, including, but not limited to, the Medicaid program and "Children's Health Care Coverage Program". No audit by a health maintenance organization shall include a review of any document relating to any person or prescription plan other than those reimbursable by the health maintenance organization, unless authorized by the Division of Medical Assistance and Health Services in the Department of Human Services with regard to any health care-related programs funded in whole or in part with State funds, including, but not limited to, the Medicaid program and "Children's Health Care Coverage Program";

(6) Provides that the health maintenance organization, or any agent or intermediary thereof, including a third party administrator, shall not restrict

or prohibit, directly or indirectly, a pharmacy from charging the enrollee for services rendered by the pharmacy that are in addition to charges for the drug, for dispensing the drug or for prescription counseling. Services rendered by the pharmacy for which additional charges are imposed shall be subject to the approval of the Board of Pharmacy. A pharmacy shall disclose to the purchaser the charges for the additional services and the purchaser's out-of-pocket cost for those services prior to dispensing the drug. A pharmacy shall not impose any additional charges for patient counseling or for other services required by the Board of Pharmacy or the Division of Medical Assistance and Health Services in the Department of Human Services or State or federal law;

(7) The provisions of P.L.1999, c.395 shall apply to all health maintenance organization contracts delivered. issued or renewed on or after the effective date of P.L.1999, c.395.

b. Nothing in this section shall be construed to operate to add any coverage for health care services, to increase the scope of any coverage for health care services, or to increase the level of any health care services provided by a health maintenance organization.

c. This section shall apply to health maintenance organization plans in which the right to change the enrollee charge has been reserved.

7. This act shall take effect on the 90th day after enactment and shall apply to all contracts, policies and certificates of authority issued or renewed on or after the effective date of this act.

Approved January 18, 2000.

CHAPTER 396

AN ACT concerning tow trucks, supplementing chapter 3 of Title 39 of the Revised Statutes and amending R.S.39:3-84.

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

C.39:3-84.6 Definitions relative to tow trucks.

1. As used in this act:

"Director" means the Director of the Division of Motor Vehicles in the Department of Transportation.

"Division" means the Division of Motor Vehicles in the Department of Transportation.

"Garage keeper's legal liability" means the protection of customer vehicles under various conditions pertaining to specific garage functions.

"Heavy-duty" means a gross weight of at least 32,000 pounds.

"Light-medium duty" means a gross weight of less than 32,000 pounds.

"Marker" means a type of vehicle identification issued by the director to be displayed on a tow truck.

"Towing company" means any person or entity owning or operating a tow truck service for compensation.

"Tow truck" means a motor vehicle equipped with a boom or booms, winches, slings, tilt beds or similar equipment designed for the towing or recovery of vehicles and other objects.

"Transporter" means equipment designed to transport more than one vehicle on a non-emergency basis.

C.39:3-84.7 Issuance of distinctive markers, license plates for tow trucks; fee.

2. a. Unless determined otherwise by the director pursuant to subsection b. of this section, the director shall issue distinctive markers for tow trucks operating under the provisions of this act. A fee of $25 annually shall be charged for such markers. The fee for such markers is in addition to the fees otherwise prescribed by law for the registration of motor vehicles and the amount received from the fees shall be annually appropriated to the department to defray costs incurred by the division in issuing the markers and implementing the provisions of P.L.1999, c.396 (C.39:3-84.6 et al.). The markers shall be available for tow trucks in two gross weight categories: light-medium duty and heavy-duty. The markers for each weight category shall have distinctive features.

b. The director may issue, in lieu of markers issued pursuant to subsection a. of this section, license plates for tow trucks operating under the provisions of this act. The license plates shall be issued for 12 months upon the filing of an application pursuant to section 3 of P.L.1999, c.396 (C.39:3-84.8) and upon payment of the registration fee. A surcharge on the registration fee shall be imposed by the director in the amount of $25 and the amount received from the surcharge shall be annually appropriated to the department to defray costs incurred by the division in issuing the plates and implementing the provisions of P.L.1999, c.396 (C.39:3-84.6 et al.). The plates shall be available for tow trucks in two gross weight categories: light-medium duty and heavy-duty. The plates for each weight category shall have distinctive features conspicuous to passing motorists.

c. A person shall not operate or offer to operate a tow truck to tow, winch, or otherwise move a motor vehicle for any direct or indirect compensation unless the tow truck displays the proper marker or valid tow truck license plate issued by the Division of Motor Vehicles pursuant to this

act. The director may exempt tow trucks that meet the definition of an apportioned vehicle pursuant to section 21 of P.L.1995, c.157 (C.39:3-6.11) from the requirement to display a tow truck license plate.

C.39:3-84.8 Information contained in application for tow truck registration.

3. a. An application for tow truck registration shall contain the following information:

(1) The name and address of the towing company's principal owner or owners;

(2) The address of the principal business office of the towing company;

(3) The location of any garage, parking lot, or other storage area, where motor vehicles or other objects moved by the towing company may be stored or placed;

(4) A valid certificate of insurance and a schedule of insured vehicles that are to be utilized by the towing company from an insurer authorized to do business in the state, including the amounts of the garage keeper's legal liability coverage and any "on hook" coverage as an endorsement or contained in a separate schedule, and liability insurance coverage, including in the case of each light-medium duty tow truck, motor vehicle liability insurance coverage for the death of, or injury to, persons and damage to property for each accident or occurrence in the amount of at least $750,000 single limit, and in the case of each heavy-duty tow truck, motor vehicle liability insurance coverage for the death of, or injury to, persons and damage to property for each accident or occurrence in the amount of at least $1,000,000 single limit; and

(5) Documentation of the manufacturer's gross vehicle weight rating for each tow truck.

If a system for the licensure of towing companies has been established pursuant to section 4 of P.L.1999, c.396 (C.39:3-84.9), the towing company shall include in the application a copy of the license issued to it pursuant to that section.

b. Except as otherwise provided in this act, the registration for these vehicles shall be issued and renewed pursuant to the provisions of this Title.

C.39:3-84.9 System for licensure of towing companies.

4. The director may establish a system for the licensure of towing companies. A towing company may be licensed by the director upon submission of an application and payment of a reasonable application fee, comparable to that of similar licenses issued by the director, sufficient to cover the cost of implementing the provisions of this act and to be prescribed by the director. The director may require annual renewal of applications for licensure and may stagger renewal dates and adjust the application fees accordingly.

C.39:3-84.10 Suspension, revocation, refusal to renew registration.

5. The director may suspend, revoke or refuse to issue or renew any registrations issued pursuant to this act upon proof that the applicant:

a. Used fraud or deception in securing such registration;

b. Violated any provision of this act; or

c. Has been convicted of theft of a motor vehicle.

C.39:3-84.11 Display of valid license plates, markers on tow truck.

6. A towing company shall display valid tow truck license plates or markers as required by law on each of its tow trucks. The name of the towing company and the municipality and state where the business is located shall be conspicuously displayed on all tow trucks used by the company as provided by law and regulation. Transporters shall be exempt from the provisions of this act.

C.39:3-84.12 Authority of political subdivision.

7. The provisions of this act shall preempt a political subdivision from regulating, requiring or issuing any registration, license plate or marker or surety registration of any towing company. This section shall not limit the existing authority of a political subdivision to:

a. License and collect a general and nondiscriminatory tax upon all businesses;

b. License and collect a tax upon towing operations domiciled within its jurisdiction; or

c. Impose any additional requirements or conditions as part of any contract to perform towing and recovery services for that jurisdiction.

C.39:3-84.13 Violations, fine.

8. A towing company operating a light-medium duty tow truck without displaying a proper marker or valid tow truck license plate as required by this act or violating section 6 of this act shall be subject to a fine of $600 for the first offense and a fine of $900 for each subsequent offense and a towing company operating a heavy-duty tow truck without displaying a proper marker or valid tow truck license plate as required by this act or violating section 6 of this act shall be subject to a fine of $1,200 for the first offense and a fine of $1,800 for each subsequent offense. A person or towing company knowingly displaying a false tow truck marker or license plate or using fraud or deception in securing tow truck registration under this act shall be subject to a fine of not less than $1,000 nor more than $7,500.

9. R.S.39:3-84 is amended to read as follows:

Vehicles; dimensional, weight limitations; routes, certain; prohibited.

39:3-84. a. The following constitute the maximum dimensional limits for width, height and length for any vehicle or combination of vehicles, including load or contents or any part or portion thereof, found or operated on any public road, street or highway or any public or quasi-public property in this State. Violations shall be enforced pursuant to subsection i. of section 5 of P.L.1950, c.142 (C.39:3-84.3).

The dimensional limitations set forth in this subsection are exclusive of safety and energy conservation devices necessary for safe and efficient operation of a vehicle or combination of vehicles, including load or contents, except that no device excluded herein shall have by its design or use the capability to carry, transport or otherwise be utilized for cargo.

Any rules and regulations authorized to be promulgated pursuant to this subsection shall be consistent with any rules and regulations promulgated by the Secretary of Transportation of the United States of America, and shall be in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). In addition to the other requirements of this subsection and notwithstanding any other provision of this Title, no vehicle or combination of vehicles, including load or contents or any part or portion thereof, except as otherwise provided by this subsection shall be operated in this State, unless by special permit authorized by subsection d. of this section with a dimension, the allowance of which would disqualify the State of New Jersey or any department, agency or governmental subdivision thereof for the purpose of receiving federal highway funds.

As used herein and pursuant to R.S.39:1-1, the term "vehicle" includes, but is not limited to, commercial motor vehicles, trucks, truck tractors, tractors, road tractors, recreation vehicles, or omnibuses. As used herein and pursuant to R.S.39:1-1, the term "combination of vehicles" includes, but is not limited to, vehicles as heretofore designated, when those vehicles are the drawing or power unit of a combination of vehicles and motor-drawn vehicles, such as, but not limited to, trailers, semi-trailers, or other vehicles. As used herein, the term "recycling vehicle" means a commercial motor vehicle used for the collection or transportation of recyclable material; or any truck, trailer or other vehicle approved by the New Jersey Office of Recycling for use by persons engaging in the business of recycling or otherwise providing recycling services in this State; and "recyclable material" means those materials which would otherwise become solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(1) The maximum outside width of any vehicle or combination of vehicles, including load or contents of any part or portion thereof, except as

otherwise provided by this subsection, shall be no more than 102 inches; except that the Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, may promulgate rules and regulations for those public roads, streets or highways or public or quasi-public property in this State, where it is determined that the interests of public safety and welfare require the maximum outside width be no more than 96 inches.

(2) The maximum height of any vehicle or combination of vehicles, including load or contents of any part or portion thereof, except as otherwise provided by this subsection, shall not exceed 13 feet, 6 inches.

(3) The maximum overall length of any vehicle, as set forth in this subsection, including load or contents or any part or portion thereof, except as otherwise provided by this subsection, shall not exceed 40 feet, except that the overall length of a vehicle, including load or contents or any part or portion thereof, otherwise subject to the provisions of this paragraph shall not exceed 50 feet when transporting poles, pilings, structural units or other articles which cannot be dismembered, dismantled or divided. When a vehicle, subject to this paragraph, is the drawing or power unit of a combination of vehicles, as set forth in this subsection, the overall length of the combination of vehicles, including load or contents or any part or portion thereof, shall not exceed 62 feet. The provisions of this paragraph shall not apply to omnibuses or to vehicles which are not designed, built or otherwise capable of carrying cargo or loads.

(4) The maximum overall length of a motor-drawn vehicle, as set forth in this subsection, including load or contents or any part or portion thereof, except as otherwise provided by this subsection, shall not exceed 53 feet when operated as part of a combination of vehicles consisting of one motor-drawn vehicle and a drawing or power unit vehicle not designed, built or otherwise capable of carrying cargo or loads, except that a motor-drawn vehicle, the overall length of which is greater than 48 feet and not more than 53 feet, shall be constructed so that the distance between the kingpin of the motor-drawn vehicle and the centerline of its rear axle or rear axle group does not exceed 41 feet; the motor-drawn vehicle shall be equipped with a rear-end protection device of substantial construction consisting of a continuous lateral beam extending to within four inches of the lateral extremities of the motor-drawn vehicle and located not more than 22 inches from the surface as measured with the vehicle empty and on a level surface; the kingpin of the trailer shall not be set back further than 3.5 feet from the front of the semitrailer; the rear overhang, measured from the center of the rear tandem axles to the rear of the semitrailer shall not exceed 35% of the semitrailer's wheelbase; the width of the semitrailer and the distance between the outside edges of the trailer tires shall be 102 inches;

and the vehicle shall be equipped with such reflectorization, including but not limited to side-marker reflectorization strips located between the rear axle and the rear of the motor-drawn vehicle, as shall be prescribed by the Division of Motor Vehicles, and as is consistent with any applicable federal standards concerning reflectorization. The overall length of a motor-drawn vehicle otherwise subject to the provisions of this paragraph shall not exceed 63 feet when transporting poles, pilings, structural units or other articles that cannot be dismembered, dismantled or divided. The provisions of this paragraph shall not apply to any vehicle or combination of vehicles designed, built and utilized solely to transport other motor vehicles. The Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, shall promulgate rules and regulations specifying those portions or parts of the National System of Interstate and Defense Highways, Federal-aid Primary System Highways and public roads, streets, highways, toll roads, freeways or parkways in this State where the combination of vehicles as described in this paragraph may lawfully operate. The commissioner shall promulgate rules and regulations within 120 days after the effective date of this amendatory act to identify a network of roads with reasonable access for motor-drawn vehicles greater than 48 feet in length but not more than 53 feet in length. The commissioner shall, in establishing this network, consider all portions of the network for 48 foot long and 102 inch wide motor-drawn vehicles and specify those routes or portions thereof where motor-drawn vehicles greater than 48 feet in length but not more than 53 feet in length shall be excluded from lawful operation for reasons of safety.

(5) No combination of vehicles, including load or contents, consisting of more than two motor-drawn vehicles, as set forth in this subsection, and any other vehicle, shall be found or operated on any public road, street or highway or any public or quasi-public property in this State.

(6) The maximum overall length of a motor-drawn vehicle, as set forth in this section, including load or contents or any part or portion thereof, except as otherwise provided by this subsection, when operated as part of a combination of vehicles consisting of two motor-drawn vehicles and a drawing or power unit vehicle which is not designed, built or otherwise capable of carrying cargo or loads, shall not exceed 28 feet for each motor-drawn vehicle in the combination of vehicles. The provision of this paragraph shall not apply to any vehicle or combination of vehicles designed, built and utilized solely to transport other motor vehicles. The Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, shall promulgate rules and regulations specifying those portions or parts of the National System of Interstate and Defense Highways, Federal-aid Primary

System Highways and public roads, streets, highways, toll roads, freeways or parkways in this State where combinations of vehicles as described in this paragraph may lawfully operate.

(7) The maximum length and outside width of an omnibus found or operated in this State shall be established by rules and regulations promulgated by the Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police. Unless otherwise specified in the aforesaid rules and regulations, the maximum outside width shall be 102 inches; any other dimension established for width in the aforesaid rules and regulations shall be based upon a determination that operation of an omnibus with a width of less than 102 inches, but no less than 96 inches is required in the interest of public safety on those public roads, streets, highways, toll roads, freeways, parkways or the National System of Interstate and Defense Highways in this State specified in the aforesaid rules and regulations, or that operation of an omnibus with a width greater than 102 inches is not unsafe on those public roads, streets, highways, toll roads, freeways, parkways or the National System of Interstate and Defense Highways in this State specified in the aforesaid rules and regulations.

(8) The maximum width and length of farm tractors and traction equipment and farm machinery and implements shall be established by rules and regulations promulgated by the Director of the Division of Motor Vehicles. The operation of the aforesaid vehicles shall be subject to the provisions of R.S.39:3-24 and they shall not be operated on any highway which is part of the National System of Interstate and Defense Highways or on any highway which has been designated a freeway or parkway as provided by law.

(9) The maximum outside width of the cargo or load of a vehicle or combination of vehicles, including farm trucks, loaded with hay or straw shall not exceed 105 1/2 inches, but the maximum outside width of the vehicle or combination of vehicles, including farm trucks, shall otherwise comply with the provisions of paragraph (1) of this subsection. The Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, may promulgate rules and regulations establishing a maximum outside width of 102 inches for the aforesaid cargo or load when operating on those highways where a greater width is prohibited by operation of law.

(10) Notwithstanding the provisions of paragraphs (4) and (6) of this subsection pertaining to length, the Director of the Division of Motor Vehicles may adopt rules and regulations specifying maximum length dimensions for any vehicle or combination of vehicles designed, built and utilized solely to transport other motor vehicles.

(11) The provisions of this subsection pertaining to length shall not apply to a vehicle or combination of vehicles or special mobile equipment operated by a public utility, as defined in R.S.48:2-13, when that vehicle or combination of vehicles or special mobile equipment is used by the public utility in the construction, reconstruction, repair or maintenance of its property or facilities.

(12) The provisions of this subsection pertaining to width shall not apply to a recycling vehicle when that vehicle is used for the collection of recyclable material on a street or highway other than a highway which is designated part of the National System of Interstate and Defense Highways in this State or as a freeway or parkway as provided by law. The maximum outside width of any recycling vehicle so used, including load or contents of any part or portion thereof, shall be no more than 96 inches, except that the width may be up to 105 inches whenever that vehicle is operating at 15 miles per hour or less, and access steps are deployed and recyclable materials are actually being collected.

b. No vehicle or combination of vehicles, including load or contents, found or operated on any public road, street or highway or any public or quasi-public property in this State shall exceed the weight limitations set forth in this Title. Violations shall be enforced pursuant to subsection j. of section 5 of P.L.1950, c.142 (C.39:3-84.3).

Where enforcement of a weight limit provision of this Title requires a measurement of length between axle centers, the distance between axle centers shall be measured to the nearest whole foot or whole inch, whichever is applicable, and when the measurement includes a fractional part of a foot equaling six inches or more or a fractional part of an inch equaling one-half inch or more, the next larger whole foot or whole inch, whichever is applicable, shall be utilized. The term "tandem axle" as used in this act is defined as a combination of consecutive axles, consisting of only two axles, where the distance between axle centers is 40 inches or more but no more than 96 inches.

In addition to the other requirements of this section and notwithstanding any other provision of this Title, no vehicle or combination of vehicles, including load or contents, shall be operated in this State, unless by special permit authorized by this Title, with a gross weight, single or multiple axle weight, or gross weight of two or more consecutive axles, the allowance of which would disqualify the State of New Jersey or any department, agency or governmental subdivision thereof for the purpose of receiving federal highway funds.

(1) The gross weight imposed on the highway or other surface by the wheels of any one axle of a vehicle or combination of vehicles, including load or contents, shall not exceed 22,400 pounds.

For the purpose of this Title the combined gross weight imposed on the highway or other surface by all the wheels of any one axle of a vehicle or combination of vehicles, including load or contents, shall be deemed to mean the total gross weight of all wheels whose axle centers are spaced less than 40 inches apart.

(2) The gross weight imposed on the highway or other surface by all the wheels of all consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed 34,000 pounds where the distance between consecutive axle centers is 40 inches or more, but no more than 96 inches apart.

(3) The combined gross weight imposed on the highway or other surface by all the wheels of consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed 22,400 pounds for each single axle where the distance between consecutive axle centers is more than 96 inches; except that on any highway in this State which is part of, or designated as part of, the National Interstate System, as provided at 23 U.S.C. s.103(e), this single axle limitation shall not apply and in those instances the provisions of this Title as set forth at R.S.39:3-84b.(5) shall apply.

(4) The maximum total gross weight imposed on the highway or other surface by a vehicle or combination of vehicles, including load or contents, shall not exceed 80,000 pounds.

(5) On any highway in this State which is part of, or designated as part of, the National Interstate System, as provided at 23 U.S.C. s.103(e), the total gross weight, in pounds, imposed on the highway or other surface by any group of two or more consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed that listed in the following Table of Maximum Gross Weights, for the respective distance, in feet, between the axle centers of the first and last axles of the group of two or more consecutive axles under consideration; except that in addition to the weights specified in that Table, two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more. The gross weight of each set of tandem axles shall not exceed 34,000 pounds and the combined gross weight of the two consecutive sets of tandem axles shall not exceed 68,000 pounds.

In all cases the combined gross weight for a vehicle or combination of vehicles, including load or contents, or the maximum gross weight for any axle or combination of axles of the vehicle or combination of vehicles, including load or contents, shall not exceed that which is permitted pursuant to this paragraph or R.S.39:3-84b.(2); R.S.39:3-84b.(3); or R.S.39:3-84b.(4) of this act, whichever is the lesser allowable gross weight.

TABLE OF MAXIMUM GROSS WEIGHTS

Distance in feet between axle centers of first and last axles of any group of two or more consecutive axles	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles
3	22400	22400	22400	22400	22400	22400
4	34000	34000	34000	34000	34000	34000
5	34000	34000	34000	34000	34000	34000
6	34000	34000	34000	34000	34000	34000
7	34000	34000	34000	34000	34000	34000
8	34000	34000	34000	34000	34000	34000
9	39000	42500	42500	42500	42500	42500
10	40000	43500	43500	43500	43500	43500
11	41000	44000	44000	44000	44000	44000
12	42000	45000	50000	50000	50000	50000
13	43000	45500	50500	50500	50500	50500
14	44000	46500	51500	51500	51500	51500
15	44800	47000	52000	52000	52000	52000
16	44800	48000	52500	58000	58000	58000
17	44800	48500	53500	58500	58500	58500
18	44800	49500	54000	59000	59000	59000
19	44800	50000	54500	60000	60000	60000
20	44800	51000	55500	60500	66000	66000
21	44800	51500	56000	61000	66500	66500
22	44800	52500	56500	61500	67000	67000
23	44800	53000	57500	62500	68000	68000
24	44800	54000	58000	63000	68500	74000
25	44800	54500	58500	63500	69000	74500
26	44800	55500	59500	64000	69500	75000
27	44800	56000	60000	65000	70000	75500
28	44800	57000	60500	65500	71000	76500
29	44800	57500	61500	66000	71500	77000
30	44800	58500	62000	66500	72000	77500
31	44800	59000	62500	67500	72500	78000
32	44800	60000	63500	68000	73000	78500
33	44800	60500	64000	68500	74000	79000
34	44800	61500	64500	69000	74500	80000
35	44800	62000	65500	70000	75000	80000
36	44800	63000	66000	70500	75500	80000
37	44800	63500	66500	71000	76000	80000
38	44800	64500	67500	71500	77000	80000
39	44800	65000	68000	72500	77500	80000
40	44800	66000	68500	73000	78000	80000
41	44800	66500	69500	73500	78500	80000
42	44800	67200	70000	74000	79000	80000

43	44800	67200	70500	75000	80000	80000
44	44800	67200	71500	75500	80000	80000
45	44800	67200	72000	76000	80000	80000
46	44800	67200	72500	76500	80000	80000
47	44800	67200	73500	77500	80000	80000
48	44800	67200	74000	78000	80000	80000
49	44800	67200	74500	78500	80000	80000
50	44800	67200	75500	79000	80000	80000
51	44800	67200	76000	80000	80000	80000
52	44800	67200	76500	80000	80000	80000
53	44800	67200	77500	80000	80000	80000
54	44800	67200	78000	80000	80000	80000
55	44800	67200	78500	80000	80000	80000
56	44800	67200	79500	80000	80000	80000
57	44800	67200	80000	80000	80000	80000
58	44800	67200	80000	80000	80000	80000
59	44800	67200	80000	80000	80000	80000
60	44800	67200	80000	80000	80000	80000
61	44800	67200	80000	80000	80000	80000
62	44800	67200	80000	80000	80000	80000
63	44800	67200	80000	80000	80000	80000
64	44800	67200	80000	80000	80000	80000
65	44800	67200	80000	80000	80000	80000
66	44800	67200	80000	80000	80000	80000
67	44800	67200	80000	80000	80000	80000
68	44800	67200	80000	80000	80000	80000
69	44800	67200	80000	80000	80000	80000
70	44800	67200	80000	80000	80000	80000

c. The dimensional and weight restrictions set forth herein shall not apply to a combination of vehicles which includes a disabled vehicle or a combination of vehicles being removed from a highway in this State, provided that such oversize or overweight vehicle combination may not travel on the public highways more than 75 miles from the point where such disablement occurred. If the disablement occurred on a limited access highway, the distance to the nearest exit of such highway shall be added to the 75-mile limitation. A heavy-duty tow truck, as defined in section 1 of P.L.1999, c.396 (C.39:3-84.6), shall be permitted, in combination with the towed unit or units, to exceed the axle, dimensional and maximum gross weight limits for tow trucks and towed unit combinations; except that the limit shall not exceed 150,000 pounds gross combined weight. This provision shall not affect the application of section 6 of P.L.1950, c.142 (C.39:3-84.4) concerning driver liability for damages and does not provide an exemption to exceed the height and weight restrictions marked or posted on a bridge or overpass in the State. A heavy-duty tow truck in combination with the towed unit or units shall not be operated at a speed greater than 45 miles per hour when the heavy-duty tow truck in combination with the towed unit or units weighs more than 80,000 pounds, or one or more of its axles exceeds the limitations prescribed herein in the Table of Maximum Gross Weights, or the tow

truck in combination with the towed unit exceeds maximum length and width standards as prescribed by law.

d. The Director of the Division of Motor Vehicles may promulgate rules and regulations, including the establishment of fees, for the issuance, at his discretion and if good cause appears, of a special written permit authorizing the applicant:

(1) To operate or move a vehicle or combination of vehicles or special mobile equipment, transporting one piece loads that cannot be dismembered, dismantled or divided in order to comply with the weight limitations set forth in this act. The special written permit issued by the director shall be in the possession of the driver or operator of the vehicle or combination of vehicles or special mobile equipment for which said permit was issued; and

(2) To operate or move a vehicle or combination of vehicles or specialized mobile equipment, transporting a load or cargo that cannot be dismembered, dismantled or divided in order to comply with the dimensional limitations set forth in this act. The special written permit shall be in the possession of the driver or operator of the vehicle or combination of vehicles or special mobile equipment for which the permit was issued; and

(3) Under emergency conditions, to operate or move a type of vehicle or combination of vehicles or special mobile equipment of a size or weight, including load or contents, which exceeds the maximum size or weight limitations specified in this act.

e. If the Commissioner of Transportation has, by regulations adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), designated certain routes within the State for use by a combination of vehicles with a prescribed maximum width or length or consisting of a drawing vehicle and two motor drawn vehicles with a prescribed maximum length, no such combination of vehicles shall be found or operated on any other public road, street or highway or any other public or quasi-public property in this State, unless otherwise permitted by such regulations.

C.39:3-84.14 Rules, regulations.

10. The director 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.

11. Sections 1, 9 and 10 of this act shall take effect immediately and the remainder of the act shall take effect on July 1, 2001 but the division may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act

Approved January 18, 2000.

CHAPTER 397

AN ACT concerning motor vehicle offenses, and amending P.L.1985, c.14 and P.L.1981, c.365.

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

1. Section 9 of PL. 1985, c.14 (C.39:4-139.10) is amended to read as follows:

C.39:4-139.10 Failure to respond, pay parking judgment, penalties.

9. a. If a person has failed to respond to a failure to appear notice or has failed to pay a parking judgment, the municipal court may give notice of that fact to the division in a manner prescribed by the director. If notice has been given under this section of a person's failure to respond to a failure to appear notice or to pay a parking judgment and if the fines and penalties are paid or if the case is dismissed or otherwise disposed of, the municipal court shall promptly give notice to that effect to the division.

b. The judge or the division may suspend the driver's license of an owner, lessee, or operator who has not answered or appeared in response to a failure to appear notice or has not paid or otherwise satisfied outstanding parking fines or penalties. If an owner, lessee or operator has been found guilty of a parking offense, the court shall provide notice and an opportunity to appear before a judge prior to suspending that person's driver's license. If the owner, lessee or operator is found by the court to be indigent or is participating in a government-based income maintenance program, that person shall be permitted to pay the parking fine and other penalties in installments in accordance with section 1 of P.L.1981, c.365 (C.39:4-203.1).

c. The division shall keep a record of a suspension ordered by the court pursuant to subsection b. of this section.

2. Section 1 of P.L.1981, c.365 (C.39:4-203.1) is amended to read as follows:

C.39:4-203.1 Indigents permitted to pay fines in installments.

1. Any defendant convicted of a traffic offense pursuant to Title 39 of the Revised Statutes or a parking offense, shall, upon a satisfactory showing of a condition of indigency or participation in a government-based income maintenance program, be permitted by the court to pay the fine in installments. The court shall set the amount and frequency of each installment, except that the final installment shall be due no later than 12 months from the date of conviction.

3. This act shall take effect on the 180th day after enactment, but the Director of the Division of Motor Vehicles may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved January 18, 2000.

CHAPTER 398

AN ACT concerning membership in the Police and Firemen's Retirement System and supplementing P.L.1944, c.255 (C.43:16A-1 et seq.).

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

C.43:16A-1.5 Membership in PFRS for certain jail wardens.

1. a. As used in this act, "jail warden" means any paid, permanent, uniformed, full-time employee of a county correctional facility who is engaged in the protection, custody, and discipline of facility inmates and who is subject to the training and physical and mental fitness requirements established by the employer. "Jail warden" also means any administrative or supervisory employee of a county correctional facility whose duties include general or direct supervision or training of employees engaged in the protection, custody, and discipline of facility inmates.

b. Notwithstanding any law, rule or regulation to the contrary, any corrections officer who is enrolled and vested in the Police and Firemen's Retirement System on or after the effective date of this act may, at the election of the officer, remain in the Police and Firemen's Retirement System if the officer is promoted or transferred to the position of jail warden.

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 399

AN ACT concerning the relief of survivors of certain slain police officers and making an appropriation.

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

1. With respect to a certain concert to be held at the Meadowlands Complex for the purpose of defraying the costs of the defense of Mumia Abu-Jamal, who has been convicted of killing a police officer in the Commonwealth of Pennsylvania, the New Jersey Sports and Exposition Authority shall certify to the State Treasurer the amount realized by the authority from that concert. Upon that certification, the State Treasurer shall cause to be deposited in a special account in the General Fund an amount equal to that amount for the relief of survivors of police officers killed in the line of duty in the State of New Jersey. The Attorney General of the State of New Jersey is authorized to disburse from that fund such amounts as he deems fair and equitable to the "200 clubs" in New Jersey, which are charitable organizations set up for the relief of such survivors. An amount equal to the amount so deposited shall be deducted from any subsidy given to the New Jersey Sports and Exposition Authority from the General Fund of the State.

2. There is hereby appropriated from the General Fund such sums as are necessary to effectuate the purposes of this act.

3. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 400

AN ACT concerning the development and promotion of energy and environmental technology and supplementing Title 13 of the Revised Statutes.

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

C.13:1D-134 Findings, declarations relative to development, promotion of energy, environmental technology.

1. The Legislature finds and declares that it is in the public interest to encourage new businesses to locate in the State and assist existing enterprises to remain and expand in the State by facilitating the development and commercial use of technology-based environmental and energy-related products, services and systems in the State that abate and prevent environmental pollution and promote energy conservation in a cost-effective manner; that there is a need to stimulate and encourage the development of such products within the State by providing technical assistance for the development of technologies with commercial applications so that the commercial use of these technologies can be expedited; that advances in environmental and energy technology can be achieved through the formation of alliances

between individuals seeking such assistance and technology-based businesses, industry, research universities, utility companies, government agencies and third party investors; that collaboration between the public and private sectors in technology development can expedite the commercial use of technologies and represents an effective way to leverage resources, pool talents and accelerate the growth and expansion of innovative business and industry in the State; and that private/public partnerships will realize expanded economic growth in the State and will enhance New Jersey's ability to be nationally and globally recognized as the center for the advancement of environmental and energy-related technologies.

The Legislature further finds and declares that it is the mission of the Department of Environmental Protection to preserve, sustain, protect and enhance the environment and ensure the integration of high environmental quality, public health and economic vitality; that through partnerships with the general public, businesses, environmental communities, and all levels of government, the Department of Environmental Protection can assure that pollution is efficiently prevented and the best technology is planned for, and applied to, long-term environmental goals; that the New Jersey Corporation for Advanced Technology, a nonprofit organization whose membership is composed of technology-based businesses, industries, research universities, utility companies, government agencies and third party investors, has as its mission the development, retention and growth of technology-based businesses that develop and employ energy and environmental technologies; and that the Department of Environmental Protection must implement a cost-effective and technically sound method to verify the operations and performance of new energy and environmental technologies to maximize the benefits of potential environmental improvements through innovative energy and environmental technologies.

The Legislature therefore determines that it is in the public interest for the Department of Environmental Protection and the New Jersey Corporation for Advanced Technology to enter into a performance partnership agreement and thereby establish and implement an energy and environmental technology verification program for the purposes of identifying, evaluating, verifying, and expediting the commercial use of innovative energy and environmental technologies that provide significant environmental benefits to the State by providing technical guidance, coordinating the required approvals and reviews, and revising the regulatory framework affecting the development and commercial use of these technologies; that the New Jersey Corporation for Advanced Technology can ensure the maximum effectiveness of these innovative energy and environmental technologies with the support of private industry, State government, utilities, not-for-profit corporations, academia, and the investment

community; that the New Jersey Corporation for Advanced Technology can provide a process for conformance and validation of environmental, operational and overall performance evaluation of innovative energy and environmental technology; that the New Jersey Corporation for Advanced Technology can recommend technologies for further development, because its standards for verification of technologies are at least as stringent as the requirements of the Department of Environmental Protection; and that by implementing a verification process that ensures technologies can perform within acceptable methods of quality assurance, the Department of Environmental Protection and the New Jersey Corporation for Advanced Technology will accomplish their goals of preventing contamination and pollution in the State while achieving and preserving high environmental quality and promoting a healthier, richer economy in the State.

C.13:1D-135 Definitions relative to development, promotion of energy, environmental technology.

2. For the purposes of this act:

"Corporation" means the New Jersey Corporation for Advanced Technology, a not-for-profit membership corporation, incorporated under the "New Jersey Nonprofit Corporation Act," P.L.1983, c.127 (N.J.S.15A:1-1 et seq.), whose membership comprises technology-based businesses, industries, research universities, utility companies, government agencies and third party investors that are interested in advancing the development and use of technology in the State;

"Department" means the Department of Environmental Protection; and

"Program" means the energy and environmental technology verification program for the identification, evaluation, verification and, through the coordination and revision of regulatory mechanisms and requirements, the promotion and expedited commercial use of innovative energy and environmental technologies, and established under the performance partnership agreement between the department and the corporation entered into pursuant to section 3 of this act.

C.13:1D-136 Performance partnership agreement.

3. a. Pursuant to the performance contract authority established by subsection q. of section 12 of P.L.1970, c.33 (C.13:1D-9), the Department of Environmental Protection shall enter into a performance partnership agreement with the New Jersey Corporation for Advanced Technology for the purposes of establishing and administering an energy and environmental technology verification program for the identification, evaluation, verification and, through the coordination and revision of regulatory mechanisms and requirements, the promotion and expedited commercial use of innovative energy and environmental technologies.

b. The department, in consultation and in conjunction with the corporation, shall develop and establish evaluation and verification procedures, processes and protocols for the purposes of:

(1) Determining the application and use, and the outcome of the application and use, of certain energy and environmental technologies;

(2) Studying, evaluating and verifying the benefits of any innovative energy and environmental technologies; and

(3) Identifying beneficial and innovative technologies requiring assistance with regulatory mechanisms and requirements.

c. The department shall develop a technical guidance document for the program that shall include, but not be limited to, a technical manual for each class or category of technology and the permits required for its commercial use, and the evaluation and verification procedures, processes, and protocols developed and established pursuant to subsection b. of this section to be used by the program for evaluating, verifying and promoting a technology. The technical guidance document also shall provide for the revision of such protocols, processes and procedures to accommodate verification procedures employed and proposed by the corporation. The technical guidance document shall define the procedural and substantive requirements for selection for, and participation in, the program and the review of applications pertaining thereto, and shall clarify any department and corporation interpretations of any laws, rules, and regulations relating to the review, selection and verification of a technology for the program. The department shall publish the technical guidance document, and any revisions thereto, in the New Jersey Register. The adoption of a technical guidance document, or of the revisions thereto, shall not be subject to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. The corporation shall provide notification of the availability of participation in the technology verification program, as it deems appropriate and in the manner it determines shall reach persons with technologies likely to be eligible for evaluation and verification under the technology verification program. The corporation shall accept applications for the review and consideration for verification of technologies under the program, in accordance with the procedures, processes and protocols established pursuant to subsection b. of this section and the technical guidance document developed pursuant to subsection c. of this section. After a review of the application to preliminarily evaluate and verify that the technology may have significant energy or environmental benefits, the corporation may select a technology as a candidate for evaluation and verification under the program and shall notify the department of the selected technology and the results of the preliminary evaluation of the technology and the protocols for its verification.

e. Upon notice of the selection of a technology, the department shall review any and all laws, rules or regulations affecting the development and commercial use of the selected technology and, as the department deems appropriate and necessary, shall consult with the applicant whose technology has been selected. The department shall coordinate the required permits, permit review, permit approvals and other required action on the part of federal and State agencies, entities and officials to assist in the promotion and expedited commercial use of the verified technology upon its verification.

f. The corporation, in conjunction and cooperation with the department and its action pursuant to subsection e. of this section, shall evaluate the selected energy or environmental technology and its performance, and, whenever appropriate, shall verify the technology evaluated. The evaluation and verification shall include, but not be limited to, ascertaining the conservation or environmental benefit of the technology being evaluated and confirming that the technology in fact achieves the alleged benefit and has a significant net beneficial environmental effect from its overall performance.

g. The Department of Environmental Protection may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules or regulations necessary to expedite the commercial use of energy or environmental technologies selected for the program and verified by the corporation as a technology with a significant net beneficial environmental effect from its overall performance, or required to implement the provisions of this section.

h. The Commissioner of Environmental Protection shall implement the contract provisions, protocols, processes, procedures, rules and regulations established pursuant to subsections a. through d. of this section, and shall require any person engaged in a permit process to work in conjunction with the corporation and rely on its evaluation and verification processes.

i. The department shall work closely with the State Treasurer to include in State bid specifications, as deemed appropriate by the State Treasurer, any technology verified under the energy and environmental technology verification program established pursuant to this section.

C.13:1D-137 Reciprocal environmental technology agreements.

4. The department shall enter into reciprocal environmental technology agreements concerning the evaluation and verification protocols used by the corporation and the department between the department, the United States Environmental Protection Agency, other local, regional or national environmental agencies, entities or groups, or other state agencies, entities or groups in other states and in New Jersey for the purposes of encouraging and permitting the reciprocal acceptance of technical data and information concerning the evaluation and verification of energy and environmental technologies. Such acceptance may

include providing equivalent regulatory approvals, as appropriate and consistent with the regulatory changes established pursuant to subsections c., e. and g. of section 3 of this act, for technologies previously evaluated and verified under protocols substantially identical to those developed by the corporation and the department under the energy and environmental technology verification program established under section 3 of this act. Nothing herein provided shall be construed to restrict the New Jersey Corporation of Advanced Technology from entering into similar reciprocal environmental technology agreements and the department shall encourage the corporation to do so.

5. There is appropriated from the General Fund the sum of $95,000 to the department for the implementation of the energy and environmental technology verification program established pursuant to this act.

6. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 401

AN ACT concerning the assessment of penalties for certain unabated construction code and fire code violations, amending P.L.1975, c.217 and P.L.1983. c.383.

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

1. Section 16 of P.L.1975, c.217 (C.52:27D-134) is amended to read as follows:

C.52:27D-134 Appeal not automatic stay of order to stop construction.

16. a. An appeal to a county, municipal or joint construction board of appeals, a departmental appeal, or an appeal to a court of competent jurisdiction shall not automatically stay any order to stop construction issued pursuant to this act or prevent the seeking of an order in a court of competent jurisdiction to enjoin the violation of a stop construction order.

b. Upon the 121st day subsequent to its filing, an appeal to a county, municipal or joint construction board of appeals, a departmental appeal, or an appeal to a court of competent jurisdiction shall not automatically stay any order, including orders to pay a penalty imposed pursuant to section 20 of P.L.1975, c.217 (C.52:27D-138) or prevent the seeking of an order in a court of competent jurisdiction to enjoin the violation of any order of an enforcing agency, in connection with any property which is certified by a

code enforcement official to be unoccupied. For the purposes of this section, a building may not be certified as unoccupied unless it has been unoccupied for a period of not less than six months.

Any party filing an appeal with a court of competent jurisdiction regarding violations assessed against property which has been certified as unoccupied pursuant to this section shall file a motion upon the initiation of the appeal requesting expedited consideration of the appeal on the ground that acceleration is warranted because the subject of the appeal involves matters of public safety. In the event the appeal is granted, the court shall grant the motion to expedite.

2. Section 19 of P.L.1983, c.383 (C.52:27D-210) is amended to read as follows:

C.52:27D-210 Additional violations; penalties.

19. a. No person shall:

(1) Obstruct, hinder, delay or interfere by force or otherwise with the commissioner or any local enforcing agency in the exercise of any power or the discharge of any function or duty under the provisions of this act;

(2) Prepare, utter or render any false statement, report, document, plans or specification permitted or required under the provisions of this act;

(3) Render ineffective or inoperative, or fail to properly maintain, any protective equipment or system installed, or intended to be installed, in a building or structure;

(4) Refuse or fail to comply with a lawful ruling, action, order or notice of the commissioner or a local enforcing agency; or

(5) Violate, or cause to be violated, any of the provisions of this act.

b. (1) A person who violates or causes to be violated a provision of subsection a. of this section shall be liable to a penalty of not more than $5,000 for each violation. If a violation of subsection a. of this section is of a continuing nature, each day during which the violation remains unabated after the date fixed in an order or notice for the correction or termination of the continuing violation shall constitute an additional and separate violation, except while an appeal from the order is pending in connection with any property except for those properties which are certified by the fire code official to be unoccupied. For the purposes of this section, a building may not be certified to be unoccupied unless it has been unoccupied for a period of not less than six months.

(2) If an owner has been given notice of the existence of a violation of the act and fails to abate the violation, he shall be liable to an additional penalty of not more than $50,000. If a violation is of a continuing nature, each day during which the violation remains unabated shall not constitute an additional and separate violation for the purposes of the penalty in this paragraph.

(3) An additional $150,000 or the actual cost, whichever is greater, may be imposed as a penalty for the expense to the municipality or fire district of suppressing any fire, directly or indirectly, resulting from the unabated violation and for any other actual expenses, including attorney fees, incurred by the municipality for the enforcement of the violation.

(4) Upon the 121st day subsequent to its filing, an appeal to a county, municipal or joint construction board of appeals, a departmental appeal, or an appeal to a court of competent jurisdiction shall not automatically stay any order, including orders to pay a penalty imposed pursuant to P.L.1983, c.383 (C.52:27D-192 et seq.), or prevent the seeking of an order in a court of competent jurisdiction to enjoin the violation of any order of an enforcing agency in connection with any property which is found by the fire code official to be unoccupied.

Any party filing an appeal with a court of competent jurisdiction regarding violations assessed against property which has been certified as unoccupied pursuant to this section shall file a motion upon the initiation of the appeal requesting expedited consideration of the appeal on the ground that acceleration is warranted because the subject of the appeal involves matters of public safety. In the event the appeal is granted, the court shall grant the motion to expedite.

c. The commissioner or a local enforcing agency may levy and collect penalties in the amounts set forth in this section, but not in excess of the maximum amounts that the commissioner shall establish by regulation for different types of violations. If the administrative penalty order has not been satisfied by the 30th day after its issuance, the penalty may be sued for, and recovered by and in the name of the commissioner or the enforcing agency, as the case may be, in a civil action by a summary proceeding under "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) in the Superior Court or municipal court. All moneys recovered in the form of penalties by a municipality shall be paid into the treasury of the municipality and shall be appropriated for the enforcement of the act; except that the additional penalty paid by an owner to a municipality under paragraph (2) or (3) of subsection b. of this section shall be placed in a special municipal trust fund to be applied to the municipality's or fire district's cost of firefighter training and new equipment. A person who fails to pay immediately a money judgment rendered against him pursuant to this subsection may be sentenced to imprisonment by the court for a period not exceeding six months, unless the judgment is sooner paid.

d. A person shall be deemed to have violated or caused to have violated a provision of subsection a. of this section if an officer, agent or employee under his control and with his knowledge has violated or caused to have violated any of the provisions of subsection a. of this section.

e. Upon request of the owner or purchaser of a building or structure, the enforcing agency having jurisdiction over the building or structure shall issue a certificate either enumerating the violations indicated by its records to be unabated and the penalties or fees indicated to be unpaid, or stating that its records indicate that no violations remain unabated and no penalties or fees remain unpaid.

f. A person who purchases a property without having obtained a certificate stating that there are no unabated violations of record and no unpaid fees or penalties shall be deemed to have notice of all violations of record and shall be liable for the payment of all unpaid fees or penalties.

3. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 402

AN ACT creating the Greenwood Lake Commission and supplementing Title 58 of the Revised Statues.

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

C.32:20A-1 Short title.

1. This act shall be known, and may be cited, as the "Greenwood Lake Protection Act."

C.32:20A-2 Findings, declarations relative to Greenwood Lake.

2. The Legislature finds and declares that the States of New Jersey and New York and their respective citizens share a common concern to protect the quality of the environment through the preservation of natural and scenic resources and open space to the maximum extent possible along their common border; that the two states and their respective citizens also share the benefits of several environmentally significant waterbodies and watersheds that cross the interstate border region, including Greenwood Lake and its watershed; that, because of the geology and hydrology of the land in the border region, development, land use, and land management practices and patterns in each state necessarily impact, often negatively, upon the natural and scenic resources of, and the extent of open space and recreational opportunities within, both states; that Greenwood Lake is the largest lake in the Highlands region of northern New Jersey and southern New York and is a prime source of enjoyment and recreation for the people who live in or visit the bi-state border area; that Greenwood Lake is vital to

the recreation and economy of the Highlands region of northern New Jersey and southern New York; and that there has been a long history of cooperation among state and local governmental entities and various private organizations and individuals in the vicinity of Greenwood Lake and its watershed to ensure the preservation of Greenwood Lake.

The Legislature therefore determines that there is a need to endorse and formalize that bi-state cooperative effort to help ensure that the natural, scenic, and recreational resources of Greenwood Lake and its watershed are protected from despoliation due to environmental and other threats from both sides of the border, so that the pristine beauty of the area will be preserved and maintained for the enjoyment and recreation of present and future generations; and that the creation of a bi-state commission is an appropriate means to accomplish that very important goal.

C.32:20A-3 Greenwood Lake Commission.

3. a. There is created the Greenwood Lake Commission, which shall comprise 11 voting members, as follows: a representative appointed by the Board of Chosen Freeholders of Passaic County, New Jersey; two representatives appointed by the governing body of the Township of West Milford, New Jersey; the Commissioner of the New Jersey Department of Environmental Protection, or a designee thereof, who shall serve ex officio; a representative appointed by the governing body of Orange County, New York; a representative appointed by the governing body of the Village of Greenwood Lake, New York; a representative appointed by the governing body of the Town of Warwick, New York; the Commissioner of the New York Department of Environmental Conservation, or a designee thereof, who shall serve ex officio; a representative of the Greenwood Lake Watershed Management District, Inc.; and two members of the public with expertise in the protection, preservation, maintenance, management, or enhancement of lakes or the natural, scenic, or recreational resources associated therewith, of whom one shall be appointed by the Governor of the State of New Jersey with the advice and consent of the Senate thereof, and one shall be appointed by the Governor of the State of New York with the advice and consent of the Senate thereof.

b. Vacancies in the appointed positions on the commission shall be filled in the same manner as the original appointments were made.

c. Members of the commission from New Jersey shall serve without compensation, but the commission may, within the limits of funds appropriated or otherwise made available to it, reimburse members for actual expenses necessarily incurred in the discharge of their official duties.

d. Members of the commission from New Jersey shall serve at the pleasure of the relevant appointing authority.

C.32:20A-4 Organization, meetings.

4. a. The commission shall organize as soon as may be practicable after the appointment of its members, and shall select two co-chairpersons from its members, one from each state, and a secretary who need not be a member.

b. The commission shall meet regularly as it may determine. Meetings of the commission shall be at such times and places as the co-chairpersons of the commission deem appropriate, but to the maximum extent practicable and feasible, shall be rotated between the two states on an alternating basis. Meetings held in New Jersey shall be subject to the provisions and requirements of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

The commission shall also meet at the call of the governor of either state or at the call of either co-chairperson.

c. A majority of the voting membership of the commission shall constitute a quorum for the transaction of commission business. Action may be taken and motions and resolutions adopted by the commission at any meeting thereof by the affirmative vote of eight members of the commission.

d. The commission shall be entitled to call to its assistance, and avail itself of the services of, such employees of the two states, or any political subdivisions, instrumentalities, entities, agencies, or authorities thereof, as it may require and as may be made available to it for the purpose of carrying out its duties under this act. If requested by the commission, the New Jersey Department of Environmental Protection and the New York Department of Environmental Conservation shall provide primary staff support.

e. The commission may, within the limits of funds appropriated or otherwise made available to it for those purposes, employ such professional, technical, and clerical staff and incur such traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties.

C.32:20A-5 Duties of commission.

5. The duties of the commission shall be to:

a. assess present and projected development, land use, and land management practices and patterns, and identify actual and potential environmental threats and problems, around Greenwood Lake and within its watershed, and determine the effects of those practices and patterns, threats, and problems upon the natural, scenic, and recreational resources of Greenwood Lake and its watershed;

b. develop recommended regulations, procedures, policies, planning strategies, and model ordinances and resolutions pertaining to the protection, preservation, maintenance, management, and enhancement of Greenwood Lake and its watershed, which would be implemented as appropriate on a voluntary basis by those entities with representatives on the commission;

c. coordinate environmental clean up, maintenance, and protection efforts undertaken, for the benefit of Greenwood Lake and its watershed, by those entities with representatives on the commission;

d. coordinate with the New Jersey Department of Environmental Protection's watershed management program for the area that includes Greenwood Lake;

e. recommend appropriate state legislation and administrative action pertaining to the protection, preservation, maintenance, management, and enhancement of Greenwood Lake and its watershed;

f. advocate, and where appropriate, act as a coordinating, distributing, or recipient agency for, federal, state, or private funding of environmental cleanup, maintenance, and protection projects for Greenwood Lake and its watershed, which projects may include the work of the commission; and

g. take such other action as may be appropriate or necessary to further the purpose of this act.

C.32:20A-6 Report to Governors, Legislatures.

6. The commission shall, within 18 months of the date it organizes, prepare a progress report on its activities, and submit it, together with any recommendations for legislation, administrative action, or action by local governments, to the Governors and Legislatures of the States of New Jersey and New York.

C.32:20A-7 Legislation by New York required.

7. This act shall take effect upon enactment of substantially similar legislation by the State of New York, unless the State of New York has enacted such legislation prior to the date of enactment of this act, in which case this act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 403

AN ACT concerning professional and occupational licensing boards and revising parts of the statutory law.

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

1. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read as follows:

C.45:1-15 Application of act.

2. The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those

boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Physical Therapy, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Alcohol and Drug Counselor Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Massage, Bodywork and Somatic Therapy Examining Committee, and the Audiology and Speech-Language Pathology Advisory Committee.

2. Section 8 of P.L.1978, c.73 (C.45:1-21) is amended to read as follows:

C.45:1-21 Refusal to license or renew, grounds.

8. A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license:

a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation:

b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

c. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;

d. Has engaged in repeated acts of negligence, malpractice or incompetence;

e. Has engaged in professional or occupational misconduct as may be determined by the board;

f. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;

g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;

h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;

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

j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection;

k. Has violated any provision of P.L.1983, c.320 (C.17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;

l. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days;

m. Has prescribed or dispensed controlled dangerous substances indiscriminately or without good cause, or where the applicant or holder knew or should have known that the substances were to be used for unauthorized consumption or distribution;

n. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided and abetted an unlicensed person or entity in performing such an act;

o. Advertised fraudulently in any manner.

For purposes of this act:

"Completed application" means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of permit for which application is made.

"Permit" has the same meaning as defined in section 1 of P.L.1991, c.421 (C.13:1D-101).

3. Section 9 of P.L.1978, c.73 (C.45:1-22) is amended to read as follows:

C.45:1-22 Additional, alternative penalties.

9. In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, registration or certificate issued by it, a board may, after affording an opportunity to be heard:

a. Issue a letter of warning, reprimand, or censure with regard to any act, conduct or practice which in the judgment of the board upon consideration of all relevant facts and circumstances does not warrant the initiation of formal action;

b. Assess civil penalties in accordance with this act;

c. Order that any person violating any provision of an act or regulation administered by such board to cease and desist from future violations thereof or to take such affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the board;

d. Order any person found to have violated any provision of an act or regulation administered by such board to restore to any person aggrieved by an unlawful act or practice, any moneys or property, real or personal, acquired by means of such act or practice; provided, however, no board shall order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating the act or regulation administered by the board;

e. Order any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions.

A board may, upon a duly verified application of the Attorney General that either provides proof of a conviction of a court of competent jurisdiction for a crime or offense involving moral turpitude or relating adversely to the regulated profession or occupation, or alleges an act or practice violating any provision of an act or regulation administered by such board, enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such order.

In any administrative proceeding commenced on a complaint alleging a violation of an act or regulation administered by a board, such board may issue subpenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

C.45:1-3.3 Administrative fees.

4. The Director of the Division of Consumer Affairs may by rule establish, prescribe, or modify administrative fees charged by boards in accordance with the

"Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). For purposes of this section, "administrative fees" are charges assessed to licensees, registrants or holders of certificates, as the case may be, for board functions that are not unique to a particular board but are uniform throughout all boards. Administrative fees include, but are not limited to, fees for a duplicate or replacement license, certification or registration, late renewal fee, license reinstatement fee, and the fee for processing change of address.

C.45:1-7.1 Applicability of act; renewals; reinstatements.

5. a. Notwithstanding any other act or regulation to the contrary, the provisions of this section and sections 6 and 7 of P.L.1999, c.403 (C.45:1-7.2 and C.45:1-7.3) shall apply to every holder of a professional or occupational license or certificate of registration or certification issued or renewed by a board specified in section 2 of P.L.1978, c.73 (C.45:1-15), who seeks renewal of that license or certificate.

b. Every holder of a professional or occupational license or certificate of registration or certification, issued or renewed by a board specified in section 2 of P.L.1978, c.73 (C.45:1-15), who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license or certificate of registration or certification. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any professional or occupational license or certificate of registration or certification not renewed within 30 days of its expiration date shall be suspended without a hearing.

c. Any individual who continues to practice with an expired license or certificate of registration or certification after 30 days following its expiration date shall be deemed to be engaged in unlicensed practice of the regulated profession or occupation, even if no notice of suspension has been provided to the individual.

d. A professional or occupational license or certificate of registration or certification suspended pursuant to this section may be reinstated within five years following its date of expiration upon submission of a renewal application and payment of an additional reinstatement fee. An applicant seeking reinstatement of a license or certificate suspended pursuant to this section more than five years past its expiration date shall successfully complete the examination required for initial licensure, registration or certification and submit a renewal application and payment of an additional reinstatement fee.

e. A board specified in section 2 of P.L.1978, c.73 (C.45:1-15) shall send a notice of renewal to each of its holders of a professional or occupational license or certificate of registration or certification, as applicable, at

least 60 days prior to the expiration of the license or certificate. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.

C.45:1-7.2 Reinstatement of license, registration, certification.

6. A board may reinstate the professional or occupational license or certificate of registration or certification of an applicant whose license or certificate has been suspended pursuant to section 5 of P.L.1999, c.403 (C.45:1-7.1), provided that the applicant otherwise qualifies for licensure, registration or certification and submits the following upon application for reinstatement:

a. Payment of all past delinquent renewal fees;

b. Payment of a reinstatement fee;

c. An affidavit of employment listing each job held during the period of suspended license, registration or certification which includes the names, addresses, and telephone numbers of each employer; and

d. If applicable, satisfactory proof that the applicant has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license or certificate of registration or certification.

C.45:1-7.3 Active, inactive options on renewal applications.

7. a. Renewal applications for all professional or occupational licenses or certificates of registration or certification shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in professional or occupational practice within the State.

b. An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the board, the board permits the inactive applicant to return to active status provided such applicant presents satisfactory proof that he has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license, registration or certification, if applicable.

C.45:1-15.1 Rules, regulations.

8. Consistent with their enabling acts, P.L.1978, c.73 (C.45:1-14 et seq.) and the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the boards and others set forth in section 2 of P.L.1978, c.73 (C.45:1-15) are authorized to adopt rules and regulations to serve the public health, safety and welfare.

9. Section 12 of P.L.1978, c.73 (C.45:1-25) is amended to read as follows:

C.45:1-25 Violations, penalties.

12. Any person who engages in any conduct in violation of any provision of an act or regulation administered by a board shall, in addition to any other

sanctions provided herein, be liable to a civil penalty of not more than $10,000 for the first violation and not more than $20,000 for the second and each subsequent violation. For the purpose of construing this section, each act in violation of any provision of an act or regulation administered by a board shall constitute a separate violation and shall be deemed a second or subsequent violation under the following circumstances:

(1) an administrative or court order has been entered in a prior, separate and independent proceeding;

(2) the person is found within a single proceeding to have committed more than one violation of any provision of an act or regulation administered by a board; or

(3) the person is found within a single proceeding to have committed separate violations of any provision of more than one act or regulation administered by a board.

b. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of any board for the collection or enforcement of civil penalties for the violation of any provision of an act or regulation administered by such board. Such action may be brought in summary manner pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) and the rules of court governing actions for the collection of civil penalties in the municipal court where the offense occurred. Process in such action may be by summons or warrant and in the event that the defendant in such action fails to answer such action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant's arrest in order to bring such person before the court to satisfy the civil penalties imposed. In any action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice.

c. Any action alleging the unlicensed practice of a profession or occupation shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court. In any action brought pursuant to this act, a board or the court may order the payment of costs for the use of the State, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

10. Section 17 of P.L.1973, c.19 (C.45:9A-17) is amended to read as follows:

C.45:9A-17 Revocation, suspension, refusal to renew license, certificate of endorsement.

17. The Director of the Division of Consumer Affairs shall have the power after notice and opportunity for a hearing to revoke, suspend, or refuse

to renew any license, temporary license or certificate of endorsement issued pursuant to this act as provided by section 8 of P.L.1978, c.73 (C.45:1-21).

11. R.S.45:14-12 is amended to read as follows:

Refusal of examination; suspension, revocation of certificate of pharmacist, assistant pharmacist; grounds.

45:14-12. In addition to the provisions of section 8 of P.L.1978, c.73 (C.45:1-21), the board may refuse an application for examination or may suspend or revoke the certificate of a registered pharmacist or a registered assistant pharmacist upon proof satisfactory to the board that such registered pharmacist or such registered assistant pharmacist is guilty of grossly unprofessional conduct and the following acts are hereby declared to constitute grossly unprofessional conduct for the purpose of this act:

a. Paying rebates or entering into an agreement for payment of rebates to any physician, dentist or other person for the recommending of the services of any person.

b. The providing or causing to be provided to a physician, dentist, veterinarian or other persons authorized to prescribe, prescription blanks or forms bearing the pharmacist's or pharmacy's name, address or other means of identification.

c. (Deleted by amendment.)

d. The claiming of professional superiority in the compounding or filling of prescriptions or in any manner implying professional superiority which may reduce public confidence in the ability, character or integrity of other pharmacists.

e. Fostering the interest of one group of patients at the expense of another which compromises the quality or extent of professional services or facilities made available.

f. The distribution of premiums or rebates of any kind whatever in connection with the sale of drugs and medications provided, however, that trading stamps and similar devices shall not be considered to be rebates for the purposes of this chapter and provided further that discounts, premiums and rebates may be provided in connection with the sale of drugs and medications to any person who is 62 years of age or older. Before a certificate shall be refused, suspended or revoked, the accused person shall be furnished with a copy of the complaint and given a hearing before the board. Any person whose certificate is so suspended or revoked shall be deemed an unregistered person during the period of such suspension or revocation, and as such shall be subject to the penalties prescribed in this chapter, but such person may, at the discretion of the board, have his certificate reinstated at any time without an examination, upon application to the board. Any person to whom a certificate shall be denied by the board or whose certificate shall be suspended or revoked by the board shall have

the right to review such action by appeal to the Appellate Division of the Superior Court in lieu of prerogative writ.

g. Advertising of prescription drug prices in a manner inconsistent with rules and regulations promulgated by the Director of the Division of Consumer Affairs; provided, however, no such advertising of any drug or substance shall be authorized unless the Commissioner of Health and Senior Services shall have determined that such advertising is not harmful to public health, safety and welfare.

Repealer.

12. The following sections of law are repealed:
Section 1 of P.L.1975, c.382 (C.45:1-13);
section 21 of P.L.1983, c.420 (C.45:3B-21);
R.S.45:5-8;
R.S.45:6-7;
R.S.45:6-22;
section 12 of P.L.1979, c.46 (C.45:6-59);
R.S.45:9-16;
section 13 of P.L.1947, c.262 (C.45:11-35);
R.S.45:12-11;
section 30 of P.L.1966, c.313 (C.45:14-12.2);
R.S.45:14-35; and
section 24 of P.L.1966, c.282 (C.45:14B-24).

13. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 404

AN ACT concerning the licensure of certain persons to practice mortuary science and supplementing P.L.1952, c.340 (C.45:7-32 et seq.).

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

C.45:7-49.1 Issuance of license to out-of-State practitioner of mortuary science.

1. After successful completion of the law portion of the examination conducted by the board pursuant to section 18 of P.L.1952, c.340 (C.45:7-49), and upon payment to the board of a fee and the submission of a written application on forms provided by it, the board may issue, at its discretion, a practitioner of mortuary science license to a person who holds a valid

license or certification issued by another state or possession of the United States or the District of Columbia which has education and experience requirements substantially equivalent to the requirements of P.L.1952, c.340 (C.45:7-32 et seq.), and who has been engaged in the practice of mortuary science in that state, possession or district with a valid license or certification for two years immediately prior to application; except that the board may issue, at its discretion, a practitioner of mortuary science license to an applicant who does not meet the practical training and experience requirements of paragraph (2) of subsection a. of section 18 of P.L.1952, c.340 (C.45:7-49) but otherwise meets the requirements specified in this section if the applicant has been engaged in the practice of mortuary science for not less than five years immediately prior to application.

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 405

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, 1999 and regulating the disbursement thereof," approved June 30, 1998 (P.L.1998, c.45).

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.1998, c.45, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES
67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS
10 Public Safety and Criminal Justice
14 Military Services

40-3620 New Jersey National Guard Support Services $2,100,000
Special Purpose:
Mobilization and Training Equipment Site (MATES) . ($2,100,000)

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 406

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, 1999 and regulating the disbursement thereof," approved June 30, 1998 (P.L.1998, c.45).

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.1998, c.45, there is appropriated out of the General Fund the following sum for the purpose specified:

CAPITAL CONSTRUCTION
67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS
80 Special Government Services
83 Services to Veterans
3610 Veterans' Program Support

Capital Project:
Brigadier General Doyle Memorial Cemetery
Construction Project Design ..... ($991,000)

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 407

AN ACT authorizing the granting of an easement to certain real property in the Borough of Sea Girt.

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

1. The Department of Military and Veterans' Affairs is authorized to grant an easement in or across real property owned by the State which is located in the Borough of Sea Girt in Monmouth County and designated as Block 85, part of Lot 1, on the tax map of the Borough of Sea Girt. The grant of the easement shall be upon the terms and conditions approved by

the State House Commission. The proceeds from the granting of the easement shall be deposited in the General Fund of the State.

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 408

AN ACT reducing surcharges for the Second Injury Fund, and amending R.S.34:15-94.

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

1. R.S.34:15-94 is amended to read as follows:

Annual surcharge for Second Injury Fund.

34:15-94. a. (Deleted by amendment, P.L.1999,c.408).

b. Commencing January 1, 1989 and on the first day of each year thereafter, the Commissioner of Labor shall levy an annual surcharge upon all policyholders and self-insured employers for the purpose of providing moneys to the Second Injury Fund. Each policyholder and self-insured employer shall be liable for payment of the annual surcharge in accordance with the provisions of this section and all regulations promulgated pursuant hereto. The annual surcharge levied under this section shall be applied to all workers' compensation and employer's liability insurance policies providing coverage on or after January 1, 1989 and, in the case of self-insured employers, to coverage provided on or after January 1, 1989. Notwithstanding any law to the contrary, the surcharge levied pursuant to this section shall not apply: to any reinsurance or retrocessional transaction; to the State or any political subdivision thereof which acts as a self-insured employer; or to any workers' compensation endorsement required pursuant to section 1 of P.L.1979, c.380 (C.17:36-5.29).

c. On or before July 31 of 1988 and of each year thereafter:

(1) Each insurer and self-insured employer shall submit to the Commissioner of Labor, in a form and manner prescribed by the Commissioner of Labor, a report of the total compensation payments made by the insurer or self-insured employer during the 12-month period ending on the immediately preceding June 30th;

(2) Each insurer shall submit to the Commissioner of Banking and Insurance, in a form and manner prescribed by the Commissioner of Banking and Insurance, a report of the total earned premiums collected by the insurer on all workers' compensation or employer's liability policies written on risks located in this State pursuant to the provisions of R.S.17:17-1 et seq., during the 12-month period ending on the immediately preceding June 30th;

(3) The Commissioner of Labor shall estimate the amount of special adjustment and supplemental benefits payable by each insurer writing workers' compensation or employer's liability insurance in the State and by each self-insured employer pursuant to R.S.34:15-95 during the then current fiscal year;

(4) The Commissioner of Labor shall make a determination of the aggregate annual surcharge to be levied upon policyholders and self-insured employers during the next following calendar year, which shall be an amount equal to (a) 150%, in the case of any calendar year commencing prior to January 1, 2000, and (b) 125%, in the case of any calendar year commencing after December 31, 1999, of the compensation and benefits estimated by the Commissioner of Labor to be payable from the Second Injury Fund during the next following calendar year plus 100% of the amount estimated by the Commissioner of Labor to be necessary for the cost of administration of the Division of Workers' Compensation in the Department of Labor, less the estimated amount of net assets exceeding $5,000,000.00 which will remain in the Second Injury Fund on December 31st of the then current calendar year, and the Commissioner of Labor shall submit an informational copy to the Joint Budget Oversight Committee;

(5) The Commissioner of Labor shall apportion the aggregate annual surcharge calculated pursuant to paragraph (4) of this subsection among policyholders as a group and self-insured employers as a separate group. Policyholders shall be liable to pay that portion of the aggregate annual surcharge that is equal to the proportion that the compensation payments made by all policyholders during the 12-month period ending on the immediately preceding June 30th bear to the total compensation payments made by all policyholders and self-insured employers during the 12-month period ending on the immediately preceding June 30th. Self-insured employers shall be liable to pay that portion of the aggregate annual surcharge that is equal to the proportion that the compensation payments made by all self-insured employers during the 12-month period ending on the immediately preceding June 30th bear to the total compensation payments made by all policyholders and self-insured employers during the 12-month period ending on the immediately preceding June 30th; and

(6) The Commissioner of Labor shall notify the Commissioner of Banking and Insurance of the aggregate annual surcharge amount applicable to policyholders during the next following calendar year.

d. On or before September 15 of 1988 and of each year thereafter:

(1) In consultation with the Commissioner of Labor, the Commissioner of Banking and Insurance shall determine the annual policyholder surcharge rate to be applied to each workers' compensation and employer's liability policy during the next following calendar year, and shall notify insurers of the annual policyholder surcharge rate to be applied to policy premiums during the next following calendar year. The annual policyholder surcharge rate shall be established as a percentage, which shall be equal to the percentage relationship that the annual surcharge amount which is applicable to all policyholders bears to the total earned premiums for workers' compensation and employer's liability coverage written on risks located in this State for the 12-month period ending on the immediately preceding June 30th.

(2) The Commissioner of Labor shall notify each self-insured employer of the amount of the annual surcharge applicable to that self-insured employer during the next following calendar year. The net annual surcharge for each self-insured employer shall be established as a pro rata portion of the annual surcharge applicable to all self-insured employers, which shall be chargeable to the self-insured employer in the proportion that the self-insured employer's compensation payments during the 12-month period ending on the immediately preceding June 30th bear to the total compensation payments made by all self-insured employers during the 12-month period ending on the immediately preceding June 30th, less the estimated amount of special adjustment and supplemental benefits payable by that self-insured employer pursuant to R.S.34:15-95 during the then current fiscal year.

e. (1) Every insurer providing workers' compensation and employer's liability insurance shall collect from each of its policyholders, on behalf of the Commissioner of Labor and in accordance with subsections b., c. and d. of this section, an amount equal to the annual policyholder surcharge rate established by the Commissioner of Banking and Insurance pursuant to subsection d. of this section, multiplied by the amount of the policyholder's premium. The surcharge to be collected from the policyholder shall be stated separately on the policy or billing statement and be collected at the same time and in the same manner that the premium or other charges for the coverage are collected. On or before the 30th day after the end of the calendar quarter commencing January 1, 1989, and on or before the 30th day following the end of each calendar quarter thereafter, each insurer shall report to the Commissioner of Labor, on forms as the commissioner may require, the total amount of its workers' compensation and employer's liability insurance earned premiums for the preceding quarterly accounting period, and remit the surcharge collected from policyholders on those premiums, less special

adjustment and supplemental benefits paid during the preceding calendar quarter by the insurer pursuant to the workers' compensation law, R.S.34:15-1 et seq. No insurer or its agent shall be entitled to any portion of any surcharge imposed pursuant to this section as a fee or commission for its collection nor shall that surcharge be subject to any taxes, licenses or fees.

(2) On or before the 30th day after the end of each calendar quarter commencing January 1, 1989, and on or before the 30th day following the end of each calendar quarter thereafter, each self-insured employer shall remit to the Commissioner of Labor an amount equal to one-fourth of the effective net annual surcharge as established for that self-insured employer during the then current calendar year pursuant to subsection d. of this section, less special adjustment and supplemental benefits paid during the preceding calendar quarter by the self-insured employer pursuant to the workers' compensation law, R.S.34:15-1 et seq.

f. The Commissioner of Labor shall promulgate within 180 days of the effective date of this act and in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations as may be necessary for the apportionment and collection of annual surcharges from policyholders and self-insured employers covered by this section.

g. The Commissioner of Banking and Insurance shall promulgate within 180 days of the effective date of this act and in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations as may be necessary for the collection, and provision to the Commissioner of Labor, of information with respect to earned premiums of insurers and the establishment of the annual surcharge rate for policyholders.

h. For each 30-day period or part thereof during which a policyholder, self-insured employer, or insurer fails to make a payment or transfer of payment as required by this section or regulations promulgated pursuant hereto, a penalty of one-half of one percent (0.5%) of the amount of delinquent payment or transfer of payment shall be assessed against the delinquent policyholder, self-insured employer or insurer. In no case of single failure, however, shall penalties assessed under this section exceed five percent (5.0%) of the amount of surcharge unpaid or untransferred. Penalties assessed under this subsection shall be collected in a civil action by a summary proceeding brought by the Commissioner of Labor pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and shall be deposited by the commissioner in the Second Injury Fund.

i. For each 30-day period during which an insurer or self-insured employer fails to file a report as required by this section, the Commissioner of Labor shall assess a penalty of $100.00 against the insurer or self-insured employer and, upon collection thereof, shall deposit those

moneys in the "uninsured employer's fund." As a result of any single failure, however, no such penalty shall exceed a total of $500.00. During the period of any such failure to file this report, the estimate by the Department of Labor of the amounts of such compensation payments or earned premiums shall be used for the purposes cited in the workers' compensation law, R.S.34:15-1 et seq.

j. The Commissioner of Labor may, with the authorization of and appropriation by the Legislature, transfer from the Second Injury Fund an amount necessary for the cost of administration of the Division of Workers' Compensation in the Department of Labor.

k. As used in this section, "policyholder" means a holder of a policy of workers' compensation or employer's liability insurance issued by an insurer. "Insurer" means a domestic, foreign or alien mutual association or stock company writing workers' compensation or employer's liability insurance on risks located in this State and subject to premium taxes pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.). "Self-insured employer" means an employer which self-insures for workers' compensation or employer's liability insurance pursuant to the provisions of R.S.34:15-77.

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 409

AN ACT concerning organized delivery systems for health care services or benefits.

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

C.17:48H-1 Definitions relative to organized delivery systems for health care services, benefits.

1. As used in this act:

"Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the organized delivery system.

"Capitation" means a fixed per member, per month, payment or percentage of premium payment for which the provider assumes the risk for the cost of contracted services without regard to the type, value or frequency of the services provided.

"Carrier" means an insurer authorized to transact the business of health insurance as defined at N.J.S.17B:17-4, a hospital service corporation authorized to transact business in accordance with P.L.1938, c.366 (C.17:48-1 et seq.), a medical service corporation authorized to transact business in accordance with P.L.1940, c.74 (C.17:48A-1 et seq.), a health service corporation authorized to transact business in accordance with P.L.1985, c.236 (C.17:48E-1 et seq.) or a health maintenance organization authorized to transact business pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.).

"Certified organized delivery system" means an organized delivery system that is compensated on a basis which does not entail the assumption of financial risk by the organized delivery system and that is certified in accordance with this act.

"Comprehensive health care services" means the basic benefits provided under a health benefits plan, including medical and surgical services provided by licensed health care providers who may include, but are not limited to, family physicians, internists, cardiologists, psychiatrists, rheumatologists, dermatologists, orthopedists, obstetricians, gynecologists, neurologists, endocrinologists, radiologists, nephrologists, emergency services physicians, ophthalmologists, pediatricians, pathologists, general surgeons, osteopathic physicians, physical therapists and chiropractors. Basic benefits may also include inpatient or outpatient services rendered at a licensed hospital, covered services performed at an ambulatory surgical facility and ambulance services.

"Financial risk" means exposure to financial loss that is attributable to the liability of an organized delivery system for the payment of claims or other losses arising from covered benefits for treatment or services other than those performed directly by the person or organized delivery system liable for payment, including a loss sharing arrangement. A payment method wherein a provider accepts reimbursement in the form of a capitation payment for which it undertakes to provide health care services on a prepayment basis shall not be considered financial risk.

"Health benefits plan" means a benefits plan which pays or provides hospital and medical expense benefits for covered services, and is delivered or issued for delivery in this State by or through a carrier. Health benefits plan includes, but is not limited to, Medicare supplement coverage and risk contracts to the extent not otherwise prohibited by federal law. For the purposes of this act, health benefits plan shall not include the following plans, policies or contracts: accident only, credit, disability, long-term care, CHAMPUS supplement coverage, coverage arising out of a workers' compensation or similar law, automobile medical payment insurance, personal injury protection insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.) or hospital confinement indemnity coverage.

"Licensed organized delivery system" means an organized delivery system that is compensated on a basis which entails the assumption of financial risk by the organized delivery system and that is licensed in accordance with this act.

"Limited health care services" means a health service or benefit which a carrier has elected to subcontract for as a separate service, which may include, but shall not be limited to, substance abuse services, vision care services, mental health services, podiatric care services, chiropractic services or rehabilitation services. Limited health care services shall not include pharmaceutical services, case management services or employee assistance plan services.

"Organized delivery system" or "system" means an organization with defined governance that:

a. is organized for the purpose of and has the capability of contracting with a carrier to provide, or arrange to provide, under its own management substantially all or a substantial portion of the comprehensive health care services or benefits under the carrier's benefits plan on behalf of the carrier, which may or may not include the payment of hospital and ancillary benefits; or

b. is organized for the purpose of acting on behalf of a carrier to provide, or arrange to provide, limited health care services that the carrier elects to subcontract for as a separate category of benefits and services apart from its delivery of benefits under its comprehensive benefits plan, which limited services are provided on a separate contractual basis and under different terms and conditions than those governing the delivery of benefits and services under the carrier's comprehensive benefits plan.

An organized delivery system shall not include an entity otherwise authorized or licensed in this State to provide comprehensive or limited health care services on a prepayment or other basis in connection with a health benefits plan or a carrier.

"Provider" means a physician, health care professional, health care facility, or any other person who is licensed or otherwise authorized to provide health care services or other benefits in the state or jurisdiction in which they are furnished.

C.17:48H-2 Certification, licensure, required.

2. a. Beginning one year after the enactment of this act, no person, corporation, partnership, or other entity shall operate an organized delivery system in this State without obtaining certification or licensure pursuant to this act.

b. Any person, corporation, partnership, or other entity offering health care services to a carrier in a manner substantially provided for in

this act shall be subject to the provisions of this act unless the entity is otherwise regulated under P.L.1973, c. 337 (C.26:2J-1 et seq.), Title 17 of the Revised Statutes, Title 17B of the New Jersey Statutes or P.L.1970, c.102 (C.18A:64G-1 et seq.).

C.17:48H-3 Application for certification.

3. a. An organized delivery system which is not subject to licensure requirements pursuant to this act shall submit an application for certification to the Commissioner of Health and Senior Services. The organized delivery system may continue to operate during the pendency of its application, but in no case longer than 12 months after the date of submission of the application to the Department of Health and Senior Services, unless the commissioner, by regulation, extends the 12-month limitation. In the event the application is denied, the applicant shall be treated as an organized delivery system whose certification has been revoked pursuant to sections 7 and 8 of this act.

Notwithstanding the obligations imposed by this act regarding certification requirements, nothing in this subsection shall operate to impair any contract in force on the effective date of this act, but this act shall apply to any contract renewed on or after the effective date of this act.

b. The certification shall be valid for a period of three years.

c. A certified organized delivery system shall not directly issue health benefits plans.

C.17:48H-4 Form, contents of application.

4. Application for certification to operate an organized delivery system shall be made to the Commissioner of Health and Senior Services on a form prescribed by the commissioner, shall be certified by an officer or authorized representative of the applicant and shall include the following:

a. A copy of the applicant's basic organizational documents. For purposes of this subsection, "basic organizational documents" means the articles of incorporation, articles of association, partnership agreement, management agreement, trust agreement, or other applicable documents as appropriate to the applicant's form of business entity, and all amendments to those documents;

b. A copy of the executed bylaws, rules and regulations, or similar documents, regulating the conduct of the applicant's internal affairs;

c. A list, in a form approved by the Commissioner of Health and Senior Services, of the names, addresses, and official positions of the persons who are to be responsible for the conduct of the affairs of the applicant, including, but not limited to, the members of the board of directors, executive committee or other governing board or committee, the principal officers, and any person or entity owning or having the right to

acquire 10% or more of the voting securities of the applicant; in the case of a partnership or association, the names of the partners or members; and a statement of any criminal convictions or civil, enforcement or regulatory action, including actions relating to professional licenses, taken against any person who is a member of the board, the executive committee or other governing board or committee, the principal officers, or the persons who are responsible for the conduct of the affairs of the applicant;

d. A statement generally describing the applicant, its facilities, personnel, and the health care services to be offered by the organized delivery system;

e. A copy of the standard form of any provider agreement made or to be made between the applicant and any providers relative to the provision of health care services;

f. A copy of the form of any contract made or to be made between the applicant and any carrier for the provision of or arrangement to provide health care services, which contract shall contain provisions establishing the respective duties of the carrier and the applicant with respect to compliance with P.L.1997, c.192 (C.26:2S-1 et seq.);

g. With respect to each contract made or to be made between the applicant and any other person who will provide comprehensive or limited health care services:

(1) A list of the persons who are to provide the health care services, and the geographical area in which they are located and in which the services are to be performed;

(2) A list of any affiliate of the applicant which provides services to the applicant in this State and a description of any material transaction between the affiliate and the applicant;

(3) A description of the health care services or benefits to be offered or proposed to be offered by the applicant;

(4) A description of the means which will be utilized to assure the availability and accessibility of the health care services to enrollees or contract holders; and

(5) A description of the means by which the organized delivery system shall be compensated for each contract entered into with a carrier; and

h. A list of all administrative, civil or criminal actions and proceedings to which the applicant, or any of its affiliates, or persons who are responsible for the conduct of the affairs of the applicant or affiliate, have been subject and the resolution of those actions and proceedings. If a license, certificate or other authority to operate has been refused, suspended or revoked by any jurisdiction, the applicant shall provide a copy of any orders, proceedings and determinations relating thereto.

In addition to the information required pursuant to this section, the Commissioner of Health and Senior Services or the Commissioner of Banking and

Insurance may establish additional reporting requirements or make detailed reporting requirements for any class of certified organized delivery system.

C.17:48H-5 Review of application.

5. Following receipt of an application for certification, the Commissioner of Health and Senior Services shall review it in consultation with the Commissioner of Banking and Insurance and notify the applicant of any deficiencies contained therein.

a. The Commissioner of Health and Senior Services shall issue a certification to an organized delivery system if the commissioner finds that the system meets the standards provided for in this act, including, but not limited to:

(1) All of the material required by section 4 of this act has been filed;

(2) The persons responsible for conducting the applicant's affairs are competent, trustworthy and possess good reputations, and have had appropriate experience, training and education;

(3) The persons who are to perform the health care services are properly qualified;

(4) The organized delivery system has demonstrated the ability to assure that health care services will be provided in a manner which will assure the availability and accessibility of the services;

(5) The standard forms of provider agreements to be used by the organized delivery system are acceptable; and

(6) The organized delivery system's contracts to provide services do not entail or will not result in the assumption of financial risk by the system.

b. The commissioner may deny an application for certification if the applicant fails to meet any of the standards provided in this act or on any other reasonable grounds. If certification is denied, the commissioner shall notify the applicant and shall set forth the reasons for the denial in writing. The applicant may request a hearing by notice to the commissioner within 30 days of receiving the notice of denial. Upon such denial, the applicant shall submit to the commissioner a plan for bringing the organized delivery system into compliance or providing for the closing down of its business.

C.17:48H-6 Notice of change, modification.

6. a. A certified organized delivery system, unless otherwise provided for in this act, shall not materially modify any matter or document furnished to the Commissioner of Health and Senior Services pursuant to section 4 of this act unless the organized delivery system files with the commissioner, at least 60 days prior to use or adoption of the change, a notice of the change or modification, together with that information required by the commissioner to explain the change or modification. If the commissioner fails to affirmatively approve or disapprove the change

or modification within 60 days of submission of the notice, the notice of modification shall be deemed approved. The commissioner may extend the 60-day review period for not more than 30 additional days by giving written notice of the extension before the expiration of the 60-day period. If a change or modification is disapproved, the commissioner shall notify the system in writing and specify the reason for the disapproval.

b. Prior to entering into any contract with a carrier, a certified organized delivery system shall file with the commissioner, for the commissioner's approval, a copy of that contract. The filing shall be made no later than 60 days prior to the date that the contract is intended to be in effect. If the contract is not disapproved prior to the effective date by the commissioner, the contract shall be deemed approved.

C.17:48H-7 Suspension, revocation of certification, grounds.

7. The Commissioner of Health and Senior Services may suspend or revoke a certification issued to an organized delivery system pursuant to this act upon the commissioner's determination that:

a. The certified organized delivery system is operating in contravention of its basic organizational documents;

b. The certified organized delivery system is unable to fulfill its obligations to the carriers with whom it contracts;

c. The continued operation of the certified organized delivery system would be hazardous to the health and welfare of the enrollees or contract holders to whom it is obligated to provide health care services or detrimental to a carrier with whom it has contracted to provide the services;

d. The certified organized delivery system is unable to maintain the standards as set forth by the commissioner by regulation;

e. The certified organized delivery system has failed, as provided by the contract, to comply with the provisions of P.L.1997, c.192 (C.26:2S-1 et seq.);

f. The certified organized delivery system has failed to provide the health care services for which it has been certified or has provided health care services which are in contravention of the contract or contracts filed with the commissioner;

g. The certified organized delivery system has otherwise failed to comply with this act or with other applicable law; or

h. There are other reasonable grounds that warrant suspension or revocation.

C.17:48H-8 Notification of grounds for suspension, revocation of certification.

8. a. If the Commissioner of Health and Senior Services has cause to believe that grounds exist for the suspension or revocation of the certification issued to an organized delivery system, the commissioner shall notify the system, in writing, specifically stating the grounds for

suspension or revocation and fixing a time for a hearing in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). If the certification is revoked, the organized delivery system shall submit a plan to the commissioner within 15 days of the revocation, for the winding up of its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of its business. The commissioner may, by written order, permit such further operation of the organized delivery system as the commissioner finds to be in the best interest of individuals receiving health care services from the system.

b. The commissioner shall notify all carriers with contracts with the system that are on file with the Department of Health and Senior Services of the proceedings.

C.17:48H-9 Fees.

9. A certified organized delivery system shall pay to the Commissioner of Health and Senior Services those application and examination fees as are established by the commissioner by regulation.

C.17:48H-10 Civil administrative penalty.

10. The Commissioner of Health and Senior Services may, upon notice and hearing, assess a civil administrative penalty in an amount not less than $250 nor more than $10,000 for each day that a certified organized delivery system is in violation of this act. Penalties imposed by the commissioner pursuant to this section may be in lieu of, or in addition to, suspension or revocation of a certification pursuant to this act. A penalty may be recovered in a summary proceeding pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

C.17:48H-11 Application for licensure.

11. a. An organized delivery system which receives compensation on a basis that entails the assumption of financial risk shall submit an application for licensure to the Commissioner of Banking and Insurance. The organized delivery system may continue to operate during the pendency of its application, but in no case longer than 12 months after the date of submission of the application to the Department of Banking and Insurance, unless the commissioner, by regulation, extends the 12-month limitation. In the event the application is denied, the applicant shall be treated as an organized delivery system whose license has been revoked pursuant to sections 23 and 24 of this act.

Notwithstanding the obligations imposed by this act regarding licensure requirements, nothing in this subsection shall operate to impair any contract in force on the effective date of this act, but this act shall apply to any contract renewed on or after the effective date of this act.

b. An organized delivery system which receives compensation on a basis that entails the assumption of financial risk, but meets the criteria set forth in this subsection, may apply to the commissioner for an exemption from the licensure requirements of this act based on the system's current contractual arrangements.

The commissioner may grant the exemption for such period of time that the commissioner determines that the financial risk of the organized delivery system is de minimis because the organized delivery system's exposure to financial loss is limited in amount or likelihood to the degree that it reasonably will not prevent the system from satisfying the liabilities imposed under the terms of its contracts.

The commissioner may revoke the organized delivery system's exemption from licensure, after notice and an opportunity to be heard, if the commissioner determines that the system's contracts no longer meet the requirements for exemption set forth in this subsection. Upon revocation of the exemption, the system shall be required to obtain licensure from the department within 90 days.

c. An organized delivery system that is granted an exemption from licensure shall apply to and obtain certification as an organized delivery system from the Department of Health and Senior Services pursuant to the provisions of this act.

d. A licensed organized delivery system shall not directly issue health benefits plans.

C.17:48H-12 Form, contents of application.

12. Application for a license to operate an organized delivery system shall be made to the Commissioner of Banking and Insurance and the Commissioner of Health and Senior Services on a form prescribed by the commissioners, shall be certified by an officer or authorized representative of the applicant, and shall include the following:

a. A copy of the applicant's basic organizational documents. For purposes of this subsection, "basic organizational documents" means the articles of incorporation, articles of association, partnership agreement, management agreement, trust agreement, or other applicable documents as appropriate to the applicant's form of business entity and all amendments to those documents;

b. A copy of the executed bylaws, rules and regulations, or similar documents, regulating the conduct of the applicant's internal affairs;

c. A list, in a form approved by the Commissioner of Banking and Insurance, of the names, addresses, and official positions of the persons who are to be responsible for the conduct of the affairs of the applicant, including, but not limited to, the members of the board of directors,

executive committee or other governing board or committee, the principal officers, and any person or entity owning or having the right to acquire 10% or more of the voting securities of the applicant; in the case of a partnership or association, the names of the partners or members; each person who has loaned funds to the applicant for the operation of its business; and a statement of any criminal convictions or civil, enforcement or regulatory action, including actions relating to professional licenses, taken against any person who is a member of the board, the executive committee or other governing board or committee, or the principal officers, or the persons who are responsible for the conduct of the affairs of the applicant;

d. A statement generally describing the applicant, its facilities, personnel, and the health care services to be offered by the organized delivery system;

e. A copy of the standard form of any provider agreement made or to be made between the applicant and any providers relative to the provision of health care services;

f. A copy of the form of any contract made or to be made between the applicant and any carrier for the provision of or arrangement to provide health care services, which contract shall contain provisions establishing the respective duties of the carrier and the applicant with respect to compliance with P.L.1997, c.192 (C.26:2S-1 et seq.);

g. A copy of the applicant's most recent financial statements audited by an independent certified public accountant. If the financial affairs of the applicant's parent company are audited by an independent certified public accountant, but those of the applicant are not, then a copy of the most recent audited financial statement of the applicant's parent company, audited by an independent certified public accountant, shall be submitted. A consolidated financial statement of the applicant and its parent company shall satisfy this requirement unless the Commissioner of Banking and Insurance determines that additional or more recent financial information is required for the proper administration of this act;

h. A copy of the applicant's financial plan, including a three-year projection of anticipated operating results, a statement of the sources of working capital and any other sources of funding and provisions for contingencies;

i. With respect to each contract made or to be made between the applicant and any other person who will provide comprehensive or limited health care services:

(1) A list of the persons who are to provide the health care services, and the geographical area in which they are located and in which the services are to be performed;

(2) A list of any affiliate of the applicant which provides services to the applicant in this State and a description of any material transaction between the affiliate and the applicant;

(3) A description of the health care services or benefits to be offered or proposed to be offered;

(4) A description of the means which will be utilized to assure the availability and accessibility of the health care services to enrollees or contract holders;

(5) A plan, in the event of the insolvency of the organized delivery system, for continuation of the health care services to be provided for under the contract; and

(6) A description of the means by which the organized delivery system shall be compensated for each contract entered into with a carrier;

j. A power of attorney, duly executed by the applicant, if not domiciled in this State, appointing the Commissioner of Banking and Insurance and the commissioner's successors in office as the true and lawful attorney of the applicant in and for this State upon whom all lawful process in any legal action or proceeding against the organized delivery system in a cause of action arising in this State may be served;

k. A list of all administrative, civil or criminal actions and proceedings to which the applicant, or any of its affiliates, or persons who are responsible for the conduct of the affairs of the applicant or affiliate, have been subject and the resolution of those actions and proceedings. If a license, certificate or other authority to operate has been refused, suspended or revoked by any jurisdiction, the applicant shall provide a copy of any orders, proceedings and determinations relating thereto; and

l. Other information as may be required by the Commissioner of Banking and Insurance or the Commissioner of Health and Senior Services.

C.17:48H-13 Review of application.

13. Following receipt of an application for licensure, the Commissioner of Banking and Insurance shall review it in consultation with the Commissioner of Health and Senior Services and notify the applicant of any deficiencies contained therein.

a. The Commissioner of Banking and Insurance shall issue a license to an organized delivery system if the commissioner finds that the system meets the standards provided for in this act, including, but not limited to:

(1) All of the material required by section 12 of this act has been filed;

(2) The persons responsible for conducting the applicant's affairs are competent, trustworthy and possess good reputations, and have had appropriate experience, training and education;

(3) The persons who are to perform the health care services are properly qualified;

(4) The organized delivery system has demonstrated the ability to assure that health care services will be provided in a manner which will assure the availability and accessibility of the services;

(5) The standard forms of provider agreements to be used by the organized delivery system are acceptable;

(6) The applicant is financially sound and may reasonably be expected to meet its obligations to enrollees, contract holders and carriers. In making this determination, the commissioner shall consider:

(a) The financial soundness of the applicant's compensation arrangements for the provision of health care services;

(b) The adequacy of working capital, other sources of funding and provisions for contingencies; and

(c) Whether any deposit of cash or securities, or any other evidence of financial protection submitted, meets the requirements set forth in this act or by the commissioner by regulation;

(7) Any deficiencies identified by the commissioner have been corrected; and

(8) Any other factors determined by the commissioner to be relevant have been addressed to the satisfaction of the commissioner.

b. The Commissioner of Banking and Insurance shall refer all standard forms of provider agreements, quality assurance programs and utilization management programs to be used by the organized delivery system to the Commissioner of Health and Senior Services for review. The Commissioner of Banking and Insurance shall consult with the Commissioner of Health and Senior Services regarding provider agreements, quality assurance programs and utilization management programs in determining whether the applicant for a license:

(1) Has demonstrated the potential ability to assure that health care services will be provided in a manner that will assure the availability and accessibility of the services;

(2) Has adequate arrangements for an ongoing quality assurance program, where applicable;

(3) Has established acceptable forms for provider agreements to be used by the system; and

(4) Has demonstrated that the persons who are to perform the health care services are properly qualified.

c. The Commissioner of Banking and Insurance, in consultation with the Commissioner of Health and Senior Services, may deny an application for a license if the applicant fails to meet any of the standards provided in this act or on any other reasonable grounds. If the license is denied, the

Commissioner of Banking and Insurance shall notify the applicant and shall set forth the reasons for the denial in writing. The applicant may request a hearing by notice to the commissioner within 30 days of receiving the notice of denial. Upon such denial, the applicant shall submit to the commissioner a plan for bringing the organized delivery system into compliance or providing for the closing down of its business.

C.17:48H-14 Notice of change, modification.

14. a. A licensed organized delivery system, unless otherwise provided in this act, shall not materially modify any matter or document furnished pursuant to section 12 of this act, unless the system files with the Commissioner of Banking and Insurance, at least 60 days prior to use or adoption of the change, a notice of the change or modification, together with that information required by the commissioner to explain the change or modification. If the commissioner fails to affirmatively approve or disapprove the change or modification within 60 days of submission of the notice, the notice of modification shall be deemed approved. The commissioner may extend the 60-day review period for not more than 30 additional days by giving written notice of the extension before the expiration of the 60-day period. If a change or modification is disapproved, the commissioner shall notify the system in writing and specify the reason for the disapproval.

b. Prior to entering into any contract with a carrier, a licensed organized delivery system shall file with the commissioner, for the commissioner's approval, a copy of the contract. The filing shall be made no later than 60 days prior to the date that the contract is intended to be in effect. The commissioner shall either approve the contract or state in writing the commissioner's reasons for disapproval within 60 days of receipt of the filing.

C.17:48H-15 Services provided by licensed organized delivery system.

15. A licensed organized delivery system may:

a. Contract with an insurer licensed in this State for the provision of indemnity coverage against the cost of services provided by the system or other obligations of the system, either on an individual or aggregate attachment basis; and

b. In addition to comprehensive or limited services, as applicable, provided by the system for enrollees or contract holders, provide:

(1) Additional services as approved by the Commissioner of Banking and Insurance, in consultation with the Commissioner of Health and Senior Services;

(2) Indemnity benefits covering urgent care or emergency services;

(3) Coverage for services from providers, other than participating providers, in accordance with the terms of the contract; and

(4) Any other function provided by law, in the system's organizational documents or in the license.

C.17:48H-16 Treatment of organized delivery system as domestic insurer.

16. a. A licensed organized delivery system which is organized under the laws of this State shall be treated as a domestic insurer for the purposes of P.L.1970, c.22 (C.17:27A-1 et seq.) and P.L.1992, c.65 (C.17B:32-31 et seq.).

b. A licensed organized delivery system shall be subject to the provisions of chapter 30 of Title 17B of the New Jersey Statutes.

c. The capital, surplus and other funds of a licensed organized delivery system shall be invested in accordance with the provisions of chapter 20 of Title 17B of the New Jersey Statutes and guidelines established by the Commissioner of Banking and Insurance by regulation.

C.17:48H-17 Examination of licensed organized delivery system.

17. The Commissioner of Banking and Insurance may conduct an examination of a licensed organized delivery system as often as the commissioner deems necessary in order to protect the interests of providers, contract holders, enrollees, and the residents of this State. A licensed organized delivery system shall make its relevant books and records available for examination by the commissioner, and retain its records in accordance with a schedule established by the commissioner by regulation. The reasonable expenses of the examination shall be borne by the licensed organized delivery system being examined. In lieu of such examination, the commissioner may accept the report of an examination made by the commissioner of another state.

C.17:48H-18 Contracts with providers, mandatory terms.

18. All licensed organized delivery system contracts with providers shall contain the following terms and conditions:

a. In the event that the organized delivery system fails to pay or provide for comprehensive or limited health care services for any reason whatsoever, including, but not limited to, insolvency or breach of contract, neither the contract holder nor the covered person shall be liable to the provider for any sums owed to the provider under the contract.

b. No provider, or agent, trustee or assignee thereof may maintain an action at law or attempt to collect from the contract holder or covered person sums owed to the provider by the licensed organized delivery system, except that this subsection shall not be construed to prohibit

collection of uncovered charges consented to or lawfully owed to providers by a contract holder or covered person.

C.17:48H-19 Minimum net worth.

19. a. A licensed organized delivery system shall, at all times, have and maintain a minimum net worth, determined on a statutory accounting basis, in an amount established by the Commissioner of Banking and Insurance by regulation, which amount may vary in accordance with the size of the system, the services provided by the system, and the financial liabilities of the system.

b. With respect to any amounts that may be required by the commissioner pursuant to subsection a. of this section, the commissioner shall take into account any limitation on the organized delivery system's exposure to financial loss that results from a contract with a carrier that provides that any liabilities of the system may be satisfied by means of reductions or offsets against monies due to the system from the carrier, which reductions or offsets will not adversely affect the system's ability to meet its contractual obligations.

C.17:48H-20 Deposit of cash, securities.

20. a. A licensed organized delivery system shall deposit with the Commissioner of Banking and Insurance, or with an entity or trustee acceptable to the commissioner through which a custodial or controlled account is utilized, cash, securities, or any combination of these or other measures that is acceptable to the commissioner in an amount established by the commissioner, by regulation, which amount shall be adjusted annually by the commissioner in accordance with changes in the Consumer Price Index. The deposit shall be deemed an admitted asset of the system in the determination of net worth.

b. All income from deposits shall be an asset of the licensed organized delivery system. A licensed organized delivery system may withdraw a deposit or any part thereof after making a substitute deposit of equal amount and value, except that a security may not be substituted unless it has been approved by the commissioner.

c. If a licensed organized delivery system is placed in rehabilitation or liquidation, the deposit shall be treated as an asset subject to the provisions of P.L.1992, c.65 (C.17B:32-31 et seq.).

C.17:48H-21. Maintenance of fidelity bond.

21. A licensed organized delivery system shall maintain in force a fidelity bond in its own name on its officers and employees, in an amount established by the Commissioner of Banking and Insurance by regulation.

C.17:48H-22. Annual report.

22. A licensed organized delivery system shall file an annual report with the Commissioner of Banking and Insurance, on or before March 1 of each year, attested to by at least two principal officers, which covers the preceding calendar year. The report shall be on a form prescribed by the commissioner and shall include:

a. A financial statement of the licensed organized delivery system, including its balance sheet, income statement and statement of changes in financial position for the preceding year, certified by an independent public accountant, or a consolidated audited financial statement of its parent company certified by an independent certified public accountant, attached to which shall be consolidating financial statements of the system;

b. At the discretion of the commissioner, a statement by a qualified actuary setting forth the actuary's opinion as to the adequacy of reserves; and

c. Any other information relating to the performance of the licensed organized delivery system as may be required by the commissioner.

The commissioner may assess a civil administrative penalty of up to $100 per day for each day a required report is late. The commissioner may require the submission of additional reports from time to time, as the commissioner deems necessary. A penalty may be recovered in a summary proceeding pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

C.17:48H-23 Suspension, revocation of license, grounds.

23. The Commissioner of Banking and Insurance may suspend or revoke the license issued to an organized delivery system pursuant to this act upon the commissioner's determination that:

a. The licensed organized delivery system is operating in contravention of its basic organizational documents;

b. The licensed organized delivery system is unable to fulfill its obligations to the carriers with whom it contracts;

c. The net worth of the licensed organized delivery system is less than that required by this act, or the licensed organized delivery system has failed to correct any deficiency in its net worth as required by the commissioner;

d. The continued operation of the licensed organized delivery system would be hazardous to the health and welfare of the enrollees or contract holders with whom it has contracted to provide health care services or detrimental to a carrier with whom it has contracted to provide the services;

e. The licensed organized delivery system has failed to file any report required pursuant to this act;

f. The licensed organized delivery system has failed to provide the health care services for which it has been licensed or has provided health care services which are in contravention of the contract or contracts filed with the commissioner;

g. The licensed organized delivery system is unable to maintain the standards set forth by regulation;

h. The licensed organized delivery system has failed, as provided by the contract, to comply with the provisions of P.L.1997, c.192 (C.26:2S-1 et seq.);

i. The licensed organized delivery system has otherwise failed to comply with this act or with other applicable law; or

j. There are other reasonable grounds that warrant suspension or revocation.

C.17:48H-24 Notification of grounds for suspension, revocation of license.

24. a. If the Commissioner of Banking and Insurance has cause to believe that grounds exist for the suspension or revocation of a license, the commissioner shall notify the licensed organized delivery system, in writing, specifically stating the grounds for suspension or revocation and fixing a time for a hearing in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). If a license is revoked, the licensed organized delivery system shall submit a plan to the commissioner within 15 days of the revocation, for the winding up of its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of its business. The commissioner may, by written order, permit such further operation of the system as the commissioner finds to be in the best interest of individuals receiving health care services from the system.

b. The commissioner shall notify all carriers with contracts with the system that are on file with the Department of Banking and Insurance of the proceedings.

C.17:48H-25 Plan for insolvency, insurance.

25. The Commissioner of Banking and Insurance may require, in connection with the plan for insolvency required pursuant to paragraph (5) of subsection i. of section 12 of this act, that a licensed organized delivery system maintain insurance to cover the expenses to be paid for continued benefits following a determination of insolvency, or make other arrangements to ensure that benefits are continued for the period determined in the insolvency plan.

C.17:48H-26 Rehabilitation, liquidation, conservation of licensed organized delivery system.

26. Any rehabilitation, liquidation or conservation of a licensed organized delivery system shall be subject to the provisions of P.L.1992,

c.65 (C.17B:32-31 et seq.) and shall be conducted under the supervision of the Commissioner of Banking and Insurance; except that the commissioner shall have the authority to regulate any licensed organized delivery system doing business in this State as a domestic insurer. The commissioner may apply for an order directing the commissioner to rehabilitate, liquidate, reorganize or conserve a licensed organized delivery system upon any one or more applicable grounds as stated for insurers in P.L.1992, c.65 (C.17B:32-31 et seq.), or any other provisions of Title 17B of the New Jersey Statutes, or when, in the commissioner's opinion, the licensed organized delivery system fails to satisfy the requirements for the issuance of a license relating to solvency or the requirements for solvency protection as set forth in this act.

C.17:48H-27 Licensed organized delivery system exempt from guaranty association act, C.17B:32A-1 et seq.

27. A licensed organized delivery system shall not be subject to the "New Jersey Life and Health Insurance Guaranty Association Act," P.L.1991, c.208 (C.17B:32A-1 et seq.), and the New Jersey Life and Health Insurance Guaranty Association established pursuant to that act shall not provide protection to any individuals entitled to receive health care services from a licensed organized delivery system.

C.17:48H-28 Fees.

28. A licensed organized delivery system shall pay to the Commissioner of Banking and Insurance those application and examination fees as are established by the commissioner by regulation in the same manner as established for insurers and health maintenance organizations licensed or authorized to do business in this State.

C.17:48H-29 Civil administrative penalty.

29. The Commissioner of Banking and Insurance may, upon notice and hearing, assess a civil administrative penalty in an amount not less than $250 nor more than $10,000 for each day that a licensed organized delivery system is in violation of this act. Penalties imposed by the commissioner pursuant to this section may be in lieu of, or in addition to, suspension or revocation of a license pursuant to this act. A penalty may be recovered in a summary proceeding pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

C.17:48H-30 Confidentiality of data, information; exceptions.

30. Any data or information relating to the diagnosis, treatment or health of an enrollee, prospective enrollee or contract holder obtained by a certified or licensed organized delivery system from the carrier, contract

holder, enrollee, prospective enrollee or any provider shall be confidential and shall not be disclosed to any person except:

a. To the extent that it may be necessary to carry out the purposes of this act;

b. Upon the express consent of the enrollee, prospective enrollee or contract holder;

c. Pursuant to statute or court order for the production of evidence or the discovery thereof; or

d. In the event of a claim or litigation between an enrollee, a prospective enrollee or a contract holder and the organized delivery system wherein that data or information is relevant. An organized delivery system shall be entitled to claim any statutory privilege against disclosure which the provider who furnished the information to the system is entitled to claim.

C.17:48H-31 Notification of change of means for receipt of compensation.

31. Any certified organized delivery system which intends to change the means by which it receives compensation so that it will be compensated on a basis that entails the assumption of financial risk shall notify the Commissioner of Health and Senior Services and make application for licensure to the Commissioner of Banking and Insurance pursuant to this act.

C.17:48H-32 Rules, regulations.

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

The commissioners shall adopt the rules and regulations within 180 days of the date of enactment of this act.

C.17:48H-33 Applicability of health care quality act.

33. An organized delivery system which is either certified by the Department of Health and Senior Services or licensed by the Department of Banking and Insurance shall be subject to the "Health Care Quality Act," P.L.1997, c.192 (C.26:2S-1 et seq.) and the regulations promulgated thereunder.

C.17:48H-34 Provision of data, reports.

34. a. A carrier that contracts with a licensed organized delivery system shall provide that system with any data or reports required by their contractual arrangement on a timely basis, in accordance with the terms of the contract.

b. If a carrier fails to provide a report required pursuant to subsection a. of this section, the Commissioner of Banking and Insurance may, upon notice and hearing, assess a civil administrative penalty in an amount not less than $250 nor more than $1,000 for each day the carrier is in

violation of this section. The penalty may be recovered in a summary proceeding pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

C.17:48H-35 Documents deemed proprietary, confidential.

35. Any documents provided by a organized delivery system to the Department of Banking and Insurance or Health and Senior Services pursuant to this act that are deemed by the Commissioner of Banking and Insurance or the Commissioner of Health and Senior Services to be proprietary, shall be confidential and shall not be considered public documents pursuant to P.L.1963, c.73 (C.47:1A-2).

36. This act shall take effect on the 180th day following enactment, but the Commissioners of Banking and Insurance and Health and Senior Services may take such anticipatory administrative action in advance of the effective date as shall be necessary for the implementation of this act.

Approved January 18, 2000.

CHAPTER 410

AN ACT concerning the operation of motor vehicles by persons under the influence of alcohol or drugs in certain cases, and supplementing chapter 4 of Title 39 of the Revised Statutes.

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

C.39:4-50.15 Additional penalty for driving under the influence with a minor as a passenger.

1. a. As used in this act:

"Minor" means a person who is 17 years of age or younger.

"Parent or guardian" means any natural parent, adoptive parent, foster parent, stepparent, or any person temporarily responsible for the care, custody or control of a minor or upon whom there is a legal duty for such care, custody or control.

b. A parent or guardian who is convicted of a violation of R.S.39:4-50 and who, at the time of the violation, has a minor as a passenger in the motor vehicle is guilty of a disorderly persons offense.

c. In addition to the penalties otherwise prescribed by law, a person who is convicted under subsection b. of this section shall forfeit the right to operate a motor vehicle over the highways of this State for a period of

not more than six months and shall be ordered to perform community service for a period of not more than five days.

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 411

AN ACT concerning abandoned vehicles and amending P.L.1967, c.305.

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

1. Section 1 of P.L.1967, c.305 (C.39:4-56.5) is amended to read as follows:

C.39:4-56.5 Abandonment of motor vehicle.

1. a. It shall be unlawful for any person to abandon a motor vehicle on or along any highway, other than a limited access highway, or other public property or on any private property without the consent of the owner or other person in charge of the private property. A vehicle which has remained on or along any highway or other public property or on private property without such consent for a period of more than 48 hours or for any period without current license plates shall be presumed to be an abandoned motor vehicle. Vehicles used or to be used in the construction, operation or maintenance of public utility facilities and which are left in a manner which does not interfere with the normal movement of traffic shall not be considered abandoned vehicles for the purposes of this section.

b. It shall be unlawful for any person to abandon a motor vehicle on or along any limited access highway without the consent of the State Department of Transportation or other entity having jurisdiction over the limited access highway, as the case may be. A vehicle which remains on or along such a highway for a period of more than four hours or for any period without current license plates shall be presumed to be an abandoned motor vehicle. Legally parked vehicles, such as vehicles parked in a designated rest area for not more than 12 hours, or vehicles used or to be used in the construction, operation or maintenance of public utility facilities and which are left in a manner which does not interfere with the normal movement of traffic shall not be considered abandoned vehicles for the purposes of this section.

c. Any person who violates this section shall be subject for the first offense to a fine of not less than $100 nor more than $500 and his license

or driving privilege may be suspended or revoked by the director for not more than two years. For any subsequent violation he shall be subject to a fine of not less than $500 nor more than $1,000, and his license or driving privilege be suspended or revoked for a period of not more than five years.

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 412

AN ACT concerning the trapping, taking, capturing, killing and having in possession of beaver and amending R.S.23:4-55.

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

1. R.S.23:4-55 is amended to read as follows:

Beaver trapping permits.

23:4-55. No person shall trap, take, capture, kill or have in possession a beaver, except as authorized by a valid permit at a time and in a manner prescribed by the State Fish and Game Code. In the absence of provisions for a season and limit in the code, the season shall be January 15 through and including February 15 of each year, and the season limit shall be five beavers per permit. Permits shall expire on the last day of the open season. The Division of Fish and Wildlife may issue up to and not exceeding 200 permits in any one calendar year. The fee for this permit is $15.00. The penalty for violating this section is a fine of no less than $100 and no more than $200. The Division of Fish and Wildlife may, in its discretion, issue permits to owners or lessees of land to control beavers that are destroying said property.

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 413

AN ACT establishing an interdistrict public school choice program, supplementing Title 18A of the New Jersey Statutes, amending P.L.1996, c.138, and making an appropriation.

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

C.18A:36B-1 Short title.

1. This act shall be known and may be cited as the "Interdistrict Public School Choice Program Act of 1999."

C.18A:36B-2 Definitions relative to the interdistrict public school choice program.

2. As used in this act:

"Choice district" means a public school district, established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, which is authorized under the interdistrict public school choice program to open a school or schools to students from sending districts;

"Commissioner" means the Commissioner of Education;

"Receiving district" means the district receiving a student from a sending district;

"Sending district" means the district of residence of a student.

C.18A:36B-3 Interdistrict public school choice program.

3. The Commissioner of Education shall establish an interdistrict public school choice program which shall provide for the creation of choice districts as follows: for the first year of the program, no more than 10 choice districts Statewide and no more than one per county; for the second year, no more than 15 choice districts Statewide and no more than one per county; and for the third, fourth and fifth years, no more than 21 choice districts Statewide and no more than one per county A choice district may enroll students across district lines in designated schools of the choice district.

C.18A:36B-4 Application process; commissioner's actions to provide diversity in program.

4. a. A proposed choice district shall submit an application to the commissioner no later than April 30 in the year prior to the school year in which the choice program will be implemented; except that for the first year of implementation of the program the application shall be submitted no later than the date specified by the commissioner. The application shall include, but not be limited to, the following information:

(1) a description of programs and schools and the number of student openings in each school identified by grade level which are available for selection;

(2) the provision for the creation of a parent information center;

(3) a description of the student application process and any criteria required for admission;

(4) an analysis of the potential impact of the program on student population diversity in all potential participating districts and a plan for maintaining diversity in all potential participating districts, which plan

shall not be used to supersede a court-ordered or administrative court-ordered desegregation plan; and

(5) the provision for screening out students during the application process who wish to attend a school for athletic, extracurricular or social reasons.

The commissioner shall notify a choice district of the approval or disapproval of its application no later than July 30, and the reasons for disapproval shall be included in the notice. An appeal of any determination by the commissioner not to grant an application for participation in the choice program may be filed by a school district with the State Board of Education.

b. The commissioner may take appropriate action, consistent with State and federal law, to provide that student population diversity in all districts participating in a choice district program is maintained. Student population diversity shall include, but not be limited to, the ethnic, racial, economic, and geographic diversity of a district's student population. The actions may include, but not be limited to:

(1) directing a choice district to take appropriate steps to successfully implement the district's plan for maintaining student population diversity;

(2) restricting the number of choice students from a sending district or the authority of a choice district to accept choice students in the future; and

(3) revoking approval of the choice district. Any choice student who is attending a designated school in a choice district at the time of the commissioner's revocation of approval shall be entitled to continue to be enrolled in that school until graduation.

C.18A:36B-5 Application evaluated.

5. The commissioner shall evaluate an application submitted by a proposed choice district according to the following criteria:

a. the fiscal impact on the district;

b. the quality and variety of academic programs offered within the district;

c. the potential effectiveness of the student application process and of the admissions criteria utilized;

d. the impact on student population diversity in the district; and

e. the degree to which the program will promote or reduce educational quality in the choice district and the sending districts.

C.18A:36B-7 Student application process.

6. a. The parents or guardian of a student shall notify the sending district of the student's intention to participate in the choice program and shall submit an application to the choice district, indicating the school the student wishes to attend, no later than the date specified by the commissioner. To be eligible to participate in the program, a student shall be enrolled at the time of application in grades K through 9 in a school of the

sending district and have attended school in the sending district for at least one full year immediately preceding enrollment in the choice district. Openings in a designated school of a choice district shall be on a space available basis, and if more applications are received for a designated school than there are spaces available, a lottery shall be held to determine the selection of students. Preference for enrollment may be given to siblings of students who are enrolled in a designated school.

b. A choice district may evaluate a prospective student on reasonable criteria, including the student's interest in the program offered by a designated school. The district shall not discriminate in its admission policies or practices on the basis of athletic ability, intellectual aptitude, English language proficiency, status as a handicapped person, or any other basis prohibited by State or federal law.

c. A choice district shall not prohibit the enrollment of a student based upon a determination that the additional cost of educating the student would exceed the amount of additional State aid received as a result of the student's enrollment. A choice district may reject the application for enrollment of a student who has been classified as eligible for special education services pursuant to chapter 46 of Title 18A of the New Jersey Statutes if that student's individualized education program could not be implemented in the district, or if the enrollment of that student would require the district to fundamentally alter the nature of its educational program, or would create an undue financial or administrative burden on the district.

d. A student whose application is rejected by a choice district shall be provided with a reason for the rejection in the letter of notice. The appeal of a rejection notice may be made to the commissioner.

e. Once a student is enrolled in a designated school, the student shall not be required to reapply for each school year and shall continue to be enrolled until graduation. A student shall be permitted to transfer back to a school of the sending district or may apply to a different choice district during the next application period.

f. A choice district shall accept all of the credits earned toward graduation by a student in the schools of the sending district.

g. A choice district shall notify a sending district upon the enrollment of a choice student resident in that district.

C.18A:36B-8 State aid; enrollment restrictions.

7. a. For the purpose of calculating State aid for a choice student in a choice district, the student shall not be counted in the resident enrollment of the receiving district for the calculation of core curriculum standards aid, but shall be treated in the same manner as a student who resides in the

receiving district for the purpose of calculating all other forms of State aid under the "Comprehensive Educational Improvement and Financing Act of 1996," P.L.1996, c.138 (C.18A:7F-1 et seq.). The receiving district shall receive school choice aid for each choice student in the amount of the weighted per pupil T & E amount established pursuant to section 12 of P.L.1996, c.138 (C.18A:7F-12); except that for a choice student who attends a district factor group A or B receiving district, the receiving district shall receive the weighted per pupil maximum T & E amount.

b. (1) Upon adoption of a resolution, the school board of a sending district may restrict enrollment of its students in a choice district to 2% of the number of students per grade level per year in the sending district, limited by any resolution adopted pursuant to paragraph (2) of this subsection.

(2) Upon adoption of a resolution, the school board of a sending district may restrict enrollment of its students in a choice district to 7% of the total number of students enrolled in the sending district.

(3) The school board of a sending district may adopt a resolution to exceed the enrollment restriction percentages of paragraphs (1) and (2) of this subsection to a maximum of 10% of the number of students per grade level per year limited by any resolution adopted pursuant to this paragraph and 15% of the total number of students enrolled in the sending district, provided that the resolution shall be subject to approval by the commissioner upon a determination that the resolution is in the best interest of the district's students and that it will not adversely affect the district's programs, services, operations, or fiscal conditions, and that the resolution will not adversely affect or limit the diversity of the remainder of the student population in the district who do not participate in the choice program.

(4) Enrollment restriction percentages adopted by any resolution pursuant to paragraph (1), (2), or (3) shall not be compounded from year to year and shall be based upon the enrollment counts for the year preceding the sending district's initial year of participation in the choice program, except that in any year of the program in which there is an increase in enrollment, the percentage enrollment restriction may be applied to the increase and the result added to the preceding year's count of students eligible to attend a choice district. If there is a decrease in enrollment at any time during the duration of the program, the number of students eligible to attend a choice district shall be the number of students enrolled in the choice program in the initial year of the district's participation in the program, provided that a student attending a choice district school shall be entitled to remain enrolled in that school until graduation.

(5) The calculation of the enrollment of a sending district shall be based on the enrollment count as reported on the Application for State

School Aid in October preceding the school year during which the restriction on enrollment shall be applicable.

c. The school board of a sending district may restrict enrollment of a student on the basis of an exceptional circumstance that would affect the sending district's instructional program upon the adoption of a resolution detailing the reasons for the restriction. The restriction shall be subject to the approval of the commissioner.

d. A choice district shall not be eligible to enroll students on a tuition basis pursuant to N.J.S.18A:38-3 while participating in the public school choice program. Any student enrolled on a tuition basis prior to the establishment of the choice program shall be entitled to remain enrolled in the choice district as a choice student.

C.18A:36B-9 Transportation provided; responsible district.

8. Transportation, or aid in lieu of transportation, shall be provided to an elementary school pupil who lives more than two miles from the receiving district school of attendance and to a secondary school pupil who lives more than two and one-half miles from the receiving district school of attendance, provided the receiving district school is not more than 20 miles from the residence of the pupil. Transportation, or aid in lieu of transportation, shall be the responsibility of the choice district.

C.18A:36B-10 Parent information center.

9. A choice district shall establish and maintain a parent information center. The center shall collect and disseminate information about participating programs and schools and shall assist parents and guardians in submitting applications for enrollment of students in an appropriate program and school.

C.18A:36B-11 Annual reports, independent studies.

10. a. The commissioner shall annually report to the State Board of Education and the Legislature on the effectiveness of the interdistrict public school choice program. No later than June 30 following the second year of the operation of the program the report shall include a recommendation on the continuation of the program.

b. The Joint Committee on the Public Schools shall commission an independent study of the first two years of the operation of the program. The study shall be conducted by an individual or entity primarily identified with expertise in the field of education. The individual or entity shall design a comprehensive study of the program which shall include, but not be limited to, consideration of the following:

(1) the impact of the choice program on the sending district's students, staff, parents, educational programs, and finances;

(2) the impact of the choice program on the choice district's students, staff, parents, educational programs, and finances; and

(3) the impact of the choice program on student enrollment patterns.

Before undertaking the study, the Joint Committee on the Public Schools shall hold a public hearing to solicit public comments regarding all features of the study. Prior to the hearing, the committee shall disseminate a draft of the proposed study including, but not limited to, the content, procedures, criteria and methodology to be used.

c. On or before January 1 of the third year of the program, the Joint Committee on the Public Schools shall submit a report to the Legislature on the implementation of the choice program based on the study and the commissioner's annual reports to the Legislature, which report shall include a recommendation on whether the program should be continued in accordance with the provisions of section 3 of this act. If the Legislature does not act on the recommendation by the adoption of a concurrent resolution within 60 days of the Joint Committee's submission of the report, then the program shall be continued in accordance with the provisions of section 3 of this act.

11. Section 3 of P.L.1996, c.138 (C.18A:7F-3) is amended to read as follows:

C.18A:7F-3 Definitions relative to school funding.

3. As used in this act, unless the context clearly requires a different meaning:

"Abbott district" means one of the 28 urban districts in district factor groups A and B specifically identified in the appendix to Raymond Abbott, et al. v. Fred G. Burke, et al. decided by the New Jersey Supreme Court on June 5, 1990 (119 N.J.287, 394) or any other district classified as a special needs district under the "Quality Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.);

"Bilingual education pupil" means a pupil enrolled in a program of bilingual education or in an English as a second language program approved by the State Board of Education;

"Budgeted local share" means the sum of designated general fund balance, miscellaneous revenues estimated consistent with GAAP, and that portion of the district's local tax levy contained in the T&E budget certified for taxation purposes;

"Capital outlay" means capital outlay as defined in GAAP;

"Commissioner" means the Commissioner of Education;

"Concentration of low-income pupils" shall be based on prebudget year pupil data and means, for a school district or a county vocational school district, the

number of low-income pupils among those counted in modified district enrollment, divided by modified district enrollment. For a school, it means the number of low-income pupils recorded in the registers at that school, divided by the total number of pupils recorded in the school's registers;

"CPI" means the average annual increase, expressed as a decimal, in the consumer price index for the New York City and Philadelphia areas during the fiscal year preceding the prebudget year as reported by the United States Department of Labor;

"County special services school district" means any entity established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes;

"County vocational school district" means any entity established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes;

"County vocational school, special education services pupil" means a pupil who is attending a county vocational school and who is receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes;

"Debt service" means and includes payments of principal and interest upon school bonds and other obligations issued to finance the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and the costs of issuance of such obligations and shall include payments of principal and interest upon bonds heretofore issued to fund or refund such obligations, and upon municipal bonds and other obligations which the commissioner approves as having been issued for such purposes. Debt service pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.), P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177 (C.18A:58-33.2 et seq.) is excluded;

"District factor group A district" means a school district, other than an Abbott district or a school district in which the equalized valuation per pupil is more than twice the average Statewide equalized valuation per pupil and in which resident enrollment exceeds 2,000 pupils, which based on the 1990 federal census data is included within the Department of Education's district factor group A;

"District income" for the 1997-98 school year means the aggregate income of the residents of the taxing district or taxing districts, based upon data provided by the Bureau of the Census in the United States Department of Commerce for 1989. Beginning with the 1998-99 school year and thereafter, district income means the aggregate income of the residents of the taxing district or taxing districts, based upon data provided by the Division of Taxation in the New Jersey Department of the Treasury and contained on the New Jersey State Income Tax forms for the calendar year ending prior to the prebudget year. The commissioner may supplement data contained on the State Income Tax forms with data

available from other State or federal agencies in order to better correlate the data to that collected on the federal census. With respect to regional districts and their constituent districts, however, the district income as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils resident in each of them;

"Estimated minimum equalized tax rate" for a school district means the district's required local share divided by its equalized valuation; for the State it means the sum of the required local shares of all school districts in the State, excluding county vocational and county special services school districts as defined pursuant to this section, divided by the sum of the equalized valuations for all the school districts in the State except those for which there is no required local share;

"Equalized valuation" means the equalized valuation of the taxing district or taxing districts, as certified by the Director of the Division of Taxation on October 1, or subsequently revised by the tax court by January 15, of the prebudget year. With respect to regional districts and their constituent districts, however, the equalized valuations as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils resident in each of them. In the event that the equalized table certified by the director shall be revised by the tax court after January 15 of the prebudget year, the revised valuations shall be used in the recomputation of aid for an individual school district filing an appeal, but shall have no effect upon the calculation of the property value multiplier, Statewide equalized valuation per pupil, estimated minimum equalized tax rate for the State, or Statewide average equalized school tax rate;

"GAAP" means the generally accepted accounting principles established by the Governmental Accounting Standards Board as prescribed by the State board pursuant to N.J.S.18A:4-14;

"Household income" means income as defined in 7CFR 245.2 and 245.6 or any subsequent superseding federal law or regulation;

"Lease purchase payment" means and includes payments of principal and interest for lease purchase agreements in excess of five years approved pursuant to subsection f. of N.J.S.18A:20-4.2 to finance the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and issuance costs. Approved lease purchase agreements in excess of five years shall be accorded the same accounting treatment as school bonds;

"Low-income pupils" means those pupils from households with a household income at or below the most recent federal poverty guidelines available on October 15 of the prebudget year multiplied by 1.30;

"Minimum permissible T&E budget" means the sum of a district's core curriculum standards aid, and required local share calculated pursuant to sections 5, 14 and 15 of this act;

"Modified district enrollment" means the number of pupils other than preschool pupils, evening school pupils, post-graduate pupils, and post-secondary vocational pupils who, on the last school day prior to October 16, are enrolled in the school district or county vocational school district; or are resident in the school district or county vocational school district and are: (1) receiving home instruction, (2) enrolled in an approved private school for the handicapped, (3) enrolled in a regional day school, (4) enrolled in a county special services school district, (5) enrolled in an educational services commission including an alternative high school program operated by an educational services commission, (6) enrolled in a State college demonstration school, (7) enrolled in the Marie H. Katzenbach School for the Deaf, or (8) enrolled in an alternative high school program in a county vocational school. Modified district enrollment shall be based on the prebudget year count for the determination of concentration of low-income pupils, and shall be projected to the current year and adjusted pursuant to section 5 of this act when used in the calculation of aid;

"Net budget" unless otherwise stated in this act, means the sum of the net T&E budget and the portion of the district's local levy that is above the district's maximum T & E budget;

"Net T&E budget" means the sum of the T&E program budget, early childhood program aid, demonstrably effective program aid, instructional supplement aid, transportation aid, and categorical program aid received pursuant to sections 19 through 22, 28, and 29 of this act;

"Prebudget year" means the school fiscal year preceding the year in which the school budget is implemented;

"Prebudget year equalized tax rate" means the amount calculated by dividing the district's general fund levy for the prebudget year by its equalized valuation certified in the year prior to the prebudget year;

"Prebudget year net budget" for the 1997-98 school year means the sum of the foundation aid, transition aid, transportation aid, special education aid, bilingual education aid, aid for at-risk pupils, technology aid, and county vocational program aid received by a school district or county vocational school district in the 1996-97 school year pursuant to P.L.1996, c.42, and the district's local levy for the general fund;

"Report on the Cost of Providing a Thorough and Efficient Education" or "Report" means the report issued by the Governor pursuant to section 4 of this act;

"Resident enrollment" means the number of pupils other than preschool pupils, post-graduate pupils, and post-secondary vocational

pupils who, on the last school day prior to October 16 of the current school year, are residents of the district and are enrolled in: (1) the public schools of the district, excluding evening schools, (2) another school district, other than a county vocational school district in the same county on a full-time basis, or a State college demonstration school or private school to which the district of residence pays tuition, or (3) a State facility in which they are placed by the district; or are residents of the district and are: (1) receiving home instruction, or (2) in a shared-time vocational program and are regularly attending a school in the district and a county vocational school district. In addition, resident enrollment shall include the number of pupils who, on the last school day prior to October 16 of the prebudget year, are residents of the district and in a State facility in which they were placed by the State. Pupils in a shared-time vocational program shall be counted on an equated full-time basis in accordance with procedures to be established by the commissioner. Resident enrollment shall include regardless of nonresidence, the enrolled children of teaching staff members of the school district or county vocational school district who are permitted, by contract or local district policy, to enroll their children in the educational program of the school district or county vocational school district without payment of tuition. Handicapped children between three and five years of age and receiving programs and services pursuant to N.J.S.18A:46-6 shall be included in the resident enrollment of the district;

"School district" means any local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes;

"School enrollment" means the number of pupils other than preschool pupils, evening school pupils, post-graduate pupils, and post-secondary vocational pupils who, on the last school day prior to October 16 of the current school year, are recorded in the registers of the school;

"Special education services pupils" means a pupil receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes;

"Spending growth limitation" means the annual rate of growth permitted in the net budget of a school district, county vocational school district or county special services school district as measured between the net budget of the prebudget year and the net budget of the budget year as calculated pursuant to subsection d. of section 5 of this act;

"Stabilization aid growth limit" means 10% or the rate of growth in the district's projected resident enrollment over the prebudget year, whichever is greater. For the 1997-98 school year, this means 8% or one-half the rate of growth in the district's projected resident enrollment and preschool enrollment between the October 1991 enrollment report as contained on the district's Application for State School Aid for 1992-93 and the 1997-98

school year, whichever is greater. For the 1998-99 and 1999-2000 school years, this means the greatest of the following: 10%, one-half the district's rate of growth in projected resident enrollment and preschool enrollment over the October 1991 enrollment report as contained on the district's Application for State School Aid for 1992-93, or the district's projected rate of growth in resident enrollment over the prebudget year;

"State facility" means a State developmental center; a State Division of Youth and Family Services' residential center; a State residential mental health center; a DHS Regional Day School; a State training school / Secure care facility; a State juvenile community program; a juvenile detention center or a boot camp under the supervisional authority of the Juvenile Justice Commission pursuant to P.L.1995, c.284 (C.52:17B-169 et seq.); or an institution operated by or under contract with the Department of Corrections or Human Services, or the Juvenile Justice Commission;

"Statewide average equalized school tax rate" means the amount calculated by dividing the general fund tax levy for all school districts, which excludes county vocational school districts and county special services school districts as defined pursuant to this section, in the State for the prebudget year by the equalized valuations certified in the year prior to the prebudget year of all taxing districts in the State except taxing districts for which there are no school tax levies;

"Statewide equalized valuation per pupil" means the equalized valuations of all taxing districts having resident enrollment in the State, divided by the resident enrollment for the State;

"T&E amount" means the cost per elementary pupil of delivering the core curriculum content standards and extracurricular and cocurricular activities necessary for a thorough regular education under the assumptions of reasonableness and efficiency contained in the Report on the Cost of Providing a Thorough and Efficient Education;

"T&E flexible amount" means the dollar amount which shall be applied to the T&E amount to determine the T&E range;

"T&E program budget" means the sum of core curriculum standards aid, supplemental core curriculum standards aid, stabilization aid, designated general fund balance, miscellaneous local general fund revenue and that portion of the district's local levy that supports the district's T&E budget;

"T&E range" means the range of regular education spending which shall be considered thorough and efficient. The range shall be expressed in terms of T&E budget spending per elementary pupil, and shall be delineated by alternatively adding to and subtracting from the T&E amount the T&E flexible amount;

"Total Statewide income" means the sum of the district incomes of all taxing districts in the State.

12. Section 11 of P.L.1996, c.138 (C.18A:7F-11) is amended to read as follows:

C.18A:7F-11 Calculation of core curriculum standards aid.

11. The State's core curriculum standards aid contribution for the 1997-98 school year shall be $2,620,200,000. In subsequent years, the State's core curriculum standards aid contribution shall be the sum of the total Statewide core curriculum standards aid calculated pursuant to section 15 of this act for the prebudget year and prior to the application of section 10 and school choice aid awarded for pupils from a sending district that receives core curriculum standards aid indexed by the sum of 1.0, the CPI, and the State average enrollment growth percentage between the prebudget year and the budget year as projected by the commissioner; except that school choice aid awarded pursuant to subsection a. of section 7 of P.L.1999, c.413 (C.18A:36B-8) for pupils from a sending district that receives core curriculum standards aid shall be deducted from this amount prior to the calculation of each district's core curriculum standards aid. In calculating the State average enrollment growth percentage pursuant to this section, enrollment in the prebudget and budget years shall include resident enrollment used in the calculation of core curriculum standards aid including school choice students counted in the weighted enrollment of the sending district pursuant to section 13 of P.L.1996, c.138 (C.18A:7F-13) plus school choice students of the receiving district.

13. Section 13 of P.L.1996, c.138 (C.18A:7F-13) is amended to read as follows:

C.18A:7F-13 Calculation of weighted enrollment, T&E budgets.

13. a. The weighted enrollment for each school district and each county vocational school district shall be calculated as follows:

WENR= PWxPENR + EWxEENR + MWxMENR + HWxHENR

where

PW is the T&E weight for kindergarten enrollment;
EW is the T&E weight for elementary enrollment;
MW is the T&E weight for middle school enrollment;
HW is the T&E weight for high school enrollment;
PENR is the resident enrollment for kindergarten;
EENR is the resident enrollment for grades 1-5;
MENR is the resident enrollment for grades 6 - 8; and
HENR is the resident enrollment for grades 9 - 12.

For the purposes of this section, ungraded pupils shall be counted in their age-equivalent grade.

For the purposes of this section, pupils attending a choice district shall be counted in the district of residence of the parent or legal guardian as follows:

.75 in the first year of the pupil's attendance;

.50 in the second year of the pupil's attendance;

.25 in the third year of the pupil's attendance; and

.00 in the fourth year of the pupil's attendance.

b. The maximum T&E budget for each school district and each county vocational school district shall be calculated as follows:

MAXBUD= (TE + FL) x WENR

where

TE is the T&E amount; and

FL is the T&E flexible amount.

c. The minimum T&E budget for each school district and each county vocational school district shall be calculated as follows:

MINBUD= (TE - FL) x WENR

except in the case of Abbott districts, in which the minimum T&E budget shall equal the maximum T&E budget as calculated pursuant to subsection b. of this section

where

TE is the T&E amount;

FL is the T&E flexible amount; and

WENR is the district's weighted enrollment.

d. The T&E budget for each school district and each county vocational school district shall be calculated for 1997-98 as follows:

TEBUD= PBNB x (1 + CPI) - (CAT+DEP+ECP+IS);

provided that TEBUD shall be neither less than MINBUD nor greater than MAXBUD and where

PBNB is the district's prebudget year net budget;

CAT is the sum of aids calculated in accordance with sections 19, 20, 21, 22, 25, 28 and 29 of this act;

DEP is the aid calculated in accordance with section 18 of this act;

ECP is the aid calculated in accordance with section 16 of this act; and

IS is the aid calculated in accordance with section 18 of this act.

In subsequent years, the T&E budget shall be calculated as follows:

TEBUD= (WENR x PBNB/PBWENR) x (1 + CPI) (CAT+DEP+ECP+IS);

provided that CPI shall not be less than.03 and

provided that TEBUD shall be neither less than MINBUD nor greater than MAXBUD and where

PBNB is the district's prebudget year net T&E budget;

CAT is the sum of aids payable in accordance with sections 19, 20, 21, 22, 25, 28 and 29 of this act;

DEP is the aid payable in accordance with section 18 of this act;

ECP is the aid payable in accordance with section 16 of this act; and

IS is the aid payable in accordance with section 18 of this act;

WENR is the district's weighted enrollment; and

PBWENR is the district's weighted enrollment for the prebudget year.

C.18A:36B-12 Annual appropriations.

14. a. There shall annually be appropriated for the first two years of the choice program $1,600,000 and annually for the third through fifth years of the program $3,000,000, or such other amounts as may be necessary, to the Department of Education. The funds shall be distributed by the commissioner for the purpose of funding school choice aid awarded pursuant to subsection a. of section 7 of P.L.1999, c.413 (C.18A:36B-8) for choice students from a sending district that does not qualify for core curriculum standards aid pursuant to section 15 of P.L.1996, c.138 (C.18A:7F-15).

b. There shall annually be appropriated such additional amounts in core curriculum standards aid as may be necessary to prevent any increase in the local share of school districts as a result of the authorization for sending districts to count resident pupils attending a choice district in their weighted enrollment pursuant to section 13 of P.L.1996, c.138 (C.18A:7F-13).

C.18A:36B-13 Student enrolled may remain until graduation.

15. Any student enrolled in a designated school in a choice district upon the expiration of the choice program shall be entitled to remain enrolled in that school until graduation.

C.18A:36-6 Approval conditions.

16. Any school choice district established by the commissioner prior to the effective date of this act is authorized to continue operation as if the choice district had been approved pursuant to the provisions of this act. The commissioner shall not, prior to the effective date of section 11 of this act, approve any additional choice districts or modify or increase the scope of the interdistrict public school choice programs in the choice districts except in conformance with sections 4 and 5 of this act.

17. Sections 1-10 and 12-16 of this act shall take effect immediately; section 11 of this act shall take effect one year after the date of enactment; sections 1 through 10 inclusive shall expire on June 30 following the fifth full year of the operation of the interdistrict public school choice program.

Approved January 18, 2000.

CHAPTER 414

AN ACT concerning certain boards of education of school districts involved in sending-receiving relationships and supplementing P.L.1995, c.8 (C.18A:38-8.1 et seq.).

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

C.18A:38-8.4 Board of Education representation of sixth class county school district; certain.

1. Notwithstanding the provisions of section 2 of P.L.1995, c.8 (C.18A:38-8.2) or any other law or regulation to the contrary, a school district which is located in a county of the sixth class according to the latest federal decennial census, which has an October 1998 resident enrollment greater than 2,400 pupils but less than 2,600 pupils, and which sends its pupils in grades 9 through 12 to a school district in the same county pursuant to N.J.S.18A:38-8 shall have representation on the board of education of the receiving district as follows:

a. (1) If the pupils of the sending district comprise less than 10% of the total enrollment of the pupils in grades 9 through 12 of the receiving district, 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% but not more than 29% of the total enrollment of the pupils in grades 9 through 12 of the receiving district, the sending district shall have one representative on the receiving district board of education;

(3) If the pupils of the sending district comprise at least 30% but not more than 39% of the total enrollment of the pupils in grades 9 through 12 of the receiving district, the sending district shall have two representatives on the receiving district board of education; and

(4) If the pupils of the sending district comprise at least 40% or more of the total enrollment of the pupils in grades 9 through 12 of the receiving district, the sending district shall have three representatives on the receiving district board of education.

b. The calculation of the percentages required under this section shall be based on the number of pupils reported as of the last school day prior to October 16 of the prebudget year.

c. The representatives of the sending district board of education shall be designated by the sending district board at a meeting of the board which is closest in time to the annual organizational meeting of the receiving district board of education.

d. The representatives of a sending district board of education appointed to a receiving district board of education pursuant to this section shall be in addition to the members of the board of education of a Type I or Type II school district provided pursuant to chapter 12 of Title 18A of the New Jersey Statutes. The representatives of the sending district board of education shall be eligible to vote on those matters authorized pursuant to section 1 of P.L.1995, c.8 (C.18A:38-8.1).

2. This act shall take effect immediately and shall first apply to the 2000-2001 school year.

Approved January 18, 2000.

CHAPTER 415

AN ACT concerning contributions to the Public Employees' Retirement System of New Jersey and amending P.L.1954, c.84.

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

1. Section 24 of P.L.1954, c.84 (C.43:15A-24) is amended to read as follows:

C.43:15A-24 Contingent reserve fund.

24. The contingent reserve fund shall be the fund in which shall be credited contributions made by the State and other employers.

a. Upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall compute annually, beginning as of March 31, 1992, the amount of contribution which shall be the normal cost as computed under the projected unit credit method attributable to service rendered under the retirement system for the year beginning on July 1 immediately succeeding the date of the computation. This shall be known as the "normal contribution."

b. With respect to employers other than the State, upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall compute the amount of the accrued liability of the retirement system as of March 31, 1992 under the projected unit credit method, excluding the liability for pension adjustment benefits for active employees funded pursuant to section 2 of P.L.1990, c.6 (C.43:15A-24.1), which is not already covered by the assets of the

retirement system, valued in accordance with the asset valuation method established in this section. Using the total amount of this unfunded accrued liability, the actuary shall compute the initial amount of contribution which, if the contribution is increased at a specific rate and paid annually for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the board of trustees and the actuary, the rate of increase for the contribution and the time period for full funding of this liability, which shall not exceed 40 years on initial application of this section as amended by this act, P.L.1994, c.62. This shall be known as the "accrued liability contribution." Any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for the 10 valuation years following valuation year 1992 shall serve to increase or decrease, respectively, the unfunded accrued liability contribution. Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section.

With respect to the State, upon the basis of the tables recommended by the actuary which the commission adopts and regular interest, the actuary shall annually determine if there is an amount of the accrued liability of the retirement system, computed under the projected unit credit method, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. This shall be known as the "unfunded accrued liability." If there was no unfunded accrued liability for the valuation period immediately preceding the current valuation period, the actuary, using the total amount of this unfunded accrued liability, shall compute the initial amount of contribution which, if the contribution is increased at a specific rate and paid annually for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the commission and the actuary, the rate of increase for the contribution and the time period for full funding of this liability, which shall not exceed 30 years. This shall be known as the "accrued liability contribution." Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease,

respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section. The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose. including, without limitation, the proceeds of bonds authorized by law for this purpose.

The value of the assets to be used in the computation of the contributions provided for under this section for valuation periods shall be the value of the assets for the preceding valuation period increased by the regular interest rate, plus the net cash flow for the valuation period (the difference between the benefits and expenses paid by the system and the contributions to the system) increased by one half of the regular interest rate, plus 20% of the difference between this expected value and the full market value of the assets as of the end of the valuation period. This shall be known as the "valuation assets." Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending March 31, 1996 shall be the full market value of the assets as of that date and, with respect to the valuation assets allocated to the State, shall include the proceeds from the bonds issued pursuant to the Pension Bond Financing Act of 1997, P.L.1997, c.114 (C.34:1B-7.45 et seq.), paid to the system by the New Jersey Economic Development Authority to fund the unfunded accrued liability of the system.

"Excess valuation assets" for a valuation period means, with respect to the valuation assets allocated to the State:

(1) the valuation assets allocated to the State; less

(2) the actuarial accrued liability of the State for basic benefits and pension adjustment benefits under the retirement system; less

(3) the contributory group insurance premium fund, created by section 4 of P.L.1955, c.214 (C.43:15A-91), as amended by section 4 of P.L.1960, c.79; less

(4) the post retirement medical premium fund, created pursuant to section 2 of P.L.1990, c.6 (C.43:15A-24.1), as amended by section 8 of P.L.1994, c.62; less

(5) the present value of the projected total normal cost for pension adjustment benefits in excess of the projected total phased-in normal cost for pension adjustment benefits for the State authorized by section 2 of P.L.1990, c.6 (C.43:15A-24.1) over the full phase-in period, determined in the manner prescribed for the determination and amortization of the

unfunded accrued liability of the system, if the sum of the foregoing items is greater than zero.

"Excess valuation assets" for a valuation period means, with respect to the valuation assets allocated to other employers:

(1) the valuation assets allocated to the other employers; less

(2) the actuarial accrued liability of the other employers for basic benefits and pension adjustment benefits under the retirement system, excluding the unfunded accrued liability for early retirement incentive benefits pursuant to P.L.1991, c.229, P.L.1991, c.230, P.L.1993, c.138, and P.L.1993, c.181, for employers other than the State; less

(3) the contributory group insurance premium fund, created by section 4 of P.L.1955, c.214 (C.43:15A-91), as amended by section 4 of P.L.1960, c.79; less

(4) the present value of the projected total normal cost for pension adjustment benefits in excess of the projected total phased-in normal cost for pension adjustment benefits for the other employers authorized by section 2 of P.L.1990, c.6 (C.43:15A-24.1) over the full phase-in period, determined in the manner prescribed for the determination and amortization of the unfunded accrued liability of the system, if the sum of the foregoing items is greater than zero.

If there are excess valuation assets allocated to the State or to the other employers for the valuation period ending March 31, 1996, the normal contributions payable by the State or by the other employers for the valuation periods ending March 31, 1996 and March 31, 1997 which have not yet been paid to the retirement system shall be reduced to the extent possible by the excess valuation assets allocated to the State or to the other employers, respectively, provided that with respect to the excess valuation assets allocated to the State, the General Fund balances that would have been paid to the retirement system except for this provision shall first be allocated as State aid to public schools to the extent that additional sums are required to comply with the May 14, 1997 decision of the New Jersey Supreme Court in Abbott v. Burke. If there are excess valuation assets allocated to the State or to the other employers for a valuation period ending after March 31, 1996, the State Treasurer may reduce the normal contribution payable by the State or by the other employers for the next valuation period as follows:

(1) for valuation periods ending March 31, 1997 through March 31, 2001, to the extent possible by up to 100% of the excess valuation assets allocated to the State or to the other employers, respectively;

(2) for the valuation period ending March 31, 2002, to the extent possible by up to 84% of the excess valuation assets allocated to the State or to the other employers, respectively;

(3) for the valuation period ending March 31, 2003, to the extent possible by up to 68% of the excess valuation assets allocated to the State or to the other employers, respectively; and

(4) for valuation periods ending on or after March 31, 2004, to the extent possible by up to 50% of the excess valuation assets allocated to the State or to the other employers, respectively.

For calendar years 1998 and 1999, the rate of contribution of members of the retirement system under section 25 of P.L.1954, c.84 (C.43:15A-25) shall be reduced by 1/2 of 1% from excess valuation assets and for calendar years 2000 and 2001, the rate of contribution shall be reduced by 2% from excess valuation assets. Thereafter, the rate of contribution of members of the retirement system under that section for a calendar year shall be reduced equally with normal contributions to the extent possible, but not by more than 2%, from excess valuation assets if the State Treasurer determines that excess valuation assets shall be used to reduce normal contributions by the State and local employers for the fiscal year beginning immediately prior to the calendar year, or for the calendar year for local employers whose fiscal year is the calendar year, and excess valuation assets above the amount necessary to fund the reduction for that calendar year in the member contribution rate plus an equal reduction in the normal contribution shall be available for the further reduction of normal contributions, subject to the limitations prescribed by this subsection.

c. The retirement system shall certify annually the aggregate amount payable to the contingent reserve fund in the ensuing year, which amount shall be equal to the sum of the amounts described in this section. The State shall pay into the contingent reserve fund during the ensuing year the amount so determined. The death benefits, payable as a result of contribution by the State under the provisions of this chapter upon the death of an active or retired member, shall be paid from the contingent reserve fund.

d. The disbursements for benefits not covered by reserves in the system on account of veterans shall be met by direct contributions of the State and other employers.

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 416

AN ACT providing exempt organization status under the sales and use tax to certain National Guard and veterans' organizations and creating a Sales and Use Tax Review Commission, amending and supplementing P.L.1966, c.30.

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

1. Section 9 of P.L.1966, c.30 (C.54:32B-9) is amended to read as follows:

C.54:32B-9 Exempt organizations.

9. (a) Except as to motor vehicles sold by any of the following, any sale, service or amusement charge by or to any of the following or any use or occupancy by any of the following shall not be subject to the sales and use taxes imposed under this act:

(1) The State of New Jersey, or 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 where it is the purchaser, user or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons;

(2) The United States of America, and any of its agencies and instrumentalities, insofar as it is immune from taxation where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons;

(3) The United Nations or any international organization of which the United States of America is a member where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons.

(b) Except as otherwise provided in this section any sale or amusement charge by or to any of the following or any use or occupancy by any of the following, where such sale, charge, use or occupancy is directly related to the purposes for which the following have been organized, shall not be subject to the sales and use taxes imposed under this act: a corporation, association, trust, or community chest, fund or foundation, organized and operated exclusively (1) for religious, charitable, scientific, testing for public safety, literary or educational purposes; or (2) for the prevention of cruelty to children or animals; or (3) as a volunteer fire company, rescue, ambulance, first aid or emergency company or squad; or (4) as a National Guard organization, post or association, or as a post or organization of war veterans, or the Marine Corps League, or as an auxiliary unit or society of any such post, organization or association; or (5) as an association of parents and teachers of an elementary or secondary public or private school exempt under the provisions of this section. Such a sale, charge, use or occupancy by, or a sale or charge to, an organization enumerated in this subsection, shall not be subject to the sales and use taxes only if no part of the net earnings of the organization inures to the benefit of any private

shareholder or individual, no substantial part of the activities of the organization is carrying on propaganda, or otherwise attempting to influence legislation, and the organization does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

(c) Nothing in this section shall exempt from the taxes imposed under the "Sales and Use Tax Act":

(1) the sale of a motor vehicle by an organization described in subsection (b) of this section, unless the purchaser is an organization exempt under this section;

(2) retail sales of tangible personal property by any shop or store operated by an organization described in subsection (b) of this section, unless the tangible personal property was received by the organization as a gift or contribution and the shop or store is one in which substantially all the work in carrying on the business of the shop or store is performed for the organization without compensation and substantially all of the shop's or store's merchandise has been received by the organization as gifts or contributions or unless the purchaser is an organization exempt under this section; or

(3) the sale or use of energy or utility service to or by an organization described in paragraph (1) of subsection (a) or subsection (b) of this section.

(d) Any organization enumerated in subsection (b) of this section shall not be entitled to an exemption granted pursuant to this section unless it has complied with such requirements for obtaining a tax immunity authorization as may be provided in this act.

(e) Where any organization described in subsection (b) of this subsection carries on its activities in furtherance of the purposes for which it was organized, in premises in which, as part of those activities, it operates a hotel, occupancy of rooms in the premises and rents from those rooms received by the organization shall not be subject to tax under the "Sales and Use Tax Act."

(f) (1) Except as provided in paragraph (2) of this subsection, any admissions all of the proceeds of which inure exclusively to the benefit of the following organizations shall not be subject to any of the taxes imposed under subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3):

(A) an organization described in paragraph (1) of subsection (a) or subsection (b) of this section;

(B) a society or organization conducted for the sole purpose of maintaining symphony orchestras or operas and receiving substantial support from voluntary contributions; or

(C) (Deleted by amendment, P.L.1999, c.416).

(D) a police or fire department of a political subdivision of the State, or a volunteer fire company, ambulance, first aid, or emergency company or squad, or exclusively to a retirement, pension or disability fund for the sole benefit of members of a police or fire department or to a fund for the heirs of such members.

(2) The exemption provided under paragraph (1) of this subsection shall not apply in the case of admissions to:

(A) Any athletic game or exhibition unless the proceeds shall inure exclusively to the benefit of elementary or secondary schools or unless in the case of an athletic game between two elementary or secondary schools, the entire gross proceeds from such game shall inure to the benefit of one or more organizations described in subsection (b) of this section;

(B) Carnivals, rodeos, or circuses in which any professional performer or operator participates for compensation;

(3) Admission charges for admission to the following places or events shall not be subject to any of the taxes imposed under subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3):

(A) Any admission to agricultural fairs if no part of the net earnings thereof inures to the benefit of any stockholders or members of the association conducting the same; provided the proceeds therefrom are used exclusively for the improvement, maintenance and operation of such agricultural fairs.

(B) Any admission to a home or garden which is temporarily open to the general public as a part of a program conducted by a society or organization to permit the inspection of historical homes and gardens; provided no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

(C) Any admissions to historic sites, houses and shrines, and museums conducted in connection therewith, maintained and operated by a society or organization devoted to the preservation and maintenance of such historic sites, houses, shrines and museums; provided no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

C.54:32B-37 Sales and Use Tax Review Commission.

2. There is established a Sales and Use Tax Review Commission in but not of the Department of the Treasury. The commission shall consist of 10 members: the State Treasurer, ex officio, or the State Treasurer's designee, and three other members of the Executive Branch, who shall be designated by the Governor and who shall serve at the Governor's pleasure; two public members to be appointed by the President of the Senate, no more than one of whom shall be of the same political party; two public members to be appointed by the Speaker of the General Assembly, no more than one of

whom shall be of the same political party; and two public members, no more than one of whom shall be of the same political party, to be appointed by the Governor with the advice and consent of the Senate.

Public members appointed by the Governor shall serve for a term of four years and until their respective successors are appointed and qualified, except that of the public members first appointed, one shall serve for a term of two years and one shall serve for a term of four years. Public members appointed by the President of the Senate or Speaker of the General Assembly shall serve during the two-year legislative term in which the appointment is made and until their respective successors are appointed and qualified. Any vacancy in the membership of the commission shall be filled for the balance of the unexpired term in the same manner as the original appointment was made.

A chairman of the commission shall be designated by the Governor from among its public members and shall serve at the pleasure of the Governor.

Members of the commission shall serve without compensation but shall be entitled to reimbursement for expenses actually incurred in the performance of their duties.

C.54:32B-38 Legislation review process.

3. a. It shall be the duty of the commission to review any bill, joint resolution or concurrent resolution introduced in either House of the Legislature which expands or reduces the base of the New Jersey sales and use tax. Such a review shall include, but not be limited to, an analysis of the bill's or resolution's fiscal impact, any comments upon or recommendations concerning the legislation, and any alternatives to the legislation which the commission may wish to suggest.

b. Not later than the 20th day after the date of introduction of any bill or resolution in either House of the Legislature, the Legislative Budget and Finance Officer shall review it in order to determine whether the bill or resolution constitutes sales and use tax base expansion or reduction legislation. If, on the basis of that review, the Legislative Budget and Finance Officer determines that the bill or resolution constitutes such legislation, that officer shall promptly give written notice of that determination to the commission, the presiding officer of the House in which the bill or resolution was introduced and the chairman of the standing reference committee of that House to which the bill or resolution may have been referred. Not later than the 90th day after the date of introduction of any bill or resolution in either House of the Legislature which the Legislative Budget and Finance Officer has determined constitutes sales and use tax base expansion or reduction legislation, the commission shall complete its review and provide its comments and recommendations in writing to the presiding officer of the House in which

:he bill or resolution was introduced and to the chairman of the standing :eference committee of that House to which the bill or resolution may nave been referred. If the commission requests an extension prior to the 90th day after the date of introduction of a bill or resolution, the presiding officer of the House in which the bill or resolution was introduced may grant an extension for the commission to complete its review of the bill or resolution. The House or committee shall not consider or vote upon the bill or resolution until either the commission completes its review and provides its comments and recommendations in writing to the presiding officer and the chairman, or the 90th day after the date of introduction of the bill or resolution, or the designated day in the case of an extension. If the presiding officer of the House in which the bill or resolution was introduced determines that the bill or resolution is an urgent matter, he shall so notify in writing the commission and the chairman of the standing reference committee to which the bill or resolution may have been referred, and the House or committee may consider and vote upon the bill or resolution as soon as practicable.

C.54:32B-39 Review of legislation.

4. Pursuant to P.L.1999, c.416, the Sales and Use Tax Review Commission shall review every bill, joint resolution, or concurrent resolution introduced in either House of the Legislature which constitutes sales and use tax base expansion or reduction legislation as defined by P.L.1999, c.416, and as determined by the Legislative Budget and Finance Officer pursuant to that act.

C.54:32B-40 Support to commission.

5. a. The commission shall be entitled to the assistance and 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 these purposes, and to employ stenographic and clerical assistants and incur traveling and other miscellaneous expenses as necessary, to perform its duties, and within the limits of funds appropriated or otherwise made available to it for these purposes.

b. The Division of Taxation in the Department of the Treasury shall assist the commission in the performance of its duties. The commission may make use of existing studies, data or other materials in the possession of the division and may request the assistance and services of the division's employees.

c. The employees of any State agency or political subdivision of the State may serve at the request of the commission upon any advisory committee which the commission may create and these employees may serve upon these committees without forfeiture of office or employment

and with no loss or diminution in the compensation, status, rights and privileges which they otherwise enjoy.

C.54:32B-41 Meetings, hearings.

6. The commission may meet and hold hearings at the place or places it designates, at which it may request the appearance of officials of any State agency or political subdivision of the State and may solicit the testimony of interested groups and the general public.

C.54:32B-42 Rules, regulations.

7. The commission may adopt, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as it shall deem necessary to carry out its functions.

C.54:32B-43 Annual report.

8. The commission shall report on its activities by December 31st of each year to the Legislature and may issue periodic reports concerning sales and use tax base expansion or reduction legislation.

9. This act shall take effect on the first day of the second month following enactment, but the Division of Taxation in the Department of the Treasury may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved January 18, 2000.

CHAPTER 417

AN ACT concerning ignition interlock devices, supplementing chapter 4 of Title 39 of the Revised Statutes and amending R.S.39:4-50.

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

C.39:4-50.16 Findings, declarations relative to ignition interlock devices.

1. The Legislature finds and declares:

a. This State's penalties for drunk driving, including the mandatory suspension of driver's licenses and counseling for offenders, are among the strongest in the nation. However, despite the severity of existing penalties, far too many persons who have been convicted under the drunk driving law continue to imperil the lives of their fellow citizens by driving while intoxicated.

b. Ignition interlock devices, which permit a motor vehicle to be started only when the driver is sober, offer a technically feasible and effective means of further reducing the incidence of drunk driving. The use of these devices was initiated in California in 1986 and, according to the National Highway Traffic Safety Administration, they are presently being used or tested in at least 37 states.

c. The judicious deployment of ignition interlock devices, as provided under this act, will enhance and strengthen this State's existing efforts to keep drunk drivers off the highways.

C.39:4-50.17 Sentencing drunk driving offenders; device defined.

2. a. In sentencing a first offender under R.S.39:4-50, the court may order, in addition to any other penalty imposed by that section, the installation of an interlock device in every motor vehicle owned, leased or regularly operated by the offender following the expiration of the period of license suspension imposed under that section. The device shall remain installed for not less than six months or more than one year, commencing immediately upon the return of the offender's driver's license after the required period of suspension has been served.

b. In sentencing a second or subsequent offender under R.S.39:4-50, the court may order, in addition to any other penalty imposed by that section, the installation of an interlock device in every motor vehicle owned, leased or regularly operated by the offender. The device shall remain installed for not less than one year or more than three years, commencing immediately upon the return of the offender's driver's license after the required period of suspension has been served.

c. The court shall require that, for the duration of its order, an offender shall drive no vehicle other than one in which an interlock device has been installed pursuant to the order.

d. As used in this act, "ignition interlock device" or "device" means a blood alcohol equivalence measuring device which will prevent a motor vehicle from starting if the operator's blood alcohol content exceeds a predetermined level when the operator blows into the device.

C.39:4-50.18 DMV notation of interlock device installation.

3. The court shall notify the Director of the Division of Motor Vehicles when a person has been ordered to install an interlock device in a vehicle owned, leased or regularly operated by the person. The division shall require that the device be installed before reinstatement of the person's driver's license that has been suspended pursuant to R.S.39:4-50. The division shall imprint a notation on the driver's license stating that the person shall not operate a motor vehicle unless it is equipped with an interlock device and shall enter this requirement in the person's driving record.

C.39:4-50.19 Violation of law; penalties.

4. a. A person who fails to install an interlock device ordered by the court in a motor vehicle owned, leased or regularly operated by him shall have his driver's license suspended for one year, in addition to any other suspension or revocation imposed under R.S.39:4-50, unless the court determines a valid reason exists for the failure to comply. A person in whose vehicle an interlock device is installed pursuant to a court order who drives that vehicle after it has been started by any means other than his own blowing into the device or who drives a vehicle that is not equipped with such a device shall have his driver's license suspended for one year, in addition to any other penalty applicable by law.

b. A person is a disorderly person who:

(1) Blows into an interlock device or otherwise starts a motor vehicle equipped with such a device for the purpose of providing an operable motor vehicle to a person who has been ordered by the court to install the device in the vehicle.

(2) Tampers or in any way circumvents the operation of an interlock device.

(3) Knowingly rents, leases or lends a motor vehicle not equipped with an interlock device to a person who has been ordered by the court to install an interlock device in a vehicle he owns, leases or regularly operates.

C.39:4-50.20 Certification of devices.

5. The director shall certify or cause to be certified ignition interlock devices required by this act and shall publish a list of approved devices. A device shall not be certified unless the manufacturer enters into an agreement with the division for the provision of devices to indigent offenders, as determined by the director, at a reduced cost. The director shall provide a copy of this list along with information on the purpose and proper use of interlock devices to persons who have been ordered by the court to install such a device in their vehicles.

C.39:4-50.21 Rules, regulations.

6. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the division shall promulgate rules and regulations for the installation and use of ignition interlock devices. These regulations shall be consistent with the federal model specifications for ignition interlock devices issued by the National Highway Traffic Safety Administration. They shall include, but not be limited to, the following:

a. requiring that the ignition interlock system selected shall:

(1) not impede the safe operation of the vehicle;

(2) incorporate features that make circumvention difficult and that do not interfere with the normal use of the vehicle;

(3) correlate closely with established measures of alcohol impairment;
(4) operate accurately and reliably in an unsupervised environment;
(5) resist tampering and give evidence when tampering is attempted;
(6) be difficult to circumvent and require premeditation to do so;
(7) require a deep lung breath sample as a measure of blood alcohol concentration equivalence;
(8) operate reliably over the range of automobile environments; and
(9) be manufactured by a party who will provide liability insurance.

b. designating the facilities where ignition interlock devices may be installed;

c. establishing guidelines for the proper use of ignition interlock devices; and

d. establishing guidelines for the provision of ignition interlock devices at reduced rates to persons who, according to standards specified by the division, qualify as indigent.

The director may adopt at his discretion, in whole or in part, the guidelines, rules, regulations, studies, or independent laboratory tests performed on and relied upon in the certification of ignition interlock devices by other states, their agencies or commissions.

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

Driving while intoxicated.

39:4-50. (a) Except as provided in subsection (g) of this section, a person who operates a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, or operates a motor vehicle with a blood alcohol concentration of 0.10% or more by weight of alcohol in the defendant's blood or permits another person who is under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug to operate a motor vehicle owned by him or in his custody or control or permits another to operate a motor vehicle with a blood alcohol concentration of 0.10% or more by weight of alcohol in the defendant's blood, shall be subject:

(1) For the first offense, to a fine of not less than $250.00 nor more than $400.00 and a period of detainment of not less than 12 hours nor more than 48 hours spent during two consecutive days of not less than six hours each day and served as prescribed by the program requirements of the Intoxicated Driver Resource Centers established under subsection (f) of this section and, in the discretion of the court, a term of imprisonment of not more than 30 days and shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period of not less than six months nor more than one year.

(2) For a second violation, a person shall be subject to a fine of not less than $500.00 nor more than $1,000.00, and shall be ordered by the court to

perform community service for a period of 30 days, which shall be of such form and on such terms as the court shall deem appropriate under the circumstances, and shall be sentenced to imprisonment for a term of not less than 48 consecutive hours, which shall not be suspended or served on probation, nor more than 90 days, and shall forfeit his right to operate a motor vehicle over the highways of this State for a period of two years upon conviction, and, after the expiration of said period, he may make application to the Director of the Division of Motor Vehicles for a license to operate a motor vehicle, which application may be granted at the discretion of the director, consistent with subsection (b) of this section.

(3) For a third or subsequent violation, a person shall be subject to a fine of $1,000.00, and shall be sentenced to imprisonment for a term of not less than 180 days, except that the court may lower such term for each day, not exceeding 90 days, served performing community service in such form and on such terms as the court shall deem appropriate under the circumstances and shall thereafter forfeit his right to operate a motor vehicle over the highways of this State for 10 years.

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

A conviction of a violation of a law of a substantially similar nature in another jurisdiction, regardless of whether that jurisdiction is a signatory to the Interstate Driver License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior conviction under this subsection unless the defendant can demonstrate by clear and convincing evidence that the conviction in the other jurisdiction was based exclusively upon a violation of a proscribed blood alcohol concentration of less than .10%.

If the driving privilege of any person is under revocation or suspension for a violation of any provision of this Title or Title 2C of the New Jersey Statutes at the time of any conviction for a violation of this section, the revocation or suspension period imposed shall commence as of the date of termination of the existing revocation or suspension period. In the case of any person who at the time of the imposition of sentence is less than 17 years of age, the forfeiture, suspension or revocation of the driving privilege imposed by the court under this section shall commence immediately, run through the offender's seventeenth birthday and continue from that date for the period set by the court pursuant to paragraphs (1) through (3) of this subsection. A court that imposes a term of imprisonment under this section may sentence the person so convicted to the county jail, to the workhouse of the county wherein the offense was committed, to an inpatient rehabilitation program or to an

Intoxicated Driver Resource Center or other facility approved by the chief of the Intoxicated Driving Program Unit in the Department of Health and Senior Services; provided that for a third or subsequent offense a person shall not serve a term of imprisonment at an Intoxicated Driver Resource Center as provided in subsection (f).

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

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

(c) Upon conviction of a violation of this section, the court shall collect forthwith the New Jersey driver's license or licenses of the person so convicted and forward such license or licenses to the Director of the Division of Motor Vehicles. The court shall inform the person convicted that if he is convicted of personally operating a motor vehicle during the period of license suspension imposed pursuant to subsection (a) of this section, he shall, upon conviction, be subject to the penalties established in R.S.39:3-40. The person convicted shall be informed orally and in writing. A person shall be required to acknowledge receipt of that written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40. In the event that a

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

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

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

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

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

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

The centers shall conduct a program of alcohol and drug education and highway safety, as prescribed by the Director of the Division of Motor Vehicles.

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

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

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

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

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

period of 20 years; the period of license suspension shall commence upon the completion of any prison sentence imposed upon that person.

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

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

(h) In addition to any penalty or condition imposed by law or regulation, a person who is subject to the provisions of this section shall also be subject to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

8. The provisions of this act shall take effect upon the implementation of P.L.1999, c.28.

Approved January 18, 2000.

CHAPTER 418

AN ACT concerning litter abatement, and amending and supplementing P.L.1985, c.533.

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

1. Section 7 of P.L.1985, c.533 (C.13:1E-99.2) is amended to read as follows:

C.13:1E-99.2 Clean Communities Account.

7. The Clean Communities Account is established as a nonlapsing, revolving fund in the Department of the Treasury to carry out the purposes of this act. The Clean Communities Account shall be administered by the Department of Environmental Protection and credited, in addition to any appropriations made thereto, with all taxes and penalties levied or imposed pursuant to sections 6 and 10 of P.L.1985, c.533

(C.13:1E-99.1 and 13:1E-99.5), and any sums received as voluntary contributions from private sources. Interest received on moneys in the account shall be credited to the account. Unless otherwise expressly provided by the specific appropriation thereof by the Legislature, which shall take the form of a discrete legislative appropriations act and shall not be included within the annual appropriations act, all available moneys in the Clean Communities Account shall be appropriated annually solely for the following purposes and no others:

a. 10% of the estimated annual balance of the account shall be used for a State program of litter pickup and removal and of enforcement of litter-related laws and ordinances in State owned places and areas that are accessible to the public;

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

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

d. 10% of the estimated annual balance of the account shall be distributed as State aid to eligible counties for programs of litter pickup and removal, including establishing an "Adopt-A-Highway" program, of public education and information relating to litter abatement and of enforcement of litter-related laws and ordinances. The amount of State aid

due each county shall be solely calculated based on the proportion which the county road mileage of an eligible county bears to the total county road mileage within the State. For the purposes of this subsection, "county road mileage" means that road mileage under the jurisdiction of counties, as determined by the Department of Transportation. Moneys in the account may also be used by an eligible county to abate graffiti;

e. No eligible municipality shall receive less than $4,000.00 in State aid as apportioned pursuant to subsections b. and c. of this section. A municipality or county may use up to 5% of its State aid for administrative expenses;

f. Prior to the distribution of funds pursuant to subsections a. through d. of this section, $200,000 of the estimated annual balance of the account shall be annually appropriated to the department and made available on July 1 of every year to the organization under contract with the department pursuant to section 2 of P.L.1999, c.418 (C.13:1E-99.2b) for a Statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior. The organization under contract with the department pursuant to section 2 of P.L.1999, c.418 (C.13:1E-99.2b) shall, no later than the date on which the contract period concludes, submit a report to the Governor and the Legislature concerning its activities during the contract period and any recommendations concerning improving the program;

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

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

C.13:1E-99.2b Negotiation, entrance into public information contract, education program; conditions.

2. a. No later than 90 days after the effective date of P.L.1999, c.418 (C.13:1E-99.2b et al.), the Department of Environmental Protection shall negotiate and enter into a contract with an organization to administer a Clean Communities Statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior. An organization may be awarded a contract with the department if it meets the following criteria:

(1) the organization is exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code (26 U.S.C.s.501(c)(3));

(2) the organization qualifies for tax deductible contributions under section 170(b)(1)(A)(vi) or (viii) of the United States Internal Revenue Code (26 U.S.C.s.170(b)(1)(A)(vi) or (viii));

(3) the organization is incorporated under and subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes and the "Charitable Registration and Investigation Act," P.L.1994, c.16 (C.45:17A-18 et seq.);

(4) the sole purpose of the organization is the funding and administration of a Clean Communities statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior;

(5) the organization demonstrates that it has raised funds or has the capability to raise funds from the private sector for the same purposes moneys in the Clean Communities Account are appropriated; and

(6) the membership of the governing board of the organization consists of representatives of private sector companies or organizations that are subject to the tax on the sale of litter-generating products levied pursuant to section 6 of P.L.1985, c.533 (C.13:1E-99.1), representatives of the public sector who are local clean community coordinators duly appointed by their county or municipal governing bodies, the Commissioner of the Department of Environmental Protection and the State Treasurer or their designees, and representatives of community organizations, academia and organizations that have an interest in litter prevention and education.

b. The contract to administer the Clean Communities Statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior shall provide:

(1) the terms and conditions of the contract;

(2) conditions under which the contract may be terminated and grant funds recaptured by the Department of Environmental Protection; and

(3) that the Commissioner of the Department of Environmental Protection and the State Treasurer, or their designees, are included as members on the Board of Trustees of the organization.

c. The contract shall be for a period of two years and a contract recipient shall be eligible for a subsequent contract unless the recipient is otherwise disqualified or fails to meet the conditions provided in this section.

3. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 419

AN ACT establishing the Fisheries Information and Development Center, supplementing Title 18A of the New Jersey Statutes, and making an appropriation.

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

C.18A:65-86 Fisheries Information and Development Center.

1. a. There is established the Fisheries Information and Development Center, hereinafter referred to as the center, at the Institute of Marine and Coastal Sciences at Rutgers, The State University. The center shall be administered by the Director of the Institute of Marine and Coastal Sciences in consultation with the coordinating board of the center established in subsection a. of section 2 of this act. The director in consultation with the coordinating board shall administer funding and provide scientific support for the center, and shall coordinate the distribution of funds, program design and research team development, oversight of project accomplishments, and information transfer activities for the center.

b. The purposes and objectives of the center shall be to:

(1) Address the most urgent research and development needs of the commercial and recreational fisheries industries in the State, including all fisheries species landed in the State throughout the geographic range of those fisheries resources;

(2) Provide critical, unbiased data for the Marine Fisheries Council established pursuant to section 4 of P.L.1979, c.199 (C.23:2B-4), the Department of Environmental Protection, the fishing public, the commercial fishery industry, including shellfish and finfish fisheries in the State and fisheries in State and federal waters, and the recreational fishery industry, including the hook and line and party and charter boat fisheries industries; and

(3) Continue the viability of New Jersey fisheries through research and development concerning the enhancement of fish stocks and the improvement of fish stock management.

For the purposes of this act, "fisheries" means all harvesting of marine fish and aquatic organisms not defined as "aquaculture" pursuant to section 3 of P.L.1997, c.236 (C.4:27-3).

c. The center, at the direction of the coordinating board and with the approval of the Commissioner of the Department of Environmental Protection and in cooperation with any nonprofit groups related to the fisheries industries in the State, shall carry out scientific research programs including, but not limited to, those which:

(1) Provide the scientific basis for improvements in stock assessment methodology and the development of improved stock assessment models;

(2) Develop ways to utilize the most up-to-date satellite and oceanographic data in stock assessment models to analyze and assess the annual fluctuations in stock size and distribution;

(3) Develop new and improved methods of data collection;

(4) Reduce the impact of fishing on the mortality of juvenile fish and aquatic life, and reduce the mortality of non-targeted species and threatened and endangered species by the development and implementation of improvements in fishing technology, by-catch reduction devices, and fishing and processing methods;

(5) Provide the best scientific data available on species population dynamics and processes controlling age structure, sources and rates of mortality, rates of recruitment, catch and release mortality, the relationship of oceanographic variables to fish stock distribution patterns, the degree of reproductive isolation of species populations and the location of brood stocks, and the relationship of food supply to fish yield;

(6) Enhance understanding of the economic and sociological issues affecting fisheries in the State and evaluate the influence of State and local policies, changes in fishing technology, and variations in demand and supply on jobs, income, and business success or failure; and

(7) Address issues including, but not limited to, horseshoe crab resource questions, incidental catches of marine mammals and their resulting injury or death, hook and line mortality in the recreational fluke fishery, menhaden resource questions, and stock assessments of surf clam and ocean quahog populations.

C.18A:65-87 Coordinating Board; membership; duties.

2. a. The Fisheries Information and Development Center Coordinating Board, hereinafter referred to as the board or the coordinating board, shall consist of seven members, as follows: the Chairman of the Marine Fisheries Council; three representatives of the commercial fishery industry, representing the range of commercial fisheries in the State, including shellfish and finfish fisheries and fisheries in State and federal waters; and three representatives of the recreational fishery industry, representing the range of recreational fisheries in the State, including the hook and line and the party and charter boat fishery industry. The Governor, the President of the Senate and the Speaker of the General Assembly each shall appoint one representative of the commercial fishery industry and one representative of the recreational fishery industry. Other public and private institutions of higher education and their faculties may be considered for participation in the work of the center in the future, as determined by the coordinating board.

b. The coordinating board shall organize as soon as practicable following the enactment of this act. The Chairman of the Marine Fisheries Council shall serve ex officio. Each appointed member of the board shall serve a term of four years. Board members shall be reappointed or replaced in the same manner as the original appointment or selection of the board member being reappointed or

replaced. All policies and procedures concerning the hiring of board employees and reimbursement of board member expenses shall be the same as and consistent with the policies and procedures of Rutgers, The State University.

c. The coordinating board shall meet at least quarterly and shall meet as soon as practicable following the appointment of members to choose a chairperson, by a majority vote of the board members. The chairperson shall serve a term of two years and may be re-elected.

The coordinating board shall coordinate communication and information exchange between the center and the private and public sectors of the State.

The coordinating board shall have the authority to approve all expenditures and staffing of the center, except:

(1) expenditures and staffing decisions that may be delegated to the director by the board; and

(2) any administrative, salary or staffing expenditures that would cause the approved administrative, salary and staffing expenditures for the year to exceed 5% of the initial appropriation to the center for the establishment of the center and organization of the board or, after the first year of the board's operation, 5% of the total funding available to the center annually.

The administrative, salary and staffing costs of the center shall not exceed 5% of the total funding available to the center annually. The coordinating board shall review, assess, approve or deny annual statements of work for the research and development program, identify key research and development initiatives, and approve the final design of research programs and the members of research teams, and shall ensure that 95% of the total funding available to the center annually and from the initial appropriation to the center made by this act is used to accomplish the goals of the scientific research programs conducted pursuant to subsection c. of section 1 of this act.

The coordinating board shall convene a peer review committee appropriate to each science initiative which shall include representatives of the management and industry groups expected to be affected by the initiative. The coordinating board shall conduct a yearly assessment of research needs of the fishery, set priorities of work to be accomplished, review and assess the progress of the research and development programs and recommend the continuation or termination of specific projects to the director of the center.

3. There is appropriated from the General Fund to Rutgers, The State University, an amount not to exceed $500,000, as determined by the Director of the Office of Management and Budget, for the establishment and funding of the research and development projects of the Fisheries

Information and Development Center, the personnel necessary for these projects and the functioning of the center.

C.18A:65-88 Construction of act relative to DEP.

4. Nothing in this act shall be construed to alter any of the powers or responsibilities of the Department of Environmental Protection related to shellfish or finfish fisheries in federal and State waters as established under federal and State law.

5. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 420

AN ACT concerning certified county purchasing officials and amending N.J.S.40A:9-30.

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

1. N.J.S.40A:9-30 is amended to read as follows:

Purchasing agent; term, duties.

40A:9-30. The board of chosen freeholders of any county may appoint a purchasing agent for a term of three years and authorize him to establish classifications and standards for the purchase of supplies and materials for the use of all county institutions, departments and buildings. The county purchasing agent, subject to directions of the board, shall make purchases, execute contracts and perform such functions and duties as may be required and necessary.

The term of any purchasing agent who is reappointed and who has attained certification as a certified county purchasing official pursuant to the provisions of P.L.1981, c.380 (C.40A:9-30.1 et seq.) may, at the discretion of the appointing authority, be five years.

2. This act shall take effect 30 days next following enactment.

Approved January 18, 2000.

CHAPTER 421

AN ACT concerning domestic violence and amending and supplementing P.L.1991, c.261.

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

C.2C:25-34 Domestic violence restraining orders, central registry.

1. The Administrative Office of the Courts shall establish and maintain a central registry of all persons who have had domestic violence restraining orders entered against them, all persons who have been charged with a crime or offense involving domestic violence, and all persons who have been charged with a violation of a court order involving domestic violence. All records made pursuant to this section shall be kept confidential and shall be released only to:

a. A public agency authorized to investigate a report of domestic violence;

b. A police or other law enforcement agency investigating a report of domestic violence, or conducting a background investigation involving a person's application for a firearm permit or employment as a police or law enforcement officer or for any other purpose authorized by law or the Supreme Court of the State of New Jersey; or

c. A court, upon its finding that access to such records may be necessary for determination of an issue before the court.

Any individual, agency or court which receives from the Administrative Office of the Courts the records referred to in this section shall keep such records and reports, or parts thereof, confidential and shall not disseminate or disclose such records and reports, or parts thereof; provided that nothing in this section shall prohibit a receiving individual, agency or court from disclosing records and reports, or parts thereof, in a manner consistent with and in furtherance of the purpose for which the records and reports or parts thereof were received.

Any individual who disseminates or discloses a record or report, or parts thereof, of the central registry, for a purpose other than investigating a report of domestic violence, conducting a background investigation involving a person's application for a firearm permit or employment as a police or law enforcement officer, making a determination of an issue before the court, or for any other purpose other than that which is authorized by law or the Supreme Court of the State of New Jersey, shall be guilty of a crime of the fourth degree.

2. Section 10 of P.L.1991, c.261 (C.2C:25-26) is amended to read as follows:

C.2C:25-26 Release of defendant before trial; conditions.

10. a. When a defendant charged with a crime or offense involving domestic violence is released from custody before trial on bail or personal recognizance, the court authorizing the release may as a condition of release issue an order prohibiting the defendant from having any contact with the victim including, but not limited to, restraining the defendant from entering the victim's residence, place of employment or business, or school, and from harassing or stalking the victim or victim's relatives in any way. The court may enter an order prohibiting the defendant from possessing any firearm or other weapon enumerated in subsection r. of N.J.S.2C:39-1 and ordering the search for and seizure of any such weapon at any location where the judge has reasonable cause to believe the weapon is located. The judge shall state with specificity the reasons for and scope of the search and seizure authorized by the order.

b. The written court order releasing the defendant shall contain the court's directives specifically restricting the defendant's ability to have contact with the victim or the victim's friends, co-workers or relatives. The clerk of the court or other person designated by the court shall provide a copy of this order to the victim forthwith.

c. The victim's location shall remain confidential and shall not appear on any documents or records to which the defendant has access.

d. Before bail is set, the defendant's prior record shall be considered by the court. The court shall also conduct a search of the domestic violence central registry. Bail shall be set as soon as is feasible, but in all cases within 24 hours of arrest.

e. Once bail is set it shall not be reduced without prior notice to the county prosecutor and the victim. Bail shall not be reduced by a judge other than the judge who originally ordered bail, unless the reasons for the amount of the original bail are available to the judge who reduces the bail and are set forth in the record.

f. A victim shall not be prohibited from applying for, and a court shall not be prohibited from issuing, temporary restraints pursuant to this act because the victim has charged any person with commission of a criminal act.

3. Section 12 of P.L.1991, c.261 (C.2C:25-28) is amended to read as follows:

C.2C:25-28 Filing complaint alleging domestic violence in Family Part; proceedings.

12. a. A victim may file a complaint alleging the commission of an act of domestic violence with the Family Part of the Chancery Division of the Superior Court in conformity with the rules of court. The court shall not dismiss any complaint or delay disposition of a case because the victim has

left the residence to avoid further incidents of domestic violence. Filing a complaint pursuant to this section shall not prevent the filing of a criminal complaint for the same act.

On weekends, holidays and other times when the court is closed, a victim may file a complaint before a judge of the Family Part of the Chancery Division of the Superior Court or a municipal court judge who shall be assigned to accept complaints and issue emergency, ex parte relief in the form of temporary restraining orders pursuant to this act.

A plaintiff may apply for relief under this section in a court having jurisdiction over the place where the alleged act of domestic violence occurred, where the defendant resides, or where the plaintiff resides or is sheltered, and the court shall follow the same procedures applicable to other emergency applications. Criminal complaints filed pursuant to this act shall be investigated and prosecuted in the jurisdiction where the offense is alleged to have occurred. Contempt complaints filed pursuant to N.J.S.2C:29-9 shall be prosecuted in the county where the contempt is alleged to have been committed and a copy of the contempt complaint shall be forwarded to the court that issued the order alleged to have been violated.

b. The court shall waive any requirement that the petitioner's place of residence appear on the complaint.

c. The clerk of the court, or other person designated by the court, shall assist the parties in completing any forms necessary for the filing of a summons, complaint, answer or other pleading.

d. Summons and complaint forms shall be readily available at the clerk's office, at the municipal courts and at municipal and State police stations.

e. As soon as the domestic violence complaint is filed, both the victim and the abuser shall be advised of any programs or services available for advice and counseling.

f. A plaintiff may seek emergency, ex parte relief in the nature of a temporary restraining order. A municipal court judge or a judge of the Family Part of the Chancery Division of the Superior Court may enter an ex parte order when necessary to protect the life, health or well-being of a victim on whose behalf the relief is sought.

g. If it appears that the plaintiff is in danger of domestic violence, the judge shall, upon consideration of the plaintiff's domestic violence complaint, order emergency ex parte relief, in the nature of a temporary restraining order. A decision shall be made by the judge regarding the emergency relief forthwith.

h. A judge may issue a temporary restraining order upon sworn testimony or complaint of an applicant who is not physically present, pursuant to court rules, or by a person who represents a person who is physically or mentally incapable of filing personally. A temporary restraining order may be issued if the judge is satisfied that exigent circumstances exist sufficient to excuse the failure of the

applicant to appear personally and that sufficient grounds for granting the application have been shown.

i. An order for emergency, ex parte relief shall be granted upon good cause shown and shall remain in effect until a judge of the Family Part issues a further order. Any temporary order hereunder is immediately appealable for a plenary hearing de novo not on the record before any judge of the Family Part of the county in which the plaintiff resides or is sheltered if that judge issued the temporary order or has access to the reasons for the issuance of the temporary order and sets forth in the record the reasons for the modification or dissolution. The denial of a temporary restraining order by a municipal court judge and subsequent administrative dismissal of the complaint shall not bar the victim from refiling a complaint in the Family Part based on the same incident and receiving an emergency, ex parte hearing de novo not on the record before a Family Part judge, and every denial of relief by a municipal court judge shall so state.

j. Emergency relief may include forbidding the defendant from returning to the scene of the domestic violence, forbidding the defendant to possess any firearm or other weapon enumerated in subsection r. of N.J.S.2C:39-1, ordering the search for and seizure of any such weapon at any location where the judge has reasonable cause to believe the weapon is located and any other appropriate relief. The judge shall state with specificity the reasons for and scope of the search and seizure authorized by the order.

k. The judge may permit the defendant to return to the scene of the domestic violence to pick up personal belongings and effects but shall, in the order granting relief, restrict the time and duration of such permission and provide for police supervision of such visit.

l. An order granting emergency relief, together with the complaint or complaints, shall immediately be forwarded to the appropriate law enforcement agency for service on the defendant, and to the police of the municipality in which the plaintiff resides or is sheltered, and shall immediately be served upon the defendant by the police, except that an order issued during regular court hours may be forwarded to the sheriff for immediate service upon the defendant in accordance with the Rules of Court. If personal service cannot be effected upon the defendant, the court may order other appropriate substituted service. At no time shall the plaintiff be asked or required to serve any order on the defendant.

m. (Deleted by amendment, P.L.1994, c.94.)

n. Notice of temporary restraining orders issued pursuant to this section shall be sent by the clerk of the court or other person designated by the court to the appropriate chiefs of police, members of the State Police and any other appropriate law enforcement agency or court.

o. (Deleted by amendment, P.L.1994, c.94.)

p. Any temporary or permanent restraining order issued pursuant to this act shall be in effect throughout the State, and shall be enforced by all law enforcement officers.

q. Prior to the issuance of any temporary or permanent restraining order issued pursuant to this section, the court shall order that a search be made of the domestic violence central registry with regard to the defendant's record.

4. Section 13 of P.L.1991, c.261 (C.2C:25-29) is amended to read as follows:

C.2C:25-29 Hearing procedure; relief.

13. a. A hearing shall be held in the Family Part of the Chancery Division of the Superior Court within 10 days of the filing of a complaint pursuant to section 12 of P.L.1991, c.261 (C.2C:25-28) in the county where the ex parte restraints were ordered, unless good cause is shown for the hearing to be held elsewhere. A copy of the complaint shall be served on the defendant in conformity with the Rules of Court. If a criminal complaint arising out of the same incident which is the subject matter of a complaint brought under P.L.1981, c.426 (C.2C:25-1 et seq.) or P.L.1991, c.261 (C.2C:25-17 et seq.) has been filed, testimony given by the plaintiff or defendant in the domestic violence matter shall not be used in the simultaneous or subsequent criminal proceeding against the defendant, other than domestic violence contempt matters and where it would otherwise be admissible hearsay under the rules of evidence that govern where a party is unavailable. At the hearing the standard for proving the allegations in the complaint shall be by a preponderance of the evidence. The court shall consider but not be limited to the following factors:

(1) The previous history of domestic violence between the plaintiff and defendant, including threats, harassment and physical abuse;

(2) The existence of immediate danger to person or property;

(3) The financial circumstances of the plaintiff and defendant;

(4) The best interests of the victim and any child;

(5) In determining custody and parenting time the protection of the victim's safety; and

(6) The existence of a verifiable order of protection from another jurisdiction.

An order issued under this act shall only restrain or provide damages payable from a person against whom a complaint has been filed under this act and only after a finding or an admission is made that an act of domestic violence was committed by that person. The issue of whether or not a violation of this act occurred, including an act of contempt under this act, shall not be subject to mediation or negotiation in any form. In addition, where a temporary or final order has been issued pursuant to this act, no

party shall be ordered to participate in mediation on the issue of custody or parenting time.

b. In proceedings in which complaints for restraining orders have been filed, the court shall grant any relief necessary to prevent further abuse. At the hearing the judge of the Family Part of the Chancery Division of the Superior Court may issue an order granting any or all of the following relief:

(1) An order restraining the defendant from subjecting the victim to domestic violence, as defined in this act.

(2) An order granting exclusive possession to the plaintiff of the residence or household regardless of whether the residence or household is jointly or solely owned by the parties or jointly or solely leased by the parties. This order shall not in any manner affect title or interest to any real property held by either party or both jointly. If it is not possible for the victim to remain in the residence, the court may order the defendant to pay the victim's rent at a residence other than the one previously shared by the parties if the defendant is found to have a duty to support the victim and the victim requires alternative housing.

(3) An order providing for parenting time. The order shall protect the safety and well-being of the plaintiff and minor children and shall specify the place and frequency of parenting time. Parenting time arrangements shall not compromise any other remedy provided by the court by requiring or encouraging contact between the plaintiff and defendant. Orders for parenting time may include a designation of a place of parenting time away from the plaintiff, the participation of a third party, or supervised parenting time.

(a) The court shall consider a request by a custodial parent who has been subjected to domestic violence by a person with parenting time rights to a child in the parent's custody for an investigation or evaluation by the appropriate agency to assess the risk of harm to the child prior to the entry of a parenting time order. Any denial of such a request must be on the record and shall only be made if the judge finds the request to be arbitrary or capricious.

(b) The court shall consider suspension of the parenting time order and hold an emergency hearing upon an application made by the plaintiff certifying under oath that the defendant's access to the child pursuant to the parenting time order has threatened the safety and well-being of the child.

(4) An order requiring the defendant to pay to the victim monetary compensation for losses suffered as a direct result of the act of domestic violence. The order may require the defendant to pay the victim directly, to reimburse the Victims of Crime Compensation Board for any and all compensation paid by the Victims of Crime Compensation Board directly to or on behalf of the victim, and may require that the defendant reimburse any parties that may have compensated the victim, as the court may determine. Compensatory losses shall include, but not be limited to, loss of

earnings or other support, including child or spousal support, out-of-pocket losses for injuries sustained, cost of repair or replacement of real or personal property damaged or destroyed or taken by the defendant, cost of counseling for the victim, moving or other travel expenses, reasonable attorney's fees, court costs, and compensation for pain and suffering. Where appropriate, punitive damages may be awarded in addition to compensatory damages.

(5) An order requiring the defendant to receive professional domestic violence counseling from either a private source or a source appointed by the court and, in that event, requiring the defendant to provide the court at specified intervals with documentation of attendance at the professional counseling. The court may order the defendant to pay for the professional counseling. No application by the defendant to dissolve a final order which contains a requirement for attendance at professional counseling pursuant to this paragraph shall be granted by the court unless, in addition to any other provisions required by law or conditions ordered by the court, the defendant has completed all required attendance at such counseling.

(6) An order restraining the defendant from entering the residence, property, school, or place of employment of the victim or of other family or household members of the victim and requiring the defendant to stay away from any specified place that is named in the order and is frequented regularly by the victim or other family or household members.

(7) An order restraining the defendant from making contact with the plaintiff or others, including an order forbidding the defendant from personally or through an agent initiating any communication likely to cause annoyance or alarm including, but not limited to, personal, written, or telephone contact with the victim or other family members, or their employers, employees, or fellow workers, or others with whom communication would be likely to cause annoyance or alarm to the victim.

(8) An order requiring that the defendant make or continue to make rent or mortgage payments on the residence occupied by the victim if the defendant is found to have a duty to support the victim or other dependent household members; provided that this issue has not been resolved or is not being litigated between the parties in another action.

(9) An order granting either party temporary possession of specified personal property, such as an automobile, checkbook, documentation of health insurance, an identification document, a key, and other personal effects.

(10) An order awarding emergency monetary relief, including emergency support for minor children, to the victim and other dependents, if any. An ongoing obligation of support shall be determined at a later date pursuant to applicable law.

(11) An order awarding temporary custody of a minor child. The court shall presume that the best interests of the child are served by an award of custody to the non-abusive parent.

(12) An order requiring that a law enforcement officer accompany either party to the residence or any shared business premises to supervise the removal of personal belongings in order to ensure the personal safety of the plaintiff when a restraining order has been issued. This order shall be restricted in duration.

(13) (Deleted by amendment, P.L.1995, c.242).

(14) An order granting any other appropriate relief for the plaintiff and dependent children, provided that the plaintiff consents to such relief, including relief requested by the plaintiff at the final hearing, whether or not the plaintiff requested such relief at the time of the granting of the initial emergency order.

(15) An order that requires that the defendant report to the intake unit of the Family Part of the Chancery Division of the Superior Court for monitoring of any other provision of the order.

(16) An order prohibiting the defendant from possessing any firearm or other weapon enumerated in subsection r. of N.J.S.2C:39-1 and ordering the search for and seizure of any such weapon at any location where the judge has reasonable cause to believe the weapon is located. The judge shall state with specificity the reasons for and scope of the search and seizure authorized by the order.

(17) An order prohibiting the defendant from stalking or following, or threatening to harm, to stalk or to follow, the complainant or any other person named in the order in a manner that, taken in the context of past actions of the defendant, would put the complainant in reasonable fear that the defendant would cause the death or injury of the complainant or any other person. Behavior prohibited under this act includes, but is not limited to, behavior prohibited under the provisions of P.L.1992, c.209 (C.2C:12-10).

(18) An order requiring the defendant to undergo a psychiatric evaluation.

c. Notice of orders issued pursuant to this section shall be sent by the clerk of the Family Part of the Chancery Division of the Superior Court or other person designated by the court to the appropriate chiefs of police, members of the State Police and any other appropriate law enforcement agency.

d. Upon good cause shown, any final order may be dissolved or modified upon application to the Family Part of the Chancery Division of the Superior Court, but only if the judge who dissolves or modifies the order is the same judge who entered the order, or has available a complete record of the hearing or hearings on which the order was based.

e. Prior to the issuance of any order pursuant to this section, the court shall order that a search be made of the domestic violence central registry.

5. Section 15 of P.L.1991, c.261 (C.2C:25-31) is amended to read as follows:

C.2C:25-31 Contempt, law enforcement procedures.

15. Where a law enforcement officer finds that there is probable cause that a defendant has committed contempt of an order entered pursuant to the provisions of P.L.1981, c.426 (C.2C:25-1 et seq.) or P.L.1991, c.261 (C.2C:25-17 et seq.), the defendant shall be arrested and taken into custody by a law enforcement officer. The law enforcement officer shall follow these procedures:

The law enforcement officer shall transport the defendant to the police station or such other place as the law enforcement officer shall determine is proper. The law enforcement officer shall:

a. Conduct a search of the domestic violence central registry and sign a complaint concerning the incident which gave rise to the contempt charge;

b. Telephone or communicate in person or by facsimile with the appropriate judge assigned pursuant to this act and request bail be set on the contempt charge;

c. If the defendant is unable to meet the bail set, take the necessary steps to insure that the defendant shall be incarcerated at police headquarters or at the county jail; and

d. During regular court hours, the defendant shall have bail set by a Superior Court judge that day. On weekends, holidays and other times when the court is closed, the officer shall arrange to have the clerk of the Family Part notified on the next working day of the new complaint, the amount of bail, the defendant's whereabouts and all other necessary details. In addition, if a municipal court judge set the bail, the arresting officer shall notify the clerk of that municipal court of this information.

6. Section 17 of P.L.1991, c.261 (C.2C:25-33) is amended to read as follows:

C.2C:25-33 Records of applications for relief; reports; confidentiality; forms.

17. a. The Administrative Office of the Courts shall, with the assistance of the Attorney General and the county prosecutors, maintain a uniform record of all applications for relief pursuant to sections 9, 10, 11, 12, and 13 of P.L.1991, c.261 (C.2C:25-25, C.2C:25-26, C.2C:25-27, C.2C:25-28, and C.2C:25-29). The record shall include the following information:

(1) The number of criminal and civil complaints filed in all municipal courts and the Superior Court;

(2) The sex of the parties;

(3) The relationship of the parties;

(4) The relief sought or the offense charged, or both;

(5) The nature of the relief granted or penalty imposed, or both, including, but not limited to, the following:

(a) custody;

(b) child support;

(c) the specific restraints ordered;

(d) any requirements or conditions imposed pursuant to paragraphs (1) through (18) of subsection b. of section 13 of P.L.1991, c.261 (C.2C:25-29), including but not limited to professional counseling or psychiatric evaluations;

(6) The effective date of each order issued; and

(7) In the case of a civil action in which no permanent restraints are entered, or in the case of a criminal matter that does not proceed to trial, the reason or reasons for the disposition.

It shall be the duty of the Director of the Administrative Office of the Courts to compile and report annually to the Governor, the Legislature and the Advisory Council on Domestic Violence on the data tabulated from the records of these orders.

All records maintained pursuant to this act shall be confidential and shall not be made available to any individual or institution except as otherwise provided by law.

b. In addition to the provisions of subsection a. of this section, the Administrative Office of the Courts shall, with the assistance of the Attorney General and the county prosecutors, create and maintain uniform forms to record sentencing, bail conditions and dismissals. The forms shall be used by the Superior Court and by every municipal court to record any order in a case brought pursuant to this act. Such recording shall include but not be limited to, the specific restraints ordered, any requirements or conditions imposed on the defendant, and any conditions of bail.

C.2C:25-35 Rules of Court concerning central registry for domestic violence.

7. The Supreme Court of New Jersey may adopt Rules of Court appropriate or necessary to effectuate the purposes of this act.

8. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 422

AN ACT concerning the use of safety belt systems in passenger automobiles when so equipped, amending P.L.1984, c.179 and repealing section 5 of P.L.1984, c.179.

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

1. Section 2 of P.L.1984, c.179 (C.39:3-76.2f) is amended to read as follows:

C.39:3-76.2f Seat belt usage requirements for persons ages 5-18; driver's responsibility.

2. a. Except as provided in P.L.1983, c.128 (C.39:3-76.2a et al.) for children under five years of age and except as provided in subsection b. of this section for passengers who are at least five years of age but less than 18 years of age, each driver and front seat passenger of a passenger automobile operated on a street or highway in this State shall wear a properly adjusted and fastened safety seat belt system as defined by Federal Motor Vehicle Safety Standard Number 209.

b. The driver of a passenger automobile shall secure or cause to be secured in a properly adjusted and fastened safety seat belt system, as defined by Federal Motor Vehicle Safety Standard Number 209, any passenger in the front seat who is at least five years of age but less than 18 years of age.

For the purposes of the "Passenger Automobile Seat Belt Usage Act," the term "passenger automobile" shall include vans, pick-up trucks and utility vehicles.

2. Section 3 of P.L.1984, c.179 (C.39:3-76.2g) is amended to read as follows:

C.39:3-76.2g Exceptions to seat belt usage requirements.

3. This act shall not apply to a driver or front seat passenger of:

a. A passenger automobile manufactured before July 1, 1966;

b. A passenger automobile in which the driver or passenger possesses a written verification from a licensed physician that the driver or passenger is unable to wear a safety seat belt system for physical or medical reasons;

c. A passenger automobile which is not required to be equipped with a safety seat belt system under federal law;

d. A passenger automobile operated by a rural letter carrier of the United States Postal Service while performing the duties of a rural letter carrier; or

e. A passenger automobile which was originally constructed with fewer safety seat belt systems than are necessary to allow the passenger to be buckled.

3. Section 6 of P.L.1984, c.179 (C.39:3-76.2j) is amended to read as follows:

C.39:3-76.2j Violations, fines.

6. A person who violates section 2 of this act shall be fined $20.00. In no case shall motor vehicle points or automobile insurance eligibility points

pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) be assessed against any person for a violation of this act. A person who is fined under this section for a violation of this act shall not be subject to a surcharge under the New Jersey Merit Rating Plan as provided in section 6 of P.L.1983, c.65 (C.17:29A-35).

Repealer.

4. Section 5 of P.L.1984, c.179 (C.39:3-76.2i) is repealed.

5. The Director of the Office of Highway Traffic Safety shall study the effectiveness of this amendatory act and shall submit to the Legislature a report containing his findings on the first day of the 25th month following the effective date of this amendatory act.

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

Approved January 18, 2000.

CHAPTER 423

AN ACT concerning motor vehicles, supplementing P.L.1985, c.14 (C.39:4-139.2 et seq.) and amending R.S.39:5-45 and R.S.39:3-40.

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

C.39:4-139.10a Time limit on enforcement of parking violations.

1. In any parking case, if the municipal court fails, within three years of the date of the violation, to either issue a warrant for the defendant's arrest, or to order a suspension of the defendant's driving privileges or the defendant's non-resident reciprocity privileges or prohibit the person from receiving or obtaining driving privileges, the matter shall be dismissed and shall not be reopened.

2. R.S.39:5-45 is amended to read as follows:

Itemized receipt.

Any person who collects fines, costs or cash bail, for a violation of this subtitle, shall deliver to the defendant a proper itemized receipt, which may be either a "proper itemized manual receipt" or a "proper itemized computer generated receipt." Such receipt shall be created either manually or by computer. In the event that the payment was made by mail, the defendant

shall only be entitled to a copy of the receipt if the defendant provides the court with a stamped self-addressed envelope. If a manual receipt is issued, a copy of that receipt shall be filed with the case. For the purposes of this section, a "proper itemized manual receipt" is one that is pre-numbered and which includes: the name and signature of the person who received the payment, the date the payment was received, the name of the defendant, the amount paid and the complaint or docket number. A "proper itemized computer generated receipt" is one that is pre-numbered and which includes: the identifying code of the person who received the payment, the date and time the payment was received, the name of the defendant, the amount paid and the complaint or docket number. Any outstanding charges against an offender may be immediately dismissed upon the offender's presentation of a proper itemized receipt issued pursuant to this section evidencing the payment of the required fines and costs. Properly itemized receipts, for use by municipal courts, may contain supplemental information as appropriate, but shall be on a form approved by the Administrative Director of the Courts.

3. R.S.39:3-40 is amended to read as follows:

Penalties for driving while license suspended, etc.

39:3-40. No person to whom a driver's license has been refused or whose driver's license or reciprocity privilege has been suspended or revoked, or who has been prohibited from obtaining a driver's license, shall personally operate a motor vehicle during the period of refusal, suspension, revocation, or prohibition.

No person whose motor vehicle registration has been revoked shall operate or permit the operation of such motor vehicle during the period of such revocation.

Except as provided in subsection i. of this section, a person violating this section shall be subject to the following penalties:

a. Upon conviction for a first offense, a fine of $500.00 and, if that offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended for a violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), revocation of the violator's motor vehicle registration privilege in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

b. Upon conviction for a second offense, a fine of $750.00, imprisonment in the county jail for not more than five days and, if the second offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended and that second offense occurs within five years of a conviction for that same offense, revocation of the violator's

motor vehicle registration privilege in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

c. Upon conviction for a third offense or subsequent offense, a fine of $1,000.00, imprisonment in the county jail for 10 days and, if the third offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended and that third offense occurs within five years of a conviction for the same offense, revocation of the violator's motor vehicle registration privilege in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

d. Upon conviction, the court shall impose or extend a period of suspension not to exceed six months;

e. Upon conviction, the court shall impose a period of imprisonment for not less than 45 days, if while operating a vehicle in violation of this section a person is involved in an accident resulting in personal injury to another person;

f. (1) Notwithstanding subsections a. through e., any person violating this section while under suspension issued pursuant to section 2 of P.L.1972, c.197 (C.39:6B-2), upon conviction, shall be fined $500.00, shall have his license to operate a motor vehicle suspended for an additional period of not less than one year nor more than two years, and may be imprisoned in the county jail for not more than 90 days.

(2) Notwithstanding the provisions of subsections a. through e. of this section and paragraph (1) of this subsection, any person violating this section under suspension issued pursuant to R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a) or P.L.1982, c.85 (C.39:5-30a et seq.), shall be fined $500, shall have his license to operate a motor vehicle suspended for an additional period of not less than one year or more than two years, and shall be imprisoned in the county jail for not less than 10 days or more than 90 days.

(3) Notwithstanding the provisions of subsections a. through e. of this section and paragraphs (1) and (2) of this subsection, a person shall have his license to operate a motor vehicle suspended for an additional period of not less than one year or more than two years, which period shall commence upon the completion of any prison sentence imposed upon that person, shall be fined $500 and shall be imprisoned for a period of 60 to 90 days for a first offense, imprisoned for a period of 120 to 150 days for a second offense, and imprisoned for 180 days for a third or subsequent offense, for operating a motor vehicle while in violation of paragraph (2) of this subsection while:

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

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

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

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

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

g. In addition to the other applicable penalties provided under this section, a person violating this section whose license has been suspended pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) or the regulations adopted thereunder, shall be fined $3,000. The court shall waive the fine upon proof that the person has paid the total surcharge imposed pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) or the regulations adopted thereunder. Notwithstanding the provisions of R.S.39:5-41, the fine imposed pursuant to this subsection shall be collected by the Division of Motor Vehicles pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35), and distributed as provided in that section, and the court shall file a copy of the judgment of conviction with the director and with the Clerk of the Superior Court who shall enter the following information upon the record of docketed judgments: the name of the person as judgment debtor; the Division of Motor Vehicles as judgment creditor; the amount of the fine; and the date of the order. These entries shall have the same force and effect as any civil judgment docketed in the Superior Court;

h. A person who owns or leases a motor vehicle and permits another to operate the motor vehicle commits a violation and is subject to suspension of his license to operate a motor vehicle and to revocation of registration pursuant to sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5) if the person:

(1) Knows that the operator's license to operate a motor vehicle has been suspended for a violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a); or

(2) Knows that the operator's license to operate a motor vehicle is suspended and that the operator has been convicted, within the past five years, of operating a vehicle while the person's license was suspended or revoked;

i. If the violator's driver's license to operate a motor vehicle has been suspended pursuant to section 9 of P.L.1985, c.14 (C.39:4-139.10), the violator shall be subject to a maximum fine of $100 upon proof that the violator has satisfied the parking ticket or tickets that were the subject of the Order of Suspension.

4. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 424

AN ACT concerning custody and visitation rights and amending P.L.1995. c.55.

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

1. Section 1 of P.L.1995, c.55 (C.9:2-4.1) is amended to read as follows:

C.9:2-4.1 Person convicted of sexual assault, custody of, visitation to minor child; denied, exceptions.

1. a. 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 any minor child, including 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. However, a court that awards such custody or visitation rights to a person convicted of sexual assault under N.J.S.2C:14-2 shall stay enforcement of the order or judgment for at least 10 days in order to permit the appeal of the order or judgment and application for a stay in accordance with the Rules of Court.

b. Notwithstanding any provision of law to the contrary, a person convicted of sexual contact under N.J.S.2C:14-3 or endangering the welfare of a child under N.J.S.2C:24-4 shall not be awarded the custody of or visitation rights to any minor child, except upon a showing by clear and

convincing evidence that it is in the best interest of the child for such custody or visitation rights to be awarded. However, a court that awards such custody or visitation rights to a person convicted of sexual contact under N.J.S.2C:14-3 or endangering the welfare of a child under N.J.S.2C:24-4 shall stay enforcement of the order or judgment for at least 10 days in order to permit the appeal of the order or judgment and application for a stay in accordance with the Rules of Court.

c. 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.

d. 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 January 18, 2000.

CHAPTER 425

AN ACT concerning certain illegal occupancies and amending P.L.1993, c.342.

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

1. Section 3 of P.L.1993, c.342 (C.2A:18-61.1g) is amended to read as follows:

C.2A:18-61.1g Relocation of displaced tenant; violations, penalty.

3. a. A municipality may enact an ordinance providing that any tenant who receives a notice of eviction pursuant to section 3 of P.L.1974, c.49 (C.2A:18-61.2) that results from zoning or code enforcement activity for an illegal occupancy, as set forth in paragraph (3) of subsection g. of section 2 of P.L.1974, c.49 (C.2A:18-61.1), shall be considered a displaced person and shall be entitled to relocation assistance in an amount equal to six times the monthly rental paid by the displaced person. The owner-landlord of the structure shall be liable for the payment of relocation assistance pursuant to this section.

b. A municipality that has enacted an ordinance pursuant to subsection a. of this section may pay relocation assistance to any displaced person who

has not received the required payment from the owner-landlord of the structure at the time of eviction pursuant to subsection a. of this section from a revolving relocation assistance fund established pursuant to section 2 of P.L.1987, c.98 (C.20:4-4.1a). All relocation assistance costs incurred by a municipality pursuant to this subsection shall be repaid by the owner-landlord of the structure to the municipality in the same manner as relocation costs are billed and collected under section 1 of P.L.1983, c.536 (C.20:4-4.1) and section 1 of P.L.1984, c.30 (C.20:4-4.2). These repayments shall be deposited into the municipality's revolving relocation assistance fund.

c. A municipality that has enacted an ordinance pursuant to subsection a. of this section, in addition to requiring reimbursement from the owner-landlord of the structure for relocation assistance paid to a displaced tenant, may require that an additional fine for zoning or housing code violation for an illegal occupancy, up to an amount equal to six times the monthly rental paid by the displaced person, be paid to the municipality by the owner-landlord of the structure.

In addition to this penalty, a municipality, after affording the owner-landlord an opportunity for a hearing on the matter, may impose upon the owner-landlord, for a second or subsequent violation for an illegal occupancy, a fine equal to the annual tuition cost of any resident of the illegally occupied unit attending a public school, which fine shall be recovered in a civil action by a summary proceeding in the name of the municipality pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The municipal court and the Superior Court shall have jurisdiction of proceedings for the enforcement of the penalty provided by this section. The tuition cost shall be determined in the manner prescribed for nonresident pupils pursuant to N.J.S.18A:38-19 and the payment of the fine shall be remitted to the appropriate school district.

d. For the purposes of this section, the owner-landlord of a structure shall exclude mortgagees in possession of a structure through foreclosure.

For the purposes of this section, a "second or subsequent violation for an illegal occupancy" shall be limited to those violations that are new and are a result of distinct and separate zoning or code enforcement activities, and shall not include any continuing violations for which citations are issued by a zoning or code enforcement agent during the time period required for summary dispossession proceedings to conclude if the owner has initiated eviction proceedings in a court of proper jurisdiction.

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 426

AN ACT concerning free-standing special care nursing facilities and supplementing Title 30 of the Revised Statutes.

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

C.30:13-16 Review of Medicaid recipient in free-standing special care nursing facility.

1. a. A Medicaid recipient who has been determined to be eligible to reside in a free-standing special care nursing facility specializing in the treatment of neurological impairment, and who, pursuant to that determination, has been admitted to residency in a free-standing special care nursing facility specializing in the treatment of neurological impairment, shall be eligible to continue to reside in the facility without limitation on the duration of stay, until achievement of the maximum benefit from the specialized programming and maximum level of functioning. A review to determine achievement of maximum benefit and maximum level of functioning shall include whether the resident develops skills leading to a more independent life and continues to benefit from active participation in community involvement, continuing education, employment in the community, sheltered workshop, extended rehabilitation, complex care and vocational training and whether the level of functioning would deteriorate if moved. Length of stay shall be determined by the Commissioner of Health and Senior Services on the basis of that review.

The review shall be performed by an independent contractor who shall not, during a period of six months after completion of the review, engage in the performance of any compensated work for the State other than a review pursuant to this act.

The first review under this subsection of any Medicaid recipient's continuing eligibility for residency at a free-standing special care nursing facility specializing in the treatment of neurological impairment shall occur not earlier than one year following the recipient's initial admission to the facility or the effective date of P.L.1999, c.426 (C.30:13-16 et seq.), whichever is later. After that first review, any subsequent such review of the recipient's residency at the free-standing special care nursing facility specializing in the treatment of neurological impairment shall be performed not more frequently than once every year. If a Medicaid recipient is determined, pursuant to a review under this subsection, to be no longer eligible for continued residency at a free-standing special care nursing facility specializing in the treatment of neurological impairment, the

recipient shall be permitted to remain at the facility for 90 days following transmittal to the recipient of written notice of that determination.

b. As used in this act:

"Free-standing special care nursing facility" means a nursing facility that is not a unit attached to or on the same campus as a rehabilitation or acute hospital and is not a distinct unit within a Medicaid-certified conventional nursing facility and which has been approved by the Department of Health and Senior Services to provide care to New Jersey Medicaid recipients who require specialized nursing facility services beyond the scope of a conventional nursing facility.

C.30:13-17 Rules, regulations.

2. In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health and Senior Services shall promulgate rules and regulations necessary to effectuate the purposes of this act.

3. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 427

AN ACT concerning eligibility for the Work First New Jersey program, amending P.L.1997, c.14 and supplementing Title 44 of the Revised Statutes.

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

1. The Legislature finds and declares that:

a. In order to better protect the health and welfare of the community, it is important to support efforts to provide drug treatment;

b. Encouraging persons who have had drug convictions to seek treatment benefits the individuals as well as the communities in which they reside;

c. Supporting rehabilitative efforts does not in any way condone possession, use or distribution of controlled dangerous substances but, instead, recognizes that there are impediments to persons who need treatment; and

d. Drug treatment providers need to be supported in their efforts to help low-income persons who are in need of drug rehabilitation.

2. Section 5 of P.L.1997, c.14 (C.44:10-48) is amended to read as follows:

C.44:10-48 Eligibility of citizens, eligible aliens.

5. a. Only those persons who are United States citizens or eligible aliens shall be eligible for benefits under the Work First New Jersey program. Single adults or couples without dependent children who are legal aliens who meet federal requirements and have applied for citizenship, shall not receive benefits for more than six months unless (1) they attain citizenship, or (2) they have passed the English language and civics components for citizenship, and are awaiting final determination of citizenship by the federal Immigration and Naturalization Service.

b. The following persons shall not be eligible for assistance and shall not be considered to be members of an assistance unit:

(1) non-needy caretakers, except that the eligibility of a dependent child shall not be affected by the income or resources of a non-needy caretaker;

(2) Supplemental Security Income recipients, except for the purposes of receiving emergency assistance benefits pursuant to section 8 of P.L.1997, c.14 (C.44:10-51);

(3) illegal aliens;

(4) other aliens who are not eligible aliens;

(5) a person absent from the home who is incarcerated in a federal, State, county or local corrective facility or under the custody of correctional authorities, except as provided by regulation of the commissioner;

(6) a person who: is fleeing to avoid prosecution, custody or confinement after conviction, under the laws of the jurisdiction from which the person has fled, for a crime or an attempt to commit a crime which is a felony or a high misdemeanor under the laws of the jurisdiction from which the person has fled; or is violating a condition of probation or parole imposed under federal or state law;

(7) a person convicted on or after August 22, 1996 under federal or state law of any offense which is classified as a felony or crime, as appropriate, under the laws of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the federal "Controlled Substances Act" (21 U.S.C.s.802 (6)); except that a person convicted of any such offense which has as an element the possession or use only of such a controlled substance may be eligible for Work First New Jersey benefits, and food stamp benefits under the federal "Food Stamp Act of 1977," Pub.L.95-113 (7 U.S.C.s.2011 et seq.), if the person enrolls in or has completed a licensed residential drug treatment program. Eligibility for benefits shall commence upon the person's enrollment in the drug treatment program, and shall continue

during the person's active participation in, and upon completion of, the drug treatment program, except that during the person's active participation in a drug treatment program and the first 60 days after completion of a drug treatment program, the commissioner shall provide for testing of the person to determine if the person is free of any controlled substance. If the person is determined to not be free of any controlled substance during the 60-day period, the person's eligibility for benefits pursuant to this paragraph shall be terminated; except that this provision shall not apply to the use of methadone by a person who is actively participating in a drug treatment program, as prescribed by the drug treatment program. The commissioner, in consultation with the Commissioner of Health and Senior Services, shall adopt regulations to carry out the provisions of this paragraph, which shall include the criteria for determining active participation in and completion of a drug treatment program.

Cash benefits, less a personal needs allowance, for a person receiving benefits under the Work First New Jersey program who is enrolled in and actively participating in a licensed residential drug treatment program shall be issued directly to the drug treatment provider to offset the cost of treatment. Upon completion of the drug treatment program, the cash benefits shall be then issued to the person. In the case of a delay in issuing cash benefits to a person receiving Work First New Jersey benefits who has completed the drug treatment program, the drug treatment provider shall transmit to the person those funds received on behalf of that person after completion of the drug treatment program;

(8) a person found to have fraudulently misrepresented his residence in order to obtain means-tested, public benefits in two or more states or jurisdictions, who shall be ineligible for benefits for a period of 10 years from the date of conviction in a federal or state court; or

(9) a person who intentionally makes a false or misleading statement or misrepresents, conceals or withholds facts for the purpose of receiving benefits, who shall be ineligible for benefits for a period of six months for the first violation, 12 months for the second violation, and permanently for the third violation.

c. A person who makes a false statement with the intent to qualify for benefits and by reason thereof receives benefits for which the person is not eligible is guilty of a crime of the fourth degree.

C.44:10-48.1 Eligibility for food stamps and medical services for certain drug offenders.

3. a. Notwithstanding any other provision of law to the contrary, a person convicted of any offense that has as an element the distribution of a controlled substance as defined in section 102(6) of the federal "Controlled Substances Act" (21 U.S.C.s.802 (6)), who meets the eligibility criteria for WFNJ-GA or WFNJ-

TANF benefits may receive food stamp benefits under the federal "Food Stamp Act of 1977," Pub.L.95-113 (7 U.S.C. s.2011 et seq.). Eligibility for food stamps shall be determined by the department and may continue upon the completion of a licensed residential drug treatment program.

b. Notwithstanding any other provision of law to the contrary, a person convicted of any offense that has as an element the distribution of a controlled substance as defined in section 102(6) of the federal "Controlled Substances Act" (21 U.S.C.s.802 (6)), who meets the eligibility criteria for WFNJ-GA benefits may receive medical services only. The medical services shall not exceed benefits offered in the WFNJ-GA program. Access to these medical services is limited to the time a person is receiving treatment in a licensed residential drug treatment program.

c. Eligibility for benefits under subsection a. or b. of this section shall commence upon the person's enrollment in the drug treatment program, and shall continue during the person's active participation in, and upon completion of, the drug treatment program, except that during a person's active participation in a drug treatment program and the first 60 days after completion of a drug treatment program, the commissioner shall provide for testing of the person to determine if the person is free of any controlled substance. If the person is determined to not be free of any controlled substance during the 60-day period, the person's eligibility for benefits pursuant to this section shall be terminated; except that this provision shall not apply to the use of methadone by a person who is actively participating in a drug treatment program, as prescribed by the drug treatment program. The Commissioner of Human Services, in consultation with the Commissioner of Health and Senior Services, shall adopt regulations to carry out the provisions of this section, which shall include the criteria for determining active participation in and completion of a drug treatment program.

d. As used in this section:

"WFNJ-GA" means Work First New Jersey benefits provided to an assistance unit composed of a single person without dependent children or a couple without dependent children pursuant to P.L.1997, c.38 (C.44:10-55 et seq.); and

"WFNJ-TANF" means Work First New Jersey benefits provided to an assistance unit composed of dependent children only, or a person or couple with one or more dependent children who are legally or blood-related, or who is their legal guardian, and who live together as a household unit pursuant to P.L.1997, c.38 (C.44:10-55 et seq.).

4. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 428

AN ACT concerning retirement benefits for members of the Police and Firemen's Retirement System of New Jersey, amending various parts of the statutory law and supplementing P.L.1944, c.255.

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

1. Section 1 of P.L.1944, c.255 (C.43:16A-1) is amended to read as follows:

C.43:16A-1 Definitions relative to Police and Firemen's Retirement System.

1. As used in this act:

(1) "Retirement system" or "system" shall mean the Police and Firemen's Retirement System of New Jersey as defined in section 2 of this act.

(2) (a) "Policeman" shall mean a permanent, full-time employee of a law enforcement unit as defined in section 2 of P.L.1961, c.56 (C.52:17B-67) or the State, other than an officer or trooper of the Division of State Police whose position is covered by the State Police Retirement System, whose primary duties include the investigation, apprehension or detention of persons suspected or convicted of violating the criminal laws of the State and who:

(i) is authorized to carry a firearm while engaged in the actual performance of his official duties;

(ii) has police powers;

(iii) is required to complete successfully the training requirements prescribed by P.L.1961, c.56 (C.52:17B-66 et seq.) or comparable training requirements as determined by the board of trustees; and

(iv) is subject to the physical and mental fitness requirements applicable to the position of municipal police officer established by an agency authorized to establish these requirements on a Statewide basis, or comparable physical and mental fitness requirements as determined by the board of trustees.

The term shall also include an administrative or supervisory employee of a law enforcement unit or the State whose duties include general or direct supervision of employees engaged in investigation, apprehension or detention activities or training responsibility for these employees and a requirement for engagement in investigation, apprehension or detention activities if necessary, and who is authorized to carry a firearm while in the actual performance of his official duties and has police powers.

(b) "Fireman" shall mean a permanent, full-time employee of a firefighting unit whose primary duties include the control and extinguishment of fires and who is subject to the training and physical and mental fitness requirements applicable to the position of municipal firefighter established by an agency authorized to establish these requirements on a Statewide basis, or comparable training and physical and mental fitness requirements as determined by the board of trustees. The term shall also include an administrative or supervisory employee of a firefighting unit whose duties include general or direct supervision of employees engaged in fire control and extinguishment activities or training responsibility for these employees and a requirement for engagement in fire control and extinguishment activities if necessary. As used in this paragraph, "firefighting unit" shall mean a municipal fire department, a fire district, or an agency of a county or the State which is responsible for control and extinguishment of fires.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system pursuant to this amendatory and supplementary act, P.L.1989, c.204 (C.43:16A-15.6 et al.).

(4) "Board of trustees" or "board" shall mean the board provided for in section 13 of this act.

(5) "Medical board" shall mean the board of physicians provided for in section 13 of this act.

(6) "Employer" shall mean the State of New Jersey, the county, municipality or political subdivision thereof which pays the particular policeman or fireman.

(7) "Service" shall mean service as a policeman or fireman paid for by an employer.

(8) "Creditable service" shall mean service rendered for which credit is allowed as provided under section 4 of this act.

(9) "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

(10) "Aggregate contributions" shall mean the sum of all the amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity savings fund.

(11) "Annuity" shall mean payments for life derived from the aggregate contributions of a member.

(12) "Pension" shall mean payments for life derived from contributions by the employer.

(13) "Retirement allowance" shall mean the pension plus the annuity.

(14) "Earnable compensation" shall mean the full rate of the salary that would be payable to an employee if he worked the full normal working time for his position. In cases where salary includes maintenance, the retirement system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

(15) "Average final compensation" shall mean the average annual salary upon which contributions are made for the three years of creditable service immediately preceding his retirement or death, or it shall mean the average annual salary for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

(16) "Retirement" shall mean the termination of the member's active service with a retirement allowance granted and paid under the provisions of this act.

(17) "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(18) "Pension reserve" shall mean the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(19) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(20) "Beneficiary" shall mean any person receiving a retirement allowance or other benefit as provided by this act.

(21) "Child" shall mean a deceased member's or retirant's unmarried child (a) under the age of 18, or (b) 18 years of age or older and enrolled in a secondary school, or (c) under the age of 24 and enrolled in a degree program in an institution of higher education for at least 12 credit hours in each semester, provided that the member died in active service as a result of an accident met in the actual performance of duty at some definite time and place, and the death was not the result of the member's willful misconduct, or (d) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

(22) "Parent" shall mean the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(23) "Widower" shall mean the man to whom a member or retirant was married on the date of her death and who has not remarried.

(24) "Widow" shall mean the woman to whom a member or retirant was married on the date of his death and who has not remarried.

(25) "Fiscal year" shall mean any year commencing with July 1, and ending with June 30, next following.

(26) "Compensation" shall mean the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular workday.

(27) "Department" shall mean any police or fire department of a municipality or a fire department of a fire district located in a township or a county police or park police department or the appropriate department of the State or instrumentality thereof.

(28) "Final compensation" means the compensation received by the member in the last 12 months of creditable service preceding his retirement or death.

(29) (Deleted by amendment, P.L.1992, c.78).

(30) (Deleted by amendment, P.L.1992, c.78).

2. Section 5 of P.L.1944, c.255 (C.43:16A-5) is amended to read as follows:

C.43:16A-5 members 55 years old; 65 years old; allowance; death benefits.

5. (1) Any member in service who has attained age 55 years may retire on a service retirement allowance upon filing a written and duly executed application to the retirement system, setting forth at what time, not less than one month subsequent to the filing thereof, he desires to be retired. Any member in service who attains age 65 years shall be retired on a service retirement allowance forthwith on the first day of the next calendar month.

(2) Upon retirement for service a member shall receive a service retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his aggregate contributions and

(b) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of one-sixtieth of his

average final compensation multiplied by the number of years of his creditable service, or 2% of his average final compensation multiplied by the number of years of his creditable service up to 30 plus 1% of his average final compensation multiplied by the number of years of creditable service over 30, or 50% of his final compensation if the member has established 20 or more years of creditable service, whichever is greater.

(3) Any member of the retirement system as of the effective date of P.L.1999, c.428 who has 20 or more years of creditable service at the time of retirement shall be entitled to receive a retirement allowance equal to 50% of the member's final compensation plus, in the case of a member required to retire pursuant to the provisions of subsection (1) of this section, 3% of final compensation multiplied by the number of years of creditable service over 20 but not over 25.

(4) Upon the receipt of proper proofs of the death of a member who has retired on a service retirement allowance, there shall be paid to his beneficiary an amount equal to one-half of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

3. Section 6 of P.L.1944, c.255 (C.43:16A-6) is amended to read as follows:

C.43:16A-6 members with four years of service, ordinary disability allowance, death benefits.

6. (1) Upon the written application by a member in service, by one acting in his behalf or by his employer, any member, under 55 years of age, who has had four or more years of creditable service may be retired on an ordinary disability retirement allowance; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the performance of his usual duty and of any other available duty in the department which his employer is willing to assign to him and that such incapacity is likely to be permanent and to such an extent that he should be retired.

(2) Upon retirement for ordinary disability, a member shall receive an ordinary disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his aggregate contributions and

(b) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 1 1/2 % of final compensation multiplied by his number of years of creditable service but in no event shall the total allowance be less than 40% of the member's final compensation.

(3) Notwithstanding the provisions of subsection (2) of this section, a member who has more than 20 but less than 25 years of creditable service

and who is required to retire upon application by the employer on or after the effective date of P.L.1999, c.428, shall receive an ordinary disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of the member's aggregate contributions; and

(b) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 50% of final compensation plus 3% of final compensation multiplied by the number of years of creditable service over 20 but not over 25.

(4) Upon the receipt of proper proofs of the death of a member who has retired on an ordinary disability retirement allowance, there shall be paid to such member's beneficiary, 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; provided, however, that if such death shall occur after the member shall have attained 55 years of age the amount payable shall equal 1/2 of such compensation instead of 3 1/2 times such compensation.

4. Section 8 of P.L.1944, c.255 (C.43:16A-8) is amended to read as follows:

C.43:16A-8 Medical exam; report of medical board; restoration to active service.

8. (1) Upon the receipt by the retirement system of a written application for a disability retirement allowance, the system shall refer the application to the medical board, which shall designate a physician or physicians to examine the applicant and the report of the medical board shall be considered by the board of trustees in acting upon such application.

(2) Any beneficiary under the age of 55 years who has been retired on a disability retirement allowance under this act, on his request shall, or upon the request of the retirement system may, be given a medical examination and he shall submit to any examination by a physician or physicians designated by the medical board once a year for at least a period of five years following his retirement in order to determine whether or not the disability which existed at the time he was retired has vanished or has materially diminished. If the report of the medical board shall show that such beneficiary is able to perform either his former duty or any other available duty in the department which his employer is willing to assign to him, the beneficiary shall report for duty; such a beneficiary shall not suffer any loss of benefits while he awaits his restoration to active service. If the beneficiary fails to submit to any such medical examination or fails to return to duty within 10 days after being ordered so to do, or within such further

time as may be allowed by the board of trustees for valid reason, as the case may be, the pension shall be discontinued during such default.

(3) (Deleted by amendment.)

(4) If a disability beneficiary is restored to active service, his retirement allowance and the right to any death benefit as a result of his former membership, shall be canceled until he again retires.

Such person shall be reenrolled in the retirement system and shall contribute thereto at a rate based on his age at the time of prior enrollment. Such person shall be treated as an active member for determining disability or death benefits while in service.

Upon subsequent retirement of such member, he shall receive a retirement allowance based on all his service as a member computed in accordance with applicable provisions of this act, but the total retirement allowance upon subsequent retirement shall not be a greater proportion of his average final compensation or final compensation, whichever is applicable, than the proportion to which he would have been entitled had be remained in service during the period of his prior retirement. Any death benefit to which such member shall be eligible shall be based on his latest retirement.

5. 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 widow or widower a pension of 50% of final compensation for the use of himself or herself and children of the deceased member, to continue during his or her widowhood; if there is no surviving widow or widower or in the case the widow or widower dies or remarries, 20% of final compensation will be payable to one surviving child, 35% of final compensation to two surviving children in equal shares and if there be three or more children, 50% of final compensation will be payable to such children in equal shares.

In the event of death occurring in the first year of creditable service, the benefits, payable pursuant to this subsection, shall be computed at the annual rate of compensation.

If there is no widow or widower or child, 25% of final compensation will be payable to one surviving parent or 40% of final compensation will be payable to two surviving parents in equal shares.

(2) If there is no widow or widower, child or parent, there shall be paid to any other beneficiary of the deceased member his or her aggregate contributions at the time of death.

(3) In no case shall the death benefit provided in subsection (1) be less than that provided under subsection (2).

(4) In addition to the foregoing benefits payable under subsection (1) or (2), there shall also be paid in one sum to the member's beneficiary, an amount equal to 3 1/2 times final compensation.

(5) 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.

6. Section 17 of P.L.1964, c.241 (C.43:16A-11.2) is amended to read as follows:

C.43:16A-11.2 Separation from service before 55 with 10 years of creditable service; election of retirement allowance, restoration to service.

17. Should a member, after having established 10 years of creditable service, be separated voluntarily or involuntarily from the service, before reaching age 55, and not by removal for cause on charges of misconduct or delinquency, such person may elect to receive the payments provided for in section 11 of P.L.1944, c. 255 or section 16 of P.L.1964, c. 241, or a deferred retirement allowance, beginning on the first day of the month following his attainment of age 55 and the filing of an application therefor, which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his aggregate contributions at the time of his severance from the service and

(2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 2% of the member's final compensation multiplied by the number of years of creditable service up to 30 plus 1% of final compensation multiplied by the number of years of creditable service over 30, provided that such inactive member may elect to receive payments provided under section 11 of P.L.1944, c.255 or section 16 of P.L.1964, c. 241 if the member had qualified under that section at the time of leaving service, except that in order to avail himself or herself of the option, the member must exercise such option at least 30 days before the effective date of retirement. If such inactive member shall die before attaining age 55, the member's aggregate contributions shall be paid in accordance with section 11 of P.L.1944, c.255 and, in addition if such inactive member shall die after attaining age 55 but before filing an application for retirement benefits pursuant to this section or section 16 of P.L.1964, c.241 and has not withdrawn his or her aggregate contributions, or in the event of death after retirement, an amount equal to one-half of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service shall be paid to such member's beneficiary.

Any member who, having elected to receive a deferred retirement allowance, again becomes an employee covered by the retirement system while under the age of 55, shall thereupon be reenrolled. If he had discontinued his service for more than two consecutive years, subsequent contributions shall be at his former rate increased for the years of his inactive membership. He shall be credited with all service as a member standing to his credit at the time of his election to receive a deferred retirement allowance.

7. Section 26 of P.L.1967, c.250 (C.43:16A-12.1) is amended to read as follows:

C.43:16A-12.1 Survivors' benefits.

26. a. Upon the death after retirement of any member of the retirement system there shall be paid to the member's widow or widower a pension of 50% of final compensation for the use of herself or himself, to continue during her or his widowhood, plus 15% of such compensation payable to one surviving child or an additional 25% of such compensation to two or more children; if there is no surviving widow or widower or in case the widow or widower dies or remarries, 20% of final compensation will be payable to one surviving child, 35% of such compensation to two surviving children in equal shares and if there be three or more children, 50% of such compensation would be payable to such children in equal shares.

b. The increased pension benefits payable under this act shall apply only to cases where such policeman or fireman retires on or after December 18, 1967 and shall not affect pensions paid or to be paid as a result of retirements occurring prior to said date. The increased pension benefits payable under this subsection of this 1991 amendatory and supplementary act shall apply only to pension benefits payable on or after the effective date of this 1991 amendatory and supplementary act, P.L.1991, c.511 (C.43:3B-8.4 et al.).

c. As of the effective date of this 1991 amendatory and supplementary act, P.L.1991, c.511 (C.43:3B-8.4 et al.), all widows' and widowers' pensions previously granted or to be granted pursuant to the provisions of subsection a. of this section or section 10 of chapter 255 of the laws of 1944, as amended, and all such pensions previously granted, or to be granted where retirement for accidental disability occurred prior to December 18, 1967, pursuant to the provisions of section 7(3) of chapter 255 of the laws of 1944 prior to the amendment of that section by P.L.1967, c.250, will be subject to a minimum, annual, aggregate payment of $4,500. The increased pension benefits payable under this subsection of this 1991 amendatory and supplementary act shall apply only to pension benefits payable on or after the effective date of this 1991 amendatory and supplementary act, P.L.1991, c.511 (C.43:3B-8.4 et al.).

d. The State shall reimburse local governments for additional pension costs arising from any increase in the annual pension payable to a widow or widower pursuant to this section of this 1991 amendatory and supplementary act, P.L.1991, c.511 (C.43:3B-8.4 et al.).

8. Section 20 of P.L.1971, c.175 (C.43:16A-15.3) is amended to read as follows:

C.43:16A-15.3 Reemployment of retiree; cancellation of benefits; reenrollment.

20. If a former member of the retirement system who has been granted a retirement allowance for any cause other than disability, becomes employed

again in a position which makes him eligible to be a member of the retirement system, his retirement allowance and the right to any death benefit as a result of his former membership, shall be canceled until he again retires.

Such person shall be reenrolled in the retirement system and shall contribute thereto at a rate based on his age at the time of reenrollment. Such person shall be treated as an active member for determining disability or death benefits while in service. Upon subsequent retirement of such member, his former retirement allowance shall be reinstated based on his former membership. In addition, he shall receive an additional retirement allowance based on his subsequent service as a member computed in accordance with applicable provisions of this chapter; provided, however, that his total retirement allowance upon such subsequent retirement shall not be a greater proportion of his average final compensation or final compensation, whichever is applicable, than the proportion to which he would have been entitled had he remained in service during the period of his prior retirement. Any death benefit to which such member shall be eligible shall be based on his latest retirement, but shall not be less than the death benefit that was applicable to his former retirement.

C.43:16A-15.8 Liability of the State for costs of P.L.1999, c.428 amendments.

9. The State shall be liable for all costs to the retirement system attributable to any increase in benefits pursuant to the amendatory provisions of P.L.1999, c.428, and no adjustment in the normal or accrued liability contribution of employers under the system shall be made in respect of such costs. The State shall pay the liability as follows:

a. At the time of a member's retirement from the retirement system, the retirement system shall compute, in the case of a retirant under the provisions of section 5 or section 6 of P.L.1944, c.255 (C.43:16A-5 or -6) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) as amended, respectively, by section 2, section 3 and section 6 of P.L.1999, c.428, the actuarial present value of the member's retirement allowance, and in the case of any retirant, the actuarial present value of any survivorship benefit payable with respect to the retirant under the provisions of section 9 of P.L.1944, c.255 (C.43:16A-9) or section 26 of P.L.1967, c.250 (C.43:16A-12.1) as amended, respectively, by section 5 and section 7 of P.L.1999, c.428. If the actuarial present value of the survivorship benefit plus, if appropriate, the actuarial present value of the retirement allowance exceeds the total of the accumulated employee and employer contributions, plus interest, attributable to the member's service (reduced, in the case of a person retiring other than under the provisions of section 5 or section 6 of P.L.1944, c.255 (C.43:16A-5 or -6) or section 17 of P.L.1964, c.241 (C.43:16A-11.2), by the actuarial present value of the member's retirement allowance), the State

shall pay to the retirement system, not later than the 90th day following the member's retirement, the amount of the difference.

b. Upon the death of a member of the retirement system in active service, or of a former member of the retirement system who shall have retired prior to the effective date of P.L.1999, c.428, the retirement system shall compute the actuarial present value, as of the date of the former member's death, of any survivorship benefit payable with respect to the retirant under the provisions of section 9 of P.L.1944, c.255 (C.43:16A-9) or section 26 of P.L.1967, c.250 (C.43:16A-12.1) as amended, respectively, by section 5 and section 7 of P.L.1999, c.428. If the actuarial present value of the survivorship benefit exceeds the present value, as of the date of death, of that portion of the total of the accumulated employee and employer contributions (including interest) attributable to the member's service that represents the reserve established to fund the survivorship benefit provided under those respective sections, then the State shall pay to the retirement system, not later than the 90th day following the former member's death, the amount of the difference.

10. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 429

AN ACT concerning criminal penalties and amending P.L.1997, c.182.

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

1. Section 2 of P.L.1997, c.182 (C.2C:12-13) is amended to read as follows:

C.2C:12-13 Throwing bodily fluid at certain law enforcement officers deemed aggravated assault; grading, sentence.

2. A person who throws a bodily fluid at a Department of Corrections employee, county corrections officer, juvenile corrections officer, juvenile detention staff member, any sheriff, undersheriff or sheriff's officer or any municipal, county or State law enforcement officer while in the performance of his duties or otherwise purposely subjects such employee to contact with a bodily fluid commits an aggravated assault. If the victim suffers bodily injury, this shall be a crime of the third degree. Otherwise,

this shall be a crime of the fourth degree. A term of imprisonment imposed for this offense shall run consecutively to any term of imprisonment currently being served and to any other term imposed for another offense committed at the time of the assault. Nothing herein shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for a violation or attempted violation of chapter 11 of Title 2C of the New Jersey Statutes or subsection b. of N.J.S.2C:12-1 or any other provision of the criminal laws.

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 430

AN ACT concerning railroads and amending and supplementing Title 48 of the Revised Statutes.

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

1. R.S.48:12-57 is amended to read as follows:

Safety measure for locomotives; penalties; "supplementary safety measure" defined; limitations.

48:12-57. a. Every railroad company shall place on each engine a bell weighing not less than 30 pounds which shall be rung continuously in approaching a grade crossing of a highway, beginning at a distance of at least 300 yards from the crossing and continuing until the engine has crossed such highway, or a whistle or horn operated by steam, air or electricity, which shall be sounded, except in cities, at least 300 yards from the crossing and at intervals until the engine has crossed the highway.

For every default the company operating such road shall pay a penalty of $100.00 to be sued for by any informer within 10 days after such penalty was incurred, 1/2 to go to the informer and 1/2 to the county wherein such default occurred. Nothing herein shall take away any remedy for such neglect from any person injured thereby.

Upon application from the governing body of a county or municipality in which a grade crossing is located, the Commissioner of Transportation may, in his discretion, exempt railroad companies from observing the provisions of this section with respect to grade crossings in that county or municipality employing supplementary safety measures which have been approved by the

Federal Railroad Administration or the Secretary of Transportation of the United States pursuant to 49 U.S.C.s. 20153 as fully compensating for the absence of the warning provided by the locomotive horn and which have received a waiver or exemption under 49 U.S.C.s. 20153(d).

As used in this act, "supplementary safety measure" means a safety system or procedure, provided by the appropriate traffic control authority or law enforcement authority responsible for safety at the highway-rail grade crossing, that is determined by the Secretary of Transportation of the United States to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties. A traffic control arrangement that prevents careless movement over the crossing, for example, as where adequate median barriers prevent movement around crossing gates extending over the full width of the lanes in the particular direction of travel, and that conforms to standards prescribed by the Secretary, shall be deemed to constitute a supplementary safety measure. However, the following do not, individually, or in combination, constitute supplementary safety measures: standard traffic control devices or arrangements such as reflectorized crossbucks, stop signs, flashing lights, flashing lights with gates that do not completely block travel over the line of railroad, or traffic signals.

b. With respect to that portion of a rail passenger line located in a county of the second class having a population between 420,000 and 425,000, according to the most recent federal decennial census, running between a municipality having a population between 15,100 and 15,125, according to the most recent federal decennial census, and a municipality having a population between 19,940 and 19,965, according to the most recent federal decennial census, upon application of a municipality in which a grade crossing of such line is located, the Commissioner of Transportation shall require that a railroad company or entity providing rail passenger service not sound a whistle or horn in that municipality between the hours of 7:00 p.m. and 7:00 a.m., but instead require that a bell weighing not less than 30 pounds be rung between such hours at such grade crossing location as required by subsection a. of this section, except that notwithstanding this requirement an operator shall not be subject to a penalty for sounding a whistle or horn in an emergency.

c. With respect to that portion of a rail passenger line located in a county of the first class having a population more than 825,000, according to the most recent federal decennial census, running through a municipality having a population between 30,530 and 30,560, according to the most recent federal decennial census, a municipality having a population between 9,850 and 9,900, according to the most recent federal decennial census, a municipality having a population between 10,870 and 10,900, according to the most recent federal decennial census, a municipality having a population

between 3,900 and 3,950, according to the most recent federal decennial census, a municipality having a population between 17,890 and 17,920, according to the most recent federal decennial census, a municipality having a population between 7,030 and 7,060, according to the most recent federal decennial census, a municipality having a population between 11,980 and 12,020, according to the most recent federal decennial census, a municipality having a population between 24,140 and 24,170, according to the most recent federal decennial census, a municipality having a population between 9,755 and 9,760, according to the most recent federal decennial census, a municipality having a population between 9,230 and 9,260, according to the most recent federal decennial census, and a municipality having a population between 15,360 and 15,400, according to the most recent federal decennial census, upon application of a municipality in which a grade crossing of such line is located, the Commissioner of Transportation shall require that a railroad company or entity providing rail passenger service not sound a whistle or horn in that municipality between the hours of 7:00 p.m. and 7:00 a.m., but instead require that a bell weighing not less than 30 pounds be rung between such hours at any such grade crossing location, except that notwithstanding this requirement, an operator shall not be subject to a penalty for sounding a whistle or horn in an emergency.

C.48:12-57.1 Pilot demonstration program for supplementary safety measures.

2. The Commissioner of Transportation may immediately proceed with a pilot demonstration program implementing the use of potential supplementary safety measures, in anticipation of the adoption of federal regulations establishing supplementary safety measures, for the purpose of studying the effectiveness of such measures at a limited number of grade crossings within the State, not to exceed 10 in total. The study, conducted pursuant to the pilot demonstration program, shall consider traffic and operational data, accident information, quality of life considerations, and overall safety at the selected grade crossings. The pilot demonstration program shall be carried out in consultation with the Federal Railroad Administration and the freight and passenger railroads selected for the program. The grade crossings selected for the pilot demonstration program shall be at the discretion of the Commissioner of Transportation.

3. Section 1 of this act shall take effect upon the effective date of regulations promulgated by the Secretary of Transportation pursuant to section 20153 of Title 49, United States Code (49 U.S.C. s.20153) and section 2 of this act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 431

AN ACT concerning the payment of the cost of health benefits coverage for certain local government retirees and supplementing Title 40A of the New Jersey Statutes.

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

C.40A:10-23.4 Paid health benefits for certain local government retirees.

1. An employer that has established a health insurance plan covering employees in and retirants from the service of the employer, and their dependents, may assume the entire cost of health benefits coverage during retirement for any retiree, and the retiree's dependents, if (1) the retiree 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 and (2) the employer paid the entire cost of such coverage for the retiree prior to June 26, 1995, the effective date of P.L.1995, c.136.

2. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 432

AN ACT concerning criminal history record background checks of employees and volunteers of nonprofit youth serving organizations 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.15A:3A-1 Definitions relative to criminal history background checks for employees, volunteers of youth serving organizations.

1. As used in this act:

"Criminal history record background check" means a determination of whether a person has a criminal record by cross-referencing that person's name and fingerprints with those on file with the Federal Bureau of Investigation, Identification Division and the State Bureau of Identification in the Division of State Police.

"Department" means the Department of Law and Public Safety.

"Nonprofit youth serving organization" or "organization" means a corporation, association or other organization established pursuant to Title 15 of the Revised Statutes, Title 15A of the New Jersey Statutes, or other law of this State, but excluding public and nonpublic schools, and which provides recreational, cultural, charitable, social or other activities or services for persons younger than 18 years of age, and is exempt from federal income taxes.

C.15A:3A-2 Youth serving organization request for criminal background check; costs.

2. a. A nonprofit youth serving organization may request, through the department, that the State Bureau of Identification in the Division of State Police conduct a criminal history record background check on each prospective and current employee or volunteer of the organization.

b. For the purpose of conducting the criminal history record background check, the division shall examine its own files and arrange for a similar examination by federal authorities. The division shall inform the department whether the person's criminal history record background check reveals a conviction of a disqualifying crime or offense as specified in section 3 of this act.

c. The division shall conduct a criminal history record background check only upon receipt of the written consent to the check of the prospective or current employee or volunteer.

d. The organization or the prospective or current employee or volunteer shall bear the costs associated with conducting criminal history background checks. Notwithstanding any law or regulation to the contrary, the department shall not charge a fee for a criminal history record background check that exceeds the actual cost of conducting that check, as determined by the Attorney General. The Attorney General shall annually certify to the State Treasurer the cost per criminal history background check in the immediately preceding year.

C.15A:3A-3 Conditions under which person is disqualified from service.

3. A person may be disqualified from serving as an employee or volunteer of a nonprofit youth serving organization if that person's criminal history record background check reveals a record of conviction of any of the following crimes and offenses:

a. In New Jersey, any crime or disorderly persons offense:

(1) involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.;

(2) against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et seq.;

(3) involving theft as set forth in chapter 20 of Title 2C of the New Jersey Statutes;

(4) involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10.

b. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in subsection a. of this section.

C.15A:3A-4 Submissions, exchange of background check information.

4. a. Prospective or current employees and volunteers of nonprofit youth serving organizations shall submit their name, address, fingerprints and written consent to the organization for the criminal history record background check to be performed. The organization shall supply this documentation to the Attorney General, who shall coordinate the background check.

b. The Attorney General is authorized to exchange fingerprint data with, and receive criminal history record information for use by nonprofit youth serving organizations from the Federal Bureau of Investigation, Identification Section and the Division of State Police, Bureau of Identification and such other law enforcement agencies and jurisdictions as may be necessary for the purposes of this act.

c. The department shall act as a clearinghouse for the collection and dissemination of information obtained as a result of conducting criminal history record background checks pursuant to this act.

C.15A:3A-5 Rules, regulations.

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 concerning access to and dissemination of information obtained as a result of conducting a criminal history record background check.

6. This act shall take effect 90 days following enactment.

Approved January 18, 2000.

CHAPTER 433

AN ACT concerning domestic violence training for law enforcement officers,,amending P.L.1991, c.261 and making an appropriation.

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

1. Section 4 of P.L.1991, c.261 (C.2C:25-20) is amended to read as follows:

C.2C:25-20 Development of training course; curriculum.

4. a. (1) The Division of Criminal Justice shall develop and approve a training course and curriculum on the handling, investigation and response procedures concerning reports of domestic violence and abuse and neglect of the elderly and disabled. This training course and curriculum shall be reviewed at least every two years and modified by the Division of Criminal Justice from time to time as need may require. The Division of Criminal Justice shall distribute the curriculum to all local police agencies.

(2) The Attorney General shall be responsible for ensuring that all law enforcement officers attend initial training within 90 days of appointment or transfer and annual inservice training of at least four hours as described in this section.

b. (1) The Administrative Office of the Courts shall develop and approve a training course and a curriculum on the handling, investigation and response procedures concerning allegations of domestic violence. This training course shall be reviewed at least every two years and modified by the Administrative Office of the Courts from time to time as need may require.

(2) The Administrative Director of the Courts shall be responsible for ensuring that all judges and judicial personnel attend initial training within 90 days of appointment or transfer and annual inservice training as described in this section.

(3) The Division of Criminal Justice and the Administrative Office of the Courts shall provide that all training on the handling of domestic violence matters shall include information concerning the impact of domestic violence on society, the dynamics of domestic violence, the statutory and case law concerning domestic violence, the necessary elements of a protection order, policies and procedures as promulgated or ordered by the Attorney General or the Supreme Court, and the use of available community resources, support services, available sanctions and treatment options. Law enforcement agencies shall: (1) establish domestic crisis teams or participate in established domestic crisis teams, and (2) shall train individual officers in methods of dealing with domestic violence and neglect and abuse of the elderly and disabled. The teams may include social workers, clergy or other persons trained in counseling, crisis intervention or in the treatment of domestic violence and neglect and abuse of the elderly and disabled victims.

2. There is appropriated $250,000 from the General Fund to the Department of Community Affairs for the purpose of reimbursing local law enforcement agencies for the costs of implementing the training required by this act.

3. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 434

AN ACT concerning local unit insurance funds and amending N.J.S.40A:10-6 and P.L.1983, c.372.

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

1. N.J.S.40A:10-6 is amended to read as follows:

Establishment of insurance fund; appropriations.

40A:10-6. The governing body of any local unit may establish an insurance fund for the following purposes:

a. To insure against any loss or damage however caused to any property, motor vehicles, equipment or apparatus owned by it, or owned by or under the control of any of its departments, boards, agencies or commissions;

b. To insure against liability resulting from the use or operation of motor vehicles, equipment or apparatus owned by or controlled by it, or owned by or under the control of any of its departments, boards, agencies or commissions;

c. To insure against liability for its negligence and that of its officers, employees and servants, whether or not compensated or part-time, who are authorized to perform any act or services, but not including an independent contractor within the limitations of the "New Jersey Tort Claims Act" (N.J.S.59:1-1 et seq.); and

d. To insure against any loss or damage from liability as established by chapter 15 of Title 34 of the Revised Statutes.

The governing body may appropriate the moneys necessary for the purposes of this section.

2. Section 1 of P.L.1983, c.372 (C.40A:10-36) is amended to read as follows:

C.40A:10-36 Joint insurance fund; definitions.

1. a. The governing body of any local unit, including any contracting unit as defined in section 2 of P.L.1971, c.198 (C.40A:11-2), may by resolution agree to join together with any other local unit or units to establish a joint insurance fund for the purpose of insuring against liability, property damage, and workers' compensation as provided in Articles 3 and 4 of chapter 10 of Title 40A of the New Jersey Statutes, insuring against loss or theft of moneys or securities, providing blanket bond coverage of certain county or municipal officers and employees for faithful performance and discharge of their duties as provided under section 1 of P.L.1967, c.283 (C.40A:5-34.1), insuring against bodily injury and property damage claims arising from environmental impairment liability and legal representation therefor to the extent that such coverages, as approved by the Commissioner of Banking and Insurance, are provided by the purchase of insurance and no risk is retained by the fund, providing contributory or non-contributory group health insurance or group term life insurance, or both, to employees or their dependents or both, through self insurance, the purchase of commercial insurance or reinsurance, or any combination thereof, and insuring against any loss from liability associated with sick leave payment for service connected disability as provided by N.J.S.18A:30-2.1, and may appropriate such moneys as are required therefor. 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 more if approved by the Commissioners of Banking and Insurance and Community Affairs. As used in this subsection: (1) "life insurance" means life insurance as defined pursuant to N.J.S.17B:17-3; (2) "health insurance" means health insurance as defined pursuant to N.J.S.17B:17-4 or service benefits as provided by health service corporations, hospital service corporations or medical service corporations authorized to do business in this State; and (3) "dependent" means dependent as defined pursuant to N.J.S.40A:10-16.

b. The governing body of any local unit, including any contracting unit as defined in section 2 of P.L.1971, c.198 (C.40A:11-2), may by resolution agree to join together with any other local unit or units to establish a joint insurance fund for the sole purpose of insuring against bodily injury and property damage claims arising from environmental impairment liability and legal representation therefor to the extent and for coverages approved by the Commissioner of Banking and Insurance.

3. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 435

AN ACT concerning school board joint insurance funds and amending 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 its 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 Banking and 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;

g. Loss from liability associated with sick leave payment for service connected disability as provided by N.J.S.18A:30-2.1;

h. Any loss or damage from liability resulting from loss or theft of money or securities;

i. Blanket bond coverage for certain school board officers, employees, and volunteer organizations serving a school board for faithful performance and discharge of their duties;

j. Bodily injury and property damage claims arising from environmental impairment liability and legal representation therefor to the extent that such coverages, as approved by the Commissioner of Banking and Insurance, are provided by the purchase of insurance and no risk is retained by the fund; and

k. Student accident coverage to the extent approved by the Commissioner of Banking and Insurance.

As used in this section:

(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. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 436

AN ACT concerning unlicensed assistive personnel, amending P.L.1947, c.262, and supplementing Title 26 of the Revised Statutes.

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

1. Section 2 of P.L.1947, c.262 (C.45:11-24) is amended to read as follows:

C.45:11-24 The board; appointment; terms; qualifications; duties; compensation.

2. a. The board; appointment; terms. In addition to the members appointed to represent the interests of the public pursuant to P.L.1971, c.60 as amended by P.L.1977, c.285 (C.45:1-2.2) the New Jersey Board of Nursing shall consist of 10 members, six of whom shall be registered

professional nurses, two of whom shall be licensed practical nurses, one of whom shall be an advanced practice nurse, and one of whom shall be an additional public member, all to be appointed by the Governor. Appointments to the board shall be for terms of five years or for the unexpired portion of a term in the case of a vacancy for any cause within a term, and until a successor shall be appointed and qualified. In making appointments the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the various nurses' professional associations of this State. Upon notice and hearing, the Governor may remove from office any member of the board for neglect of duty, incompetency, unprofessional or dishonorable conduct.

b. Qualifications for appointment. The advanced practice nurse member shall be a resident of this State, shall be a graduate of an accredited advanced practice nurse program, shall have had at least five years' experience in professional nursing, shall at the time of appointment be actively working as an advanced practice nurse, and, except for the member first appointed, shall hold a certification as an advanced practice nurse pursuant to P.L.1991, c.377 (C.45:11-45 et al.). Each registered professional nurse member of the board shall be a citizen of the United States and a resident of this State; shall be a graduate of an accredited school of nursing within the United States; shall be a registered nurse in this State; shall have had at least five years' experience in professional nursing following graduation from an accredited school of nursing; and shall at the time of appointment be actively engaged in nursing or work relating thereto. The licensed practical nurse members of the board shall be citizens of the United States and residents of this State; shall hold a valid license to practice practical nursing in this State; shall have had at least three years' experience in practical nursing; and shall at the time of appointment be actively engaged in practical nursing or work related thereto.

c. Oath or affirmation of office. Within 30 days after receipt of the commission, each appointee shall take, subscribe and file in the office of the Secretary of State the oath or affirmation prescribed by law.

d. Duties and powers. The board shall have the following duties and powers: (1) It shall hold annual meetings and such other meetings as it may deem necessary at such times and places as the board shall prescribe and a majority of the board including one officer shall constitute a quorum. (2) It shall elect from its members and prescribe the duties of a president and secretary-treasurer, each of whom shall serve for one year and until a successor is elected. (3) It shall appoint and prescribe the duties of an executive secretary to the board who need not be a member thereof but who shall be a citizen of the United States, a graduate of a college or university with a major in nursing education, a registered nurse of this State with at

least five years' experience in teaching or administration or both in an accredited school of professional nursing, or have equivalent qualifications as determined by the board. The executive secretary shall hold office during the will and pleasure of the board. (4) It shall employ and prescribe the duties of such persons as in its judgment shall be necessary for the proper performance and execution of the duties and powers of the board. (5) It shall determine and pay reasonable compensation and necessary expenses of the executive secretary and all employees of the board. (6) It shall pay to each member of the board the compensation hereinafter provided. (7) It shall have a common seal, keep an official record of all its meetings, and through its secretary-treasurer report annually to the Governor the work of the board. (8) It shall examine applicants for a license or renewals thereof, issue, renew, revoke and suspend licenses, as hereinafter provided. (9) It shall in its discretion investigate and prosecute all violations of provisions of this act. (10) It shall keep an official record which shall show the name, age, nativity and permanent place of residence of each applicant and licensee and such further information concerning each applicant and licensee as the board shall deem advisable. The record shall show also whether the applicant was examined, licensed or rejected under this and any prior act. Copies of any of the entries of the record or of any certificate issued by the board may be authenticated by any member of the board under its seal and when so authenticated shall be evidence in all courts of this State of the same weight and force as the original thereof. For authenticating a copy of any entry or entries contained in its record the board shall be paid a fee of $3.00, but such authentication, if made at the request of any public agency of this or any other jurisdiction, may be without fee. (11) In its discretion it may publish at such times as it shall determine a list of nurses licensed under this act, a list of schools of nursing accredited or approved under this act, and such other information as it shall deem advisable. (12) It shall prescribe standards and curricula for schools of nursing and evaluate and approve courses for affiliation. (13) It shall hear and determine applications for accreditation of schools of professional nursing, conduct investigations before and after accreditation of such schools and institutions with which they are affiliated, and issue, suspend or revoke certificates of accreditation as hereinafter provided. (14) It shall approve schools of practical nursing which shall conform to the standards, curricula, and requirements prescribed by the board, and suspend or revoke approval for violations thereof; provided, that this power shall not extend to schools operated by any board of education in this State. (15) It may consult with the Medical Society of New Jersey and the New Jersey Hospital Association with respect to any matter relating to the administration of this act and shall consult with those associations with respect to standards and curricula and

any change thereof for schools of nursing. (16) It shall issue subpoenas for the attendance of witnesses and production of documents at any hearing before the board authorized by this act and any member of the board shall administer an oath or affirmation to persons appearing to give testimony at such hearings. (17) It may conduct any investigations, studies of nursing and nursing education and related matters, and prepare and issue such publications as in the judgment of the board will advance the profession of nursing and its service to the public. (18) It shall perform all other functions which are provided in this act to be performed by it or which in the judgment of the board are necessary or proper for the administration of this act. (19) It shall from time to time prescribe rules and regulations not inconsistent with this act. (20) It shall prescribe standards and curricula for homemaker-home health aide education and training programs which a homemaker-home health aide shall complete in order to work in this State. (21) It shall review applications to provide homemaker-home health aide training programs and shall issue, suspend or revoke program approval. (22) It shall establish and maintain a registry of all individuals who have successfully completed a homemaker-home health aide training and competency evaluation program. (23) It shall prescribe standards and requirements for a competency evaluation program resulting in certification of the homemaker-home health aide, and the renewal, revocation, and suspension of that certification. (24) It shall review applications for homemaker home-health aide certification and shall issue, suspend, revoke, or fail to renew certifications and conduct investigations pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.). (25) It shall require that nursing school curricula include, and shall prescribe standards for, the training of registered professional nurses in the supervision of, and the delegation of nursing tasks to, unlicensed assistive personnel, and shall further prescribe standards establishing the criteria for determining those tasks which registered professional nurses may delegate to unlicensed assistive personnel working under their supervision and the type of supervision required with respect to those personnel. (26) It shall prescribe standards and requirements for unlicensed assistive personnel, including initial education and continuing education and a competency evaluation program, which these personnel shall satisfy in order to work in this State. As used in this paragraph and in paragraph (25) of this subsection, "unlicensed assistive personnel" means any unlicensed or uncertified personnel employed by a licensed health care facility that perform nursing tasks which do not require the skill or judgment of a registered professional nurse and which are assigned to them by, and carried out under the supervision of, a registered professional nurse. (27) It may require licensees to meet continuing education requirements as a condition of relicensure.

e. Compensation. Each member of the board shall receive $15.00 per day for each day in which such member is actually engaged in the discharge of duties and traveling and other expenses necessarily incurred in the discharge of duties.

C.26:2H-12.15 Regulations on use of unlicensed assistive personnel.

2. a. The Commissioner of Health and Senior Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt regulations governing the use of unlicensed assistive personnel in licensed health care facilities, in consultation with at least the following: the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, the New Jersey Hospital Association, the New Jersey Association of Health Care Facilities, the Medical Society of New Jersey, and the New Jersey State Nurses Association.

As used in this section, "unlicensed assistive personnel" means any unlicensed or uncertified personnel employed by a licensed health care facility that perform nursing tasks which do not require the skill or judgment of a registered professional nurse and which are assigned to them by, and carried out under the supervision of, a registered professional nurse.

b. The regulations adopted pursuant to subsection a. of this section, shall require, at a minimum, that:

(1) unlicensed assistive personnel employed by a health care facility meet the standards and requirements for education and competency evaluation prescribed by the New Jersey Board of Nursing pursuant to paragraph (26) of subsection d. of section 2 of P.L.1947, c.262 (C.45:11-24); and

(2) a health care facility, prior to implementing the use of unlicensed assistive personnel, establish a multidisciplinary committee, including representation from registered professional nurses, physicians, administrative staff, and unlicensed assistive personnel, to evaluate the need for using these personnel, formulate and adopt a plan to implement their use, and monitor the implementation of the plan.

c. The plan for implementing the use of unlicensed assistive personnel pursuant to paragraph (2) of subsection b. of this section shall, at a minimum:

(1) require the use and specify the composition of multidisciplinary patient care teams operating under the plan;

(2) prescribe materials and protocols for the orientation and training of health care facility staff with respect to implementing the plan;

(3) provide for the periodic monitoring and evaluation of the use of unlicensed assistive personnel by the multidisciplinary committee established pursuant to subsection b. of this section; and

(4) require in-service training and educational programming for both registered professional nurses and unlicensed assistive personnel which

include subject matter relating to the delegation of nursing tasks to unlicensed assistive personnel and the supervision of these personnel by registered professional nurses.

3. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 437

AN ACT concerning the New Jersey State Museum, amending N.J.S.18A:73-20 and supplementing P.L.1948, c.445 (C.52:16A-1 et seq.), and repealing parts of the statutory law.

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

C.52:16A-60 New Jersey State Museum.

1. There is hereby established in the Department of State the New Jersey State Museum. The purpose of the New Jersey State Museum shall be to collect, preserve, and interpret the cultural and natural history of New Jersey in a national and world context to visitors of all ages and diverse backgrounds and to preserve and interpret the landmark property called Morven. The museum shall accomplish this purpose through the presentation of exhibits, education programs, publications and other services. Specific collection areas shall include, but not be limited to, archaeology and ethnology, decorative arts, fine arts, and natural history.

C.52:16A-61 Division of the State Museum abolished; transfers.

2. The Division of the State Museum continued in the Department of Education pursuant to section 1 of P.L.1969, c.158 (C.18A:73-1) and transferred to the Department of State under the Reorganization Plan of the Division of the State Museum in 1983 pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.), is abolished as a division in the Department of State and all of its powers, functions, and duties are continued in the museum.

All appropriations and other moneys available and to become available to the division are hereby continued in the museum and shall be available for the objects and purposes for which such moneys are appropriated subject to any terms, restrictions, limitations, or other requirements imposed by State or federal law. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is

made to the Division of the State Museum, the same shall mean and refer to the New Jersey State Museum in the Department of State.

C.52:16A-62 The board of trustees of the New Jersey State Museum.

3. a. The general responsibility for the proper operation of the New Jersey State Museum shall be vested in the board of trustees, which shall possess the powers and duties specified in this act. The board of trustees shall consist of 15 members: the Secretary of State, or the Secretary's designee, ex officio and 14 public members, to be appointed by the Governor with the advice and consent of the Senate. Five of the public members shall be selected from the trustees of the Friends of the New Jersey State Museum, one of whom shall be the president of that body; three of the public members shall be selected from the trustees of Historic Morven, Inc., one of whom shall be the president of that body; and six of the public members shall be selected from the public at large.

b. The term of office of each public member shall be five years, except for the initial appointments which shall be made as follows: two members shall be appointed for a one-year term, two members shall be appointed for a two-year term, two members shall be appointed for a three-year term, two members shall be appointed for a four-year term, and four members shall be appointed for a five-year term. The terms of the president of the Friends of the New Jersey State Museum and the president of Historic Morven, Inc. shall coincide with the presidents' terms of office. A public member of the board of trustees may be removed by the Governor, for cause, upon notice and opportunity to be heard. A vacancy occurring other than by expiration of term shall be filled for the balance of the unexpired term only and in the same manner as the original appointment. A member may serve until a successor is appointed. No person shall serve for more than two successive terms, provided, however, that any person appointed to fill a vacancy shall be eligible for two successive terms after the term for which the person was appointed to fill the vacancy.

c. There shall be five nonvoting, ex officio members of the board of trustees, in addition to the 14 public members:

(1) Two members of the Senate, who are not of the same political party, shall be appointed by the President of the Senate, and two members of the General Assembly, who are not of the same political party, shall be appointed by the Speaker of the General Assembly. The legislative members shall serve for terms coextensive with the legislative two-year term for which they were appointed, subject to reappointment after the expiration of the legislative session.

(2) The Executive Director of the Museum.

d. The public members of the board of trustees shall serve without compensation but shall be entitled to reimbursement for all actual and necessary expenses incurred in the performance of their duties. The nonvoting, ex officio members shall not receive any compensation for services or reimbursement for expenses.

C.52:16A-63 Executive committee.

4. The Secretary of State, or the Secretary's designee, shall serve as chair of the board of trustees. Under rules adopted by the board, the board may establish an executive committee composed of no fewer than three trustees, which committee may exercise powers vested in and perform duties imposed upon the trustees to the extent designated and permitted by the board of trustees. The board may establish such advisory boards and committees as it may deem advisable.

C.52:16A-64 Conflicts of interest.

5. Members of the board of trustees shall be subject to the provisions of the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.).

C.52:16A-65 Quorum.

6. A majority of the public members of the board of trustees shall constitute a quorum for all purposes. No vacancy in the membership of the board of trustees shall impair the right of a quorum to exercise all the rights and perform the duties of the board.

C.52:16A-66 Minutes; Governor's approval of actions.

7. A true copy of the minutes of every meeting of the board of trustees shall be delivered promptly, after the certification of the chair thereof, to the Governor. No action taken at a meeting by the board of trustees shall have effect until approved by the Governor or until 10 days after the copy of the minutes shall have been delivered. If, in the 10-day period, the Governor returns the copy of the minutes with a veto of any action taken by the board or any member thereof at a meeting, such action shall be null. The Governor may approve all or part of the action taken at a meeting prior to the expiration of the 10-day period.

C.52:16A-67 Board of trustees' duties.

8. The board of trustees is hereby authorized and empowered:

a. To employ an executive director of the museum.

b. To prescribe rules and regulations consistent with the laws and rules of the State of New Jersey for the operation of the museum, including those relating to operations, capital projects, collections, exhibits, and services.

c. On behalf of the State and in furtherance of the purposes of the museum, to solicit, receive and administer gifts, bequests and devises of

property of any kind whatsoever, and grants from agencies of the United States government.

d. To make purchases for the collections and to dispose of items in the collections by sale or auction.

e. To enter into contracts with individuals, organizations and institutions for services or endeavors furthering the objectives of the museum's programs.

f. To prepare and implement a fiscal plan for the museum which shall include support from the State of New Jersey and the private sector.

g. To submit an annual operational and capital funding request to the Governor through the Department of State and the Division of Budget and Accounting in the Department of the Treasury and to expend or authorize the expenditure of funds derived from such sources and funds as are appropriated by the State Legislature to the museum.

h. To manage and control the museum, together with its contents, furnishings, and other properties.

i. To care for and preserve property belonging to the museum.

j. To provide auxiliary services such as for the sale of books, periodicals, and art supplies and to provide facilities for the operation of food and beverage services at the museum.

k. To impose an admission charge to the museum, if deemed appropriate.

l. To adopt bylaws for its own governance.

m. To operate branch museums and to give technical advice to other museums.

n. To collect, preserve, and exhibit, in cooperation with the Department of Military and Veterans' Affairs, Medals of Honor and related memorabilia.

o. To provide, within the limits of funds appropriated therefor, for a program of maintenance and support for services by the Newark Museum Association for the educational and recreational use and benefit of the public.

C.52:16A-68 Employment of executive director.

9. The board of trustees shall employ an executive director who shall have a minimum of five years' experience in the management of a museum accredited by the American Association of Museums or shall have been engaged for an equal amount of time in the management of a similar and comparable institution. The executive director shall serve at the pleasure of the board of trustees and shall be in the unclassified service of the Civil Service. The executive director shall carry out the policies of the board of trustees under the direction of the chair.

C.52:16A-69 Curators, other employees.

10. The position and employment of the curators and all other employees of the Division of the State Museum are continued in the museum. The

executive director may appoint such employees as may be necessary, whose employment shall be in the career service of the Civil Service.

C.52:16A-70 Annual report.

11. The board of trustees shall submit an annual report of its activities through the Department of State to the Governor and the Legislature on or before November 1 of each year. Such report shall contain at a minimum the annual financial statements of the museum for the fiscal year ending the preceding June 30.

C.52:16A-71 Audits.

12. The Director of the Division of Budget and Accounting, in the Department of the Treasury, the director's legally authorized representatives, and the State Auditor are hereby authorized and empowered from time to time to examine the accounts, books, and records of the museum, and any of its related entities, including its receipts, disbursements, contracts, investments and any other matters relating thereto and to its financial standing.

13. N.J.S.18A:73-20 is amended to read as follows:

State museum under control of New Jersey State Museum.

18A:73-20. The present State museum, including all of its collections and exhibits, shall be under the control and management of the New Jersey State Museum and its board of trustees, established pursuant to P.L.1999, c.437 (C.52:16A-60 et al.).

Repealer.

14. N.J.S.18A:73-1 to N.J.S.18A:73-3, N.J.S.18A:73-5 to N.J.S.18A:73-11, N.J.S.18A:73-14, and section 1 of P.L.1969, c.51 (C.18A:73-20.1) are repealed.

15. This act shall take effect on the 90th day after enactment.

Approved January 18, 2000.

CHAPTER 438

AN ACT concerning State aid for certain school districts and supplementing P.L.1996, c.138 (C.18A:7F-1 et seq.).

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

C.18A:7F-32.1 Criteria for regionalization incentive aid; formula.

1. a. Regionalization incentive aid shall be paid to any K-12 school district which meets the following criteria:

(1) the district's October 1998 resident enrollment exceeds 10,000 pupils; and

(2) the district's 1998-99 net budget per pupil is less than $9500.

b. For the 2000-2001 school year, regionalization incentive aid shall be calculated as follows:

Aid = STAB + BASE;

provided, however that for any district in which the NOMINAL AMOUNT - STAB is less than BASE, regionalization aid shall equal STAB + ((STAB + CCSA) x CPI).

where

BASE equals 10% of the sum of STAB and CCSA;

NOMINAL AMOUNT means $550 x projected resident enrollment;

STAB equals 1999-2000 stabilization aid calculated pursuant to subsection b. of section 10 of P.L.1996, c.138 (C.18A:7F-10), supplemental stabilization aid calculated pursuant to subsection c. of section 10 of P.L.1996, c.138 (C.18A:7F-10), and stabilization aids II and III received pursuant to the FY 2000 appropriations act; and

CCSA equals 1999-2000 core curriculum standards aid received pursuant to section 15 of P.L.1996, c.138 (C.18A:7F-15);

c. For the 2001-2002 school year and for each school year thereafter, regionalization incentive aid shall be calculated as follows:

Aid = Prior year regionalization aid x (1 + CPI) x projected resident enrollment growth.

Projected resident enrollment growth shall be calculated by dividing the projected enrollment by the current year enrollment, but shall not be less than 1.0.

d. In any year that a school district receives regionalization incentive aid pursuant to this section, the sum of its stabilization aids shall be reduced by an amount equal to the sum of stabilization aids received in school year 1999-2000; provided, however, the sum shall not be reduced to an amount less than 0.

2. This act shall take effect immediately and shall first apply to the 2000-2001 school year.

Approved January 18, 2000.

CHAPTER 439

AN ACT to amend and supplement "An Act making appropriations for the support of the State Government and the several public purposes for the

fiscal year ending June 30, 2000 and regulating the disbursement thereof," enacted June 28, 1999 (P.L.1999, c.138).

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.1999, c.138, the annual appropriations act for fiscal year 2000, there is appropriated out of the General Fund the following sums for the purposes specified:

22 DEPARTMENT OF COMMUNITY AFFAIRS
50 Economic Planning, Development and Security
55 Social Services Programs

GRANTS-IN-AID

Notwithstanding any other provision of law to the contrary, the repayment by the Borough of Spotswood of the fiscal year 1999 grants-in-aid appropriation for the Spotswood Borough Municipal Building made in P.L.1999, c.137 is deferred during fiscal year 2000 and there shall be no repayment required in any year thereafter.

82 DEPARTMENT OF THE TREASURY
30 Educational, Cultural and Intellectual Development
36 Higher Educational Services

GRANTS-IN-AID

47-2155 Support to Independent Institutions $5,000,000
Total Grants-in-Aid Appropriation,
Higher Educational Services $5,000,000
Grants-In-Aid:
47 Stevens Institute of Technology - Capital Project . . ($5,000,000)
Department of the Treasury, Total Appropriation 5,000,000
Total, All Appropriations 5,000,000

2. The following language provision in section 1 of P.L.1999, c.138, the annual appropriations act for fiscal year 2000, is amended to delete a language provision as follows:

22 DEPARTMENT OF COMMUNITY AFFAIRS
40 Community Development and Environment Management
41 Community Development Management

GRANTS-IN-AID

3. This act shall take effect immediately.

Approved January 18, 2000.

CHAPTER 440

AN ACT concerning public procurement and amending, supplementing and repealing various parts of the statutory law.

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

C.40A:11-4.1 Purposes for which competitive contracting may be used by local units.

1. Notwithstanding the provisions of any law, rule or regulation to the contrary, competitive contracting may be used by local contracting units in lieu of public bidding for procurement of specialized goods and services the price of which exceeds the bid threshold, for the following purposes:

a. The purchase or licensing of proprietary computer software designed for contracting unit purposes, which may include hardware intended for use with the proprietary software. This subsection shall not be utilized for the purpose of acquiring general purpose computer hardware or software;

b. The hiring of a for-profit entity or a not-for-profit entity incorporated under Title 15A of the New Jersey Statutes for the purpose of:

(1) the operation and management of a wastewater treatment system or a water supply or distribution facility of the type described in subsection (37) of section 15 of P.L.1971, c.198 (C.40A:11-15), provided that competitive contracting shall not be used as a means of awarding contracts pursuant to P.L.1985, c.37 (C.58:26-1 et seq.) and P.L.1985, c.72 (C.58:27-1 et seq.);

(2) the operation, management or administration of recreation or social service facilities or programs, which shall not include the administration of benefits under the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.), or under General Assistance; or

(3) the operation, management or administration of data processing services;

c. Services performed by an energy services company, including the design, measurement, financing and maintenance of energy savings equipment or renovations, which result in payment derived, in whole or in part, from the sale of verified energy savings over the term of an agreement with a public utility or subsidiary, but not the provision or performance of the physical improvements that result in energy savings, provided that such savings are calculated pursuant to guidelines promulgated by the Board of Public Utilities and further provided that the Local Finance Board shall find that the terms and conditions of any financing agreement are reasonable;

d. Homemaker--home health services;

e. Laboratory testing services;

f. Emergency medical services;

g. Contracted food services;

h. Performance of patient care services by contracted medical staff at county hospitals, correctional facilities and long-term care facilities;

i. At the option of the governing body of the contracting unit, any good or service that is exempt from bidding pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);

j. Concessions;

k. The operation, management or administration of other services, with the approval of the Director of the Division of Local Government Services.

Any purpose included herein shall not be considered by a contracting unit as an extraordinary unspecifiable service pursuant to paragraph (a)(ii) of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5).

C.40A:11-4.2 Term of contract; exceptions.

2. Unless an exception is provided for under section 15 of P.L.1971, c.198 (C.40A:11-15) permitting a longer contract duration, contracts awarded pursuant to section 5 of P.L.1999, c.440 (C.40A:11-4.5) may be for a term not to exceed five years.

C.40A:11-4.3 Competitive contracting process; resolution, administration.

3. a. In order to initiate competitive contracting, the governing body shall pass a resolution authorizing the use of competitive contracting each time specialized goods or services enumerated in section 1 of P.L.1999, c.440 (C.40A:11-4.1) are desired to be contracted. If the desired goods or services have previously been contracted for using the competitive contracting process then the original resolution of the governing body shall suffice.

b. The competitive contracting process shall be administered by a purchasing agent qualified pursuant to subsection b. of section 9 of P.L.1971, c.198 (C.40A:11-9), or, by legal counsel of the contracting unit, or by an administrator of the contracting unit. Any contracts awarded under this process shall be made by resolution of the governing body of the contracting unit, subject to the provisions of subsection e. of section 5 of P.L.1999, c.440 (C.40A:11-4.5).

C.40A:11-4.4 Request for proposals; documentation; provisions.

4. The competitive contracting process shall utilize request for proposals documentation in accordance with the following provisions:

a. The purchasing agent or counsel or administrator shall prepare or have prepared a request for proposal documentation, which shall include: all requirements deemed appropriate and necessary to allow for full and free competition between vendors; information necessary for potential vendors to submit a proposal; and a methodology by which the contracting unit will evaluate and rank proposals received from vendors.

b. The methodology for the awarding of competitive contracts shall be based on an evaluation and ranking, which shall include technical, management, and cost related criteria, and may include a weighting of criteria, all developed in a way that is intended to meet the specific needs of the contracting unit, and where such criteria shall not unfairly or illegally discriminate against or exclude otherwise capable vendors. When an evaluation methodology uses a weighting of criteria, at the option of the contracting unit the weighting to be accorded to each criterion may be disclosed to vendors prior to receipt of the proposals. The methodology for awarding competitive contracts shall comply with such rules and regulations as the director may adopt, after consultation with the Commissioner of Education, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. At no time during the proposal solicitation process shall the purchasing agent or counsel or administrator convey information, including price, to any potential vendor which could confer an unfair advantage upon that vendor over any other potential vendor. If a purchasing agent or counsel or administrator desires to change proposal documentation, the purchasing agent or counsel or administrator shall notify only those potential vendors who received the proposal documentation of any and all changes in writing and all existing documentation shall be changed appropriately.

d. All proposals and contracts shall be subject to the provisions of section 1 of P.L.1977, c.33 (C.52:25-24.2) requiring submission of a statement of corporate ownership and the provisions of P.L.1975, c.127(C.10:5-31 et seq.) concerning equal employment opportunity and affirmative action.

C.40A:11-4.5 Competitive contracting proposal solicitation.

5. Competitive contracting proposals shall be solicited in the following manner:

a. A notice of the availability of request for proposal documentation shall be published in an official newspaper of the contracting unit at least 20 days prior to the date established for the submission of proposals. The contracting unit shall promptly reply to any request by an interested vendor by providing a copy of the request for proposals. The contracting unit may charge a fee for the proposal documentation that shall not exceed $50.00 or the cost of reproducing the documentation, whichever is greater.

b. Each interested vendor shall submit a proposal which shall include all the information required by the request for proposals. Failure to meet the requirements of the request for proposals may result in the contracting unit disqualifying the vendor from further consideration. Under no circumstances shall the provisions of a proposal be subject to negotiation by the contracting unit.

c. If the contracting unit, at the time of solicitation, utilizes its own employees to provide the goods or perform the services, or both, considered for competitive contracting, the governing body shall, at any time prior to, but no later than the time of solicitation for competitive contracting proposals, notify affected employees of the governing body's intention to solicit competitive contracting proposals. Employees or their representatives shall be permitted to submit recommendations and proposals affecting wages, hours, and terms and conditions of employment in such a manner as to meet the goals of the competitive contract. If employees are represented by an organization that has negotiated a contract with the contracting unit, only the bargaining unit shall be authorized to submit such recommendations or proposals. When requested by such employees, the governing body shall provide such information regarding budgets and the costs of performing the services by such employees as may be available. Nothing shall prevent such employees from making recommendations that may include modifications to existing labor agreements in order to reduce such costs in lieu of award of a competitive contract, and agreements implementing such recommendations may be considered as cause for rejecting all other proposals.

d. The purchasing agent or counsel or administrator shall evaluate all proposals only in accordance with the methodology described in the request for proposals. After proposals have been evaluated, the purchasing agent or counsel or administrator shall prepare a report evaluating and recommending the award of a contract or contracts. The report shall list the names of all potential vendors who submitted a proposal and shall summarize the proposals of each vendor. The report shall rank vendors in order of evaluation, shall recommend the selection of a vendor or vendors, as appropriate, for a contract, shall be clear in the reasons why the vendor or vendors have been selected among others considered, and shall detail the terms, conditions, scope of services, fees, and other matters to be incorporated into a contract. The report shall be made available to the public at least 48 hours prior to the awarding of the contract, or when made available to the governing body, whichever is sooner. The governing body shall have the right to reject all proposals for any of the reasons set forth in section 21 of P.L.1999, c.440 (C.40A:11-13.2).

e. Award of a contract shall be made by resolution of the governing body of the contracting unit within 60 days of the receipt of the proposals, except that the proposals of any vendors who consent thereto, may, at the request of the contracting unit, be held for consideration for such longer period as may be agreed.

f. The report prepared pursuant to subsection d. of this section shall become part of the public record and shall reflect the final action of the

governing body. Contracts shall be executed pursuant to section 14 of P.L.1971, c.198 (C.40A:11-14).

g. The clerk or secretary of the contracting unit shall publish a notice in the official newspaper of the contracting unit summarizing the award of a contract, which shall include but not be limited to, the nature, duration, and amount of the contract, the name of the vendor and a statement that the resolution and contract are on file and available for public inspection in the office of the clerk or secretary of the municipality, county, local public authority or special district of the governing body.

h. All contract awards shall be subject to rules concerning certification of availability of funds adopted pursuant to section 3 of P.L.1971, c.198 (C.40A:11-3) and section 15 of P.L.1971, c.198 (C.40A:11-15).

i. The director, after consultation with the Commissioner of Education, may adopt additional rules and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to effectuate the provisions of sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 through C.40A:11-4.5).

6. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to read as follows:

C.40A:11-2 Definitions.

2. As used herein the following words have the following definitions, unless the context otherwise indicates:

(1) "Contracting unit" means:

(a) Any county; or

(b) Any municipality; or

(c) Any board, commission, committee, authority or agency, which is not a State board, commission, committee, authority or agency, and which has administrative jurisdiction over any district other than a school district, project, or facility, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter into contracts awarded by a contracting agent for the provision or performance of goods or services.

The term shall not include a private firm that has entered into a contract with a public entity for the provision of water supply services pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

"Contracting unit" shall not include a private firm or public authority that has entered into a contract with a public entity for the provision of wastewater treatment services pursuant to P.L.1995, c.216 (C.58:27-19 et al.).

(2) "Governing body" means:

(a) The governing body of the county, when the purchase is to be made or the contract 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 is to be entered into by, or on behalf of, a municipality; or

(c) Any board, commission, committee, authority or agency of the character described in subsection (1) (c) of this section.

(3) "Contracting agent" means the governing body of a contracting unit, or its authorized designee, which has the power to prepare the advertisements, to advertise for and receive bids and, as permitted by this act, to make awards for the contracting unit in connection with contracts.

(4) "Purchase" means a transaction, for a valuable consideration, creating or acquiring an interest in goods, services and property, except real property or any interest therein.

(5) (Deleted by amendment, P.L.1999, c.440.)

(6) "Professional services" means services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law, and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services may also mean services rendered in the provision or performance of goods or services that are original and creative in character in a recognized field of artistic endeavor.

(7) "Extraordinary unspecifiable services" means services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor.

(8) (Deleted by amendment, P.L.1999, c.440.)

(9) "Work" means any task, program, undertaking, or activity, related to any development, redevelopment, construction or reconstruction performed or provided pursuant to a contract with a contracting unit.

(10) "Homemaker--home health services" means at home personal care and home management provided to an individual or members of the individual's family who reside with the individual, or both, necessitated by the individual's illness or incapacity. "Homemaker--home health services" includes, but is not limited to, the services of a trained homemaker.

(11) "Recyclable material" means those materials which would otherwise become municipal solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(12) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(13) "Marketing" means the sale, disposition, assignment, or placement of designated recyclable materials with, or the granting of a concession to, a reseller, processor, materials recovery facility, or end-user of recyclable material, in accordance with a district solid waste management plan adopted pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) and shall not include the collection of such recyclable material when collected through a system of routes by local government unit employees or under a contract administered by a local government unit.

(14) "Municipal solid waste" means, as appropriate to the circumstances, all residential, commercial and institutional solid waste generated within the boundaries of a municipality; or the formal collection of such solid wastes or recyclable material in any combination thereof when collected through a system of routes by local government unit employees or under a contract administered by a local government unit.

(15) "Distribution" (when used in relation to electricity) means the process of conveying electricity from a contracting unit that is a generator of electricity or a wholesale purchaser of electricity to retail customers or other end users of electricity.

(16) "Transmission" (when used in relation to electricity) means the conveyance of electricity from its point of generation to a contracting unit that purchases it on a wholesale basis for resale.

(17) "Disposition" means the transportation, placement, reuse, sale, donation, transfer or temporary storage of recyclable materials for all possible uses except for disposal as municipal solid waste.

(18) "Cooperative marketing" means the joint marketing by two or more contracting units of the source separated recyclable materials designated in a district recycling plan required pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written cooperative agreement entered into by the participating contracting units thereof.

(19) "Aggregate" means the sums expended or to be expended for the provision or performance of any goods or services in connection with the same immediate purpose or task, or the furnishing of similar goods or services, during the same contract year through a contract awarded by a contracting agent.

(20) "Bid threshold" means the dollar amount set in section 3 of P.L.1971, c.198 (C.40A:11-3), above which a contracting unit shall advertise for and receive sealed bids in accordance with procedures set forth in P.L.1999, c.440 (C.40A:11-4.1 et al.).

(21) "Contract" means any agreement, including but not limited to a purchase order or a formal agreement, which is a legally binding relationship enforceable by law, between a vendor who agrees to provide or perform goods or services and a contracting unit which agrees to compensate a vendor, as defined by and subject to the terms and conditions of the agreement. A contract also may include an arrangement whereby a vendor compensates a contracting unit for the vendor's right to perform a service, such as, but not limited to, operating a concession.

(22) "Contract year" means the period of 12 consecutive months following the award of a contract.

(23) "Competitive contracting" means the method described in sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 through C.40A:11-4.5) of contracting for specialized goods and services in which formal proposals are solicited from vendors; formal proposals are evaluated by the purchasing agent or counsel or administrator; and the governing body awards a contract to a vendor or vendors from among the formal proposals received.

(24) "Goods and services" or "goods or services" means any work, labor, commodities, equipment, materials, or supplies of any tangible or intangible nature, except real property or any interest therein, provided or performed through a contract awarded by a contracting agent, including goods and property subject to N.J.S.12A:2-101 et seq.

(25) "Library and educational goods and services" means textbooks, copyrighted materials, student produced publications and services incidental thereto, including but not limited to books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter and audiovisual and other materials of a similar nature, necessary binding or rebinding of library materials, and specialized computer software used as a supplement or in lieu of textbooks or reference material.

(26) "Lowest price" means the least possible amount that meets all requirements of the request of a contracting agent.

(27) "Lowest responsible bidder or vendor" means the bidder or vendor: (a) whose response to a request for bids offers the lowest price and is responsive; and (b) who is responsible.

(28) "Official newspaper" means any newspaper designated by the contracting unit pursuant to R.S.35:1-1 et seq.

(29) "Purchase order" means a document issued by the contracting agent authorizing a purchase transaction with a vendor to provide or perform goods or services to the contracting unit, which, when fulfilled in accordance with the terms and conditions of a request of a contracting agent and

other provisions and procedures that may be established by the contracting unit, will result in payment by the contracting unit.

(30) "Purchasing agent" means the individual duly assigned the authority, responsibility, and accountability for the purchasing activity of the contracting unit, and who has such duties as are defined by an authority appropriate to the form and structure of the contracting unit, and P.L.1971, c.198 (C.40A:11-1 et seq.).

(31) "Quotation" means the response to a formal or informal request made by a contracting agent by a vendor for provision or performance of goods or services, when the aggregate cost is less than the bid threshold. Quotations may be in writing, or taken verbally if a record is kept by the contracting agent.

(32) "Responsible" means able to complete the contract in accordance with its requirements, including but not limited to requirements pertaining to experience, moral integrity, operating capacity, financial capacity, credit, and workforce, equipment, and facilities availability.

(33) "Responsive" means conforming in all material respects to the terms and conditions, specifications, legal requirements, and other provisions of the request.

(34) "Public works" means building, altering, repairing, improving or demolishing any public structure or facility constructed or acquired by a contracting unit to house local government functions or provide water, waste disposal, power, transportation, and other public infrastructures.

(35) "Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

(36) "Administrator" means a municipal administrator appointed pursuant to N.J.S.40A:9-136 and N.J.S.40A:9-137; a business administrator, a municipal manager or a municipal administrator appointed pursuant to the "Optional Municipal Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.); a municipal manager appointed pursuant to "the municipal manager form of government law," R.S.40:79-1 et seq.; or the person holding responsibility for the overall operations of an authority that falls under the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

(37) "Concession" means the granting of a license or right to act for or on behalf of the contracting unit, or to provide a service requiring the approval or endorsement of the contracting unit, and which may or may not involve a payment or exchange, or provision of services by or to the contracting unit.

(38) "Index rate" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published

quarterly by the United States Department of Commerce, Bureau of Economic Analysis.

(39) "Proprietary" means goods or services of a specialized nature, that may be made or marketed by a person or persons having the exclusive right to make or sell them, when the need for such goods or services has been certified in writing by the governing body of the contracting unit to be necessary for the conduct of its affairs.

(40) "Service or services" means the performance of work, or the furnishing of labor, time, or effort, or any combination thereof, not involving or connected to the delivery or ownership of a specified end product or goods or a manufacturing process. Service or services may also include an arrangement in which a vendor compensates the contracting unit for the vendor's right to operate a concession.

7. Section 3 of P.L.1971, c.198 (C.40A:11-3) is amended to read as follows:

C.40A:11-3 Bid threshold; period of contracts.

3. Bid threshold; period of contracts. a. When the cost or price of any contract awarded by the contracting agent in the aggregate does not exceed in a contract year the total sum of $17,500, the contract may be awarded by a purchasing agent when so authorized by ordinance or resolution, as appropriate to the contracting unit, of the governing body of the contracting unit without public advertising for bids, except that the governing body of any contracting unit may adopt an ordinance or resolution to set a lower threshold for the receipt of public bids or the solicitation of competitive quotations. If the purchasing agent is qualified pursuant to subsection b. of section 9 of P.L.1971, c.198 (C.40A:11-9), the governing body of the contracting unit may establish that the bid threshold may be up to $25,000. Such authorization may be granted for each contract or by a general delegation of the power to negotiate and award such contracts pursuant to this section.

b. Any contract made pursuant to this section may be awarded for a period of 24 consecutive months, except that contracts for professional services pursuant to subparagraph (i) of paragraph (a) of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) may be awarded for a period not exceeding 12 consecutive months. The Division of Local Government Services shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the contracting unit's fiscal year.

c. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of every fifth year beginning in the fifth year after the year in which P.L.1999, c.440 takes effect, adjust the threshold

amount and the higher threshold amount which the governing body is permitted to establish, as set forth in subsection a. of this section, or the threshold amount resulting from any adjustment under this subsection, in direct proportion to the rise or fall of the index rate as that term is defined in section 2 of P.L.1971, c.198 (C.40A:11-2), and shall round the adjustment to the nearest $1,000. The Governor shall, no later than June 1 of every fifth year, notify each governing body of the adjustment. The adjustment shall become effective on July 1 of the year in which it is made.

8. Section 4 of P.L.1971, c.198 (C.40A:11-4) is amended to read as follows:

C.40A:11-4 Contracts required to be advertised, disqualification of bidder.

4. a. Every contract awarded by the contracting agent for the provision or performance of any goods or services, the cost of which in the aggregate exceeds the bid threshold, shall be awarded only by resolution of the governing body of the contracting unit to the lowest responsible bidder after public advertising for bids and bidding therefor, except as is provided otherwise in this act or specifically by any other law. The governing body of a contracting unit may, by resolution approved by a majority of the governing body and subject to subsections b. and c. of this section, disqualify a bidder who would otherwise be determined to be the lowest responsible bidder, if the governing body finds that it has had prior negative experience with the bidder.

b. As used in this section, "prior negative experience" means any of the following:

(1) the bidder has been found, through either court adjudication, arbitration, mediation, or other contractually stipulated alternate dispute resolution mechanism, to have: failed to provide or perform goods or services; or failed to complete the contract in a timely manner; or otherwise performed unsatisfactorily under a prior contract with the contracting unit;

(2) the bidder defaulted on a contract, thereby requiring the local unit to utilize the services of another contractor to provide the goods or perform the services or to correct or complete the contract;

(3) the bidder defaulted on a contract, thereby requiring the local unit to look to the bidder's surety for completion of the contract or tender of the costs of completion; or

(4) the bidder is debarred or suspended from contracting with any of the agencies or departments of the executive branch of the State of New Jersey at the time of the contract award, whether or not the action was based on experience with the contracting unit.

c. The following conditions apply if the governing body of a contracting unit is contemplating a disqualification based on prior negative experience:

(1) The existence of any of the indicators of prior negative experience set forth in this section shall not require that a bidder be disqualified. In each instance, the decision to disqualify shall be made within the discretion of the governing body and shall be rendered in the best interests of the contracting unit.

(2) All mitigating factors shall be considered in determining the seriousness of the prior negative experience and in deciding whether disqualification is warranted.

(3) The bidder shall be furnished by the governing body with a written notice (a) stating that a disqualification is being considered; (b) setting forth the reason for the disqualification; and (c) indicating that the bidder shall be accorded an opportunity for a hearing before the governing body if the bidder so requests within a stated period of time. At the hearing, the bidder shall show good cause why the bidder should not be disqualified by presenting documents and testimony. If the governing body determines that good cause has not been shown by the bidder, it may vote to find the bidder lacking in responsibility and, thus, disqualified.

(4) Disqualification shall be for a reasonable, defined period of time which shall not exceed five years.

(5) A disqualification, other than a disqualification pursuant to which a governing body is prohibited by law from entering into a contract with a bidder, may be voided or the period thereof may be reduced, in the discretion of the governing body, upon the submission of a good faith application under oath, supported by documentary evidence, setting forth substantial and appropriate grounds for the granting of relief, such as reversal of a judgment, or actual change of ownership, management or control of the bidder.

(6) An opportunity for a hearing need not be offered to a bidder whose disqualification is based on its suspension or debarment by an agency or department of the executive branch of the State of New Jersey. The term of such a disqualification shall be concurrent with the term of the suspension or debarment by the State agency or department.

9. 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 contract the amount of which exceeds the bid threshold, may be negotiated and awarded by the governing body without public advertising for bids and bidding therefor and shall be awarded by resolution of the governing body 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 the official newspaper, 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 after consultation with the Commissioner of Education 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 unit may be a party;

(d) The furnishing of a tax map or maps for the contracting unit;

(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 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) Those goods and services necessary or required to prepare and conduct an election;

(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 goods or services 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) (Deleted by amendment, P.L.1999, c.440.)

(q) Library and educational goods and 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) (Deleted by amendment, P.L.1999, c.440.)

(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;

(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.s.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.);

(aa) The cooperative marketing of recyclable materials recovered through a recycling program;

(bb) A contract for the provision of wastewater treatment services entered into pursuant to P.L.1995, c.216 (C.58:27-19 et al.);

(cc) Expenses for travel and conferences;

(dd) The provision or performance of goods or services for the support or maintenance of proprietary computer hardware and software, except that this provision shall not be utilized to acquire or upgrade non-proprietary hardware or to acquire or update non-proprietary software;

(ee) The management or operation of an airport owned by the contracting unit pursuant to R.S.40:8-1 et seq.;

(ff) Purchases of goods and services at rates set by the Universal Service Fund administered by the Federal Communications Commission.

(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 or any other state or subdivision thereof.

(3) Bids have been advertised pursuant to section 4 of P.L.1971, c.198 (C.40A:11-4) on two occasions and (a) no bids have been received on both occasions in response to the advertisement, or (b) the governing body has rejected such bids on two occasions because it 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 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; provided, however, that:

(i) A reasonable effort is first made by the contracting agent to determine that the same or equivalent goods or services, 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 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; 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 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 vendor, and is a reasonable price for such goods 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.

(4) The contracting unit has solicited and received at least three quotations on materials, supplies or equipment for which a State contract has been issued pursuant to section 12 of P.L.1971, c.198 (C.40A:11-12), and the lowest responsible quotation is at least 10% less than the price the contracting unit would be charged for the identical materials, supplies or equipment, in the same quantities, under the State contract. Any such contract entered into pursuant to this subsection may be awarded only upon adoption of a resolution by the affirmative vote of two-thirds of the full membership of the governing body of the contracting unit at a meeting thereof authorizing such a contract. A copy of the purchase order relating to any such contract, the requisition for purchase order, if applicable, and documentation identifying the price of the materials, supplies or equipment under the State contract and the State contract number shall be filed with the director within five working days of the award of any such contract by the contracting unit. The director shall notify the contracting unit of receipt of the material and shall make the material available to the State Treasurer. The contracting unit shall make available to the director upon request any other documents relating to the solicitation and award of the contract, including, but not limited to, quotations, requests for quotations, and resolutions. The director periodically shall review material submitted by

contracting units to determine the impact of such contracts on local contracting and shall consult with the State Treasurer on the impact of such contracts on the State procurement process. The director may, after consultation with the State Treasurer, adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to limit the use of this subsection, after considering the impact of contracts awarded under this subsection on State and local contracting, or after considering the extent to which the award of contracts pursuant to this subsection is consistent with and in furtherance of the purposes of the public contracting laws.

(5) Notwithstanding any provision of law, rule or regulation to the contrary, the subject matter consists of the combined collection and marketing, or the cooperative combined collection and marketing of recycled material recovered through a recycling program, or 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, provided that in lieu of engaging in such public advertising for bids and the bidding therefor, the contracting unit shall, prior to commencing the procurement process, submit for approval to the Director of the Division of Local Government Services, a written detailed description of the process to be followed in securing said services. Within 30 days after receipt of the written description the director shall, if the director finds that the process provides for fair competition and integrity in the negotiation process, approve, in writing, the description submitted by the contracting unit. If the director finds that the process does not provide for fair competition and integrity in the negotiation process, the director shall advise the contracting unit of the deficiencies that must be remedied. If the director fails to respond in writing to the contracting unit within 30 days, the procurement process as described shall be deemed approved. As used in this section, "collection" means the physical removal of recyclable materials from curbside or any other location selected by the contracting unit.

10. Section 6 of P.L.1971, c.198 (C.40A:11-6) is amended to read as follows:

C.40A:11-6 Emergency contracts.

6. Emergency contracts. Any contract may be negotiated or awarded for a contracting unit without public advertising for bids and bidding therefor, notwithstanding that the contract price will exceed the bid threshold, when an emergency affecting the public health, safety or welfare requires the

immediate delivery of goods or the performance of services; provided that the awarding of such contracts is made in the following manner:

a. The official in charge of the agency wherein the emergency occurred, or such other officer or employee as may be authorized to act in place of that official, shall notify the purchasing agent, a supervisor of the purchasing agent, or a designated representative of the governing body, as may be appropriate to the form of government, of the need for the performance of a contract, the nature of the emergency, the time of its occurrence and the need for invoking this section. If that person is satisfied that an emergency exists, that person shall be authorized to award a contract or contracts for such purposes as may be necessary to respond to the emergent needs. Such notification shall be reduced to writing and filed with the purchasing agent as soon as practicable.

b. Upon the furnishing of such goods or services, in accordance with the terms of the contract, the contractor furnishing such goods or services shall be entitled to be paid therefor and the contracting unit shall be obligated for said payment. The governing body of the contracting unit shall take such action as shall be required to provide for the payment of the contract price.

c. The Director of the Division of Local Government Services in the Department of Community Affairs shall prescribe rules and procedures to implement the requirements of this section.

d. The governing body of the contracting unit may prescribe additional rules and procedures to implement the requirements of this section.

11. Section 6 of P.L.1975, c.353 (C.40A:11-6.1) is amended to read as follows:

C.40A:11-6.1 Award of contracts.

6. All contracts enumerated in this section shall be awarded as follows:

a. For all contracts that in the aggregate are less than the bid threshold but 15 percent or more of that amount, and for those contracts that are for subject matter enumerated in subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5), except for paragraph (a) of that subsection concerning professional services and paragraph (b) of that subsection concerning work by employees of the contracting unit, the contracting agent shall award the contract after soliciting at least two competitive quotations, if practicable. The award shall be made to a vendor whose response is most advantageous, price and other factors considered. The contracting agent shall retain the record of the quotation solicitation and shall include a copy of the record with the voucher used to pay the vendor.

b. When in excess of the bid threshold, and after documented effort by the contracting agent to secure competitive quotations, a contract for extraordinary unspecifiable services may be awarded upon a determination in writing by the contracting agent that the solicitation of competitive quotations is impracticable. Any such contract shall be awarded by resolution of the governing body.

c. If authorized by the governing body by resolution or ordinance, all contracts that are in the aggregate less than 15 percent of the bid threshold may be awarded by the contracting agent without soliciting competitive quotations.

d. Whenever two or more responses to a request of a contracting agent offer equal prices and are the lowest responsible bids or proposals, the contracting unit may award the contract to the vendor whose response, in the discretion of the contracting unit, is the most advantageous, price and other factors considered. In such a case, the award resolution or purchase order documentation shall explain why the vendor selected is the most advantageous.

12. Section 7 of P.L.1971, c.198 (C.40A:11-7) is amended to read as follows:

C.40A:11-7 Contracts not to be divided.

7. Contracts not to be divided. a. No contract in the aggregate which is single in character or which necessarily or by reason of the quantities required to effectuate the purpose of the contract includes the provision or performance of additional goods or services, shall be divided, so as to bring it or any of the parts thereof under the bid threshold, for the purpose of dispensing with the requirement of public advertising and bidding therefor.

b. In contracting for the provision or performance of any goods or services included in or incidental to the provision or performance of any work which is single in character or inclusive of the provision or performance of additional goods or services, all of the goods or services requisite for the completion of such contract shall be included in one contract.

C.40A:11-7.1 Rules concerning determinations of aggregation.

13. For the purpose of ensuring consistency between the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), and the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., the Director of the Division of Local Government Services in the Department of Community Affairs, after consultation with the Commissioner of Education and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules concerning determinations of aggregation for the purposes of whether a contract is subject to public bidding as set forth in sections 3, 4 and 7 of P.L.1971, c.198 (C.40A:11-3,

40A:11-4 and 40A:11-7) and N.J.S.18A:18A-3, N.J.S.18A:18A-4, and N.J.S.18A:18A-8.

14. Section 8 of P.L.1971, c.198 (C.40A:11-8) is amended to read as follows:

C.40A:11-8 Bids for provision or performance of goods or services.

8. Every contracting agent shall, at intervals to be fixed by the governing body, solicit by public advertisement the submission of bids for the provision or performance of goods or services which are and which under section 4 of P.L.1971, c.198 (C.40A:11-4) can be contracted to be provided or performed only after public advertisement for bids and bidding therefor and all contracts for the provision or performance of such goods or services shall be awarded only in that manner.

15. Section 9 of P.L.1971, c.198 (C.40A:11-9) is amended to read as follows:

C.40A:11-9 Purchasing agent, department or board; establishment; powers.

9. Purchasing agent, department or board; establishment; powers.

a. The governing body of any contracting unit may by ordinance, in the case of a municipality, by ordinance or resolution, as the case may be, in the case of a county, or by resolution in all other cases, establish the office of purchasing agent, or a purchasing department or a purchasing board, with the authority, responsibility, and accountability as its contracting agent, for the purchasing activity for the contracting unit, to prepare public advertising for bids and to receive bids for the provision or performance of goods or services on behalf of the contracting unit and to award contracts permitted pursuant to subsection a. of section 3 of P.L.1971, c.198 (C.40A:11-3) in the name of the contracting unit, and conduct any activities as may be necessary or appropriate to the purchasing function of the contracting unit.

b. The Director of the Division of Local Government Services, after consultation with the Commissioner of Education, shall establish criteria to qualify individuals who have completed appropriate training and possess such purchasing experience as deemed necessary to exercise such supplemental authority as may be set forth in subsection a. of section 3 of P.L.1971, c.198 (C.40A:11-3). These criteria also shall authorize county purchasing agents certified pursuant to P.L.1981, c.380 (C.40A:9-30.1 et seq.) to exercise such supplemental authority.

16. 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 provision and performance of goods and services; cooperative marketing; authorization.

10. Joint agreements for provision and performance of goods and services; cooperative marketing; authorization.

(a) (1) The governing bodies of two or more contracting units may provide by joint agreement for the provision and performance of goods and services 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 goods and services related to sewage sludge disposal.

(3) The governing body of two or more contracting units providing electrical distribution services pursuant to and in accordance with R.S.40:62-12 through R.S.40:62-25, may provide by joint agreement for the provision or performance of goods or services 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 contracting unit may provide by joint agreement with the board of education of any school district for the provision and performance of goods and services for use by their respective jurisdictions.

(c) Such agreement shall be entered into by resolution adopted by each of the participating bodies and boards, which shall set forth the categories of goods or services to be provided or performed, 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.

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

C.40A:11-11 Additional matters regarding contracts for the provision and performance of goods and services.

11. Additional matters regarding contracts for the provision and performance of goods and services.

(1) The contracting units entering into a joint agreement pursuant to section 10 of P.L.1971, c.198 (C.40A:11-10) may designate a joint contracting agent.

(2) Contracts made pursuant to a joint purchasing agreement shall be subject to all of the terms and conditions of this act.

(3) Any contracting unit serving as a joint contracting agent pursuant to this section, may make an appropriation to enable it to perform any such contract and may anticipate as revenue payments to be made and received by it from any other party to the agreement. Any items so included in a local budget shall be subject to the approval of the Director, Division of Local Government Services, who shall consider the matter in conjunction with the requirements of chapter 4 of Title 40A of the New Jersey Statutes. The agreement and any subsequent amendment or revisions thereto shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs.

(4) Any joint contracting agent so designated pursuant to a joint purchasing agreement shall have the sole responsibility to comply with the provisions of section 23 of P.L.1971, c.198 (C.40A:11-23).

(5) The governing bodies of two or more contracting units or boards of education or for purposes related to the distribution of electricity, the governing bodies of two or more contracting units providing electrical distribution services pursuant to R.S.40:62-12 through R.S.40:62-25, may by resolution establish a cooperative pricing system as hereinafter provided. Any such resolution shall establish procedures whereby one participating contracting unit in the cooperative pricing system shall be empowered to advertise and receive bids to provide prices for all other participating contracting units in such system for the provision or performance of goods or services; provided, however, that no contract shall be awarded by any participating contracting unit for a price which exceeds any other price available to the participating contracting unit, or for a purchase of goods or services in deviation from the specifications, price or quality set forth by the participating contracting unit.

(6) The governing body of a county government may establish a cooperative pricing system for the voluntary use of contracting units within the county.

No vendor shall be required or permitted to extend bid prices to participating contracting units in a cooperative pricing system unless so specified in the bids.

No cooperative pricing system and agreements entered into pursuant to such system, or joint purchase agreements established pursuant to this act, the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.) or any other provision of law, shall become effective without prior approval of the

Director of the Division of Local Government Services and said approval shall be valid for a period not to exceed five years.

The director's approval shall be based on the following:

(a) Provision for maintaining adequate records and orderly procedures to facilitate audit and efficient administration, and

(b) Adequacy of public disclosure of such actions as are taken by the participants, and

(c) Adequacy of procedures to facilitate compliance with all provisions of the "Local Public Contracts Law" and corresponding regulations, and

(d) Clarity of provisions to assure that the responsibilities of the respective parties are understood.

Failure of the Director of the Division of Local Government Services to approve or disapprove a properly executed and completed application to establish a cooperative pricing system and agreements entered into pursuant to such system or other joint purchase agreement within 45 days from the date of receipt of said application by the director shall constitute approval of said application, which shall be valid for a period of five years, commencing from the date of receipt of said application by the director.

The Director of the Division of Local Government Services is hereby authorized to promulgate rules and regulations specifying procedures pertaining to cooperative pricing systems and joint purchase agreements entered into pursuant to this act, the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.) and any other provision of law.

18. Section 12 of P.L.1971, c.198 (C.40A:11-12) is amended to read as follows:

C.40A:11-12 Contracting unit purchases through State agency; procedure.

12. a. Any contracting unit under this act may without advertising for bids, or having rejected all bids obtained pursuant to advertising therefor, purchase any goods or services under any contract or contracts for such goods or services entered into on behalf of the State by the Division of Purchase and Property in the Department of the Treasury.

b. A contracting unit may also use, without advertising for bids, or having rejected all bids obtained pursuant to advertising, the Federal Supply Schedules of the General Services Administration promulgated by the Director of the Division of Purchase and Property in the Department of the Treasury pursuant to section 1 of P.L.1996, c.16 (C.52:34-6.1), subject to the following conditions:

(1) the price of the goods or services being procured is no greater than the price offered to federal agencies;

(2) the Federal Supply Schedules may be used only for purchases of up to $500,000 per year or for one product unit at any price and only for reprographic equipment or services, including digital copiers, used by the contracting unit;

(3) the contracting unit receives the benefit of federally mandated price reductions during the term of the contract and is protected from price increases during that time;

(4) the price of the goods or services being procured is no greater than the price of the same or equivalent goods or services under the State contract, unless the contracting unit determines that because of factors other than price, selection of a vendor from the Federal Supply Schedules would be more advantageous to the contracting unit;

(5) a copy of the purchase order relating to any such contract, the requisition or request for purchase order, if applicable, and documentation identifying the price of the goods or services under the Federal Supply Schedules shall be filed with the director within five working days of the award of any such contract by the contracting unit. The director shall notify the contracting unit of the receipt of the material and shall make the material available to the State Treasurer. The contracting unit shall make available to the director upon request any other documents relating to the solicitation and award of the contract.

c. Whenever a purchase is made, the contracting unit shall place its order with the vendor offering the lowest price, including delivery charges, that best meets the requirements of the contracting unit. Prior to placing such an order, the contracting unit shall document with specificity that the goods or services selected best meet the requirements of the contracting unit.

19. Section 13 of P.L.1971, c.198 (C.40A:11-13) is amended to read as follows:

C.40A:11-13 Specifications.

13. Specifications. Any specifications for the provision or performance of goods or services under this act shall be drafted in a manner to encourage free, open and competitive bidding. In particular, no specifications under this act may:

(a) Require any standard, restriction, condition or limitation not directly related to the purpose, function or activity for which the contract is awarded; or

(b) Require that any bidder be a resident of, or that the bidder's place of business be located in, the county or municipality in which the contract will be awarded or performed, unless the physical proximity of the bidder is requisite to the efficient and economical performance of the contract; except

that no specification for a contract for the collection and disposal of municipal solid waste shall require any bidder to be a resident of, or that the bidder's place of business be located in, the county or municipality in which the contract will be performed; or

(c) Discriminate on the basis of race, religion, sex, national origin , creed, color, ancestry, age, marital status, affectional or sexual orientation, familial status, liability for service in the Armed Forces of the United States, or nationality; or

(d) Require, with regard to any contract, the furnishing of any "brand name," but may in all cases require "brand name or equivalent," except that if the goods or services to be provided or performed are proprietary, such goods or services may be purchased by stipulating the proprietary goods or services in the bid specification in any case in which the resolution authorizing the contract so indicates, and the special need for such proprietary goods or services is directly related to the performance, completion or undertaking of the purpose for which the contract is awarded; or

(e) Fail to include any option for renewal, extension, or release which the contracting unit may intend to exercise or require; or any terms and conditions necessary for the performance of any extra work; or fail to disclose any matter necessary to the substantial performance of the contract.

Any specification which knowingly excludes prospective bidders by reason of the impossibility of performance, bidding or qualification by any but one bidder, except as provided herein, shall be null and void and of no effect and shall be readvertised for receipt of new bids, and the original contract shall be set aside by the governing body.

Any specification for a contract for the collection and disposal of municipal solid waste shall conform to the uniform bid specifications for municipal solid waste collection contracts established pursuant to section 22 of P.L.1991, c.381 (C.48:13A-7.22).

Any specification may include an item for the cost, which shall be paid by the contractor, of creating a file to maintain the notices of the delivery of labor or materials required by N.J.S.2A:44-128.

Any prospective bidder who wishes to challenge a bid specification shall file such challenges in writing with the contracting agent no less than three business days prior to the opening of the bids. Challenges filed after that time shall be considered void and having no impact on the contracting unit or the award of a contract.

C.40A:11-13.1 Payment from bequest, legacy or gift; conditions.

20. Goods or services, the payment for which utilizes only funds received by a contracting unit from a bequest, legacy or gift, shall be subject to the provisions of P.L.1971, c.198 (C.40A:11-1 et seq.), except that if such

bequest, legacy or gift contains written instructions as to the specifications, manufacturer or vendor, or source of supply of the goods or services to be provided or performed, such instructions shall be honored, provided that the bequest, legacy or gift is used in a manner consistent with N.J.S.40A:5-29.

C.40A:11-13.2 Rejection of bids; reasons.

21. A contracting unit may reject all bids for any of the following reasons:

a. The lowest bid substantially exceeds the cost estimates for the goods or services;

b. The lowest bid substantially exceeds the contracting unit's appropriation for the goods or services;

c. The governing body of the contracting unit decides to abandon the project for provision or performance of the goods or services;

d. The contracting unit wants to substantially revise the specifications for the goods or services;

e. The purposes or provisions or both of P.L.1971, c.198 (C.40A:11-1 et seq.) are being violated;

f. The governing body of the contracting unit decides to use the State authorized contract pursuant to section 12 of P.L.1971, c.198 (C.40A:11-12).

22. Section 14 of P.L.1971, c.198 (C.40A:11-14) is amended to read as follows:

C.40A:11-14 Form of contracts.

14. All contracts for the provision or performance of goods or services shall be in writing. The governing body of any contracting unit may, subject to the requirements of law, prescribe the form and manner in which contracts shall be made and executed, and the form and manner of execution and approval of all guarantee, indemnity, fidelity and other bonds.

23. 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 contracts for the provision or performance of goods or services shall be awarded for a period not to exceed 24 consecutive months, except that contracts for professional services pursuant to subparagraph (i) of paragraph (a) of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) shall be awarded for a period not to exceed 12 consecutive months. Contracts may be awarded for longer periods of time as follows:

(1) Supplying of:

(a) (Deleted by amendment, P.L.1996, c.113.)

(b) (Deleted by amendment, P.L.1996, c.113.)

(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 district 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 seven years;

(6) Insurance, including the purchase of insurance coverages, insurance consulting or administrative services, claims administration services and including participation in a joint self-insurance fund, risk management program or related services provided by a contracting unit insurance group, or participation in an insurance fund established by a local unit pursuant to N.J.S.40A:10-6, or a joint insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), 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 five years; provided, however, such contracts shall be awarded 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 company providing voice, data, transmission or switching services 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 and plan review services 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 provision or performance of goods or services 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 15 years; provided, however, that such contracts shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings;

(13) (Deleted by amendment, P.L.1999, c.440.)

(14) (Deleted by amendment, P.L.1999, c.440.)

(15) Leasing of motor vehicles, machinery and other equipment primarily used to fight fires, for a term not to exceed ten 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 resource recovery services by a qualified vendor, the disposal of the solid waste delivered for disposal which cannot be processed by a resource recovery facility or the residual ash generated at 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, and the Department of Environmental Protection pursuant to P.L.1985, c.38 (C.13:1E-136 et al.); and when the resource recovery facility is in conformance with a district 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 facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production; and "residual ash" means the bottom ash, fly ash, or any combination thereof, resulting from the combustion of solid waste at a resource recovery facility;

(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 Department of Environmental Protection, and when the resource recovery facility is in conformance with a district 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 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.), except for those contracts otherwise exempted pursuant to subsection (36) of this section. 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 goods or services for the purpose of lighting public streets, for a term not to exceed five years;

(21) The provision of emergency medical services 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. s.796, by a contracting unit engaged in the generation of electricity for retail sale, as of May 24,1991, 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) (Deleted by amendment, P.L.1999, c.440.)

(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. s.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 a contract entered into pursuant to the "County and Municipal Water Supply Act," N.J.S.40A:31-1 et seq., if the contract is entered into no later than January 7, 1995, 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;

(35) A contract 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;

(36) A contract between a public entity and a private firm or public authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for the provision of wastewater treatment services may be entered into for any term of not more than 40 years, including all optional extension periods;

(37) The operation and management of a facility under a license issued or permit approved by the Department of Environmental Protection, including a wastewater treatment system or a water supply or distribution facility, as the case may be, for any term of not more than ten years. For the purposes of this subsection, "wastewater treatment system" refers to facilities operated or maintained for the storage, collection, reduction, disposal, or other treatment of wastewater or sewage sludge, remediation of groundwater contamination, stormwater runoff, or the final disposal of residues resulting from the treatment of wastewater; and "water supply or distribution facility" refers to facilities operated or maintained for augmenting the natural water resources of the State, increasing the supply of water, conserving existing water resources, or distributing water to users;

(38) Municipal solid waste collection from facilities owned by a contracting unit, for any term of not more than three years;

(39) Fuel for heating purposes, for any term of not more than three years;

(40) Fuel or oil for use in motor vehicles for any term of not more than three years;

(41) Plowing and removal of snow and ice for any term of not more than three years;

(42) Purchases made under a contract awarded by the Director of the Division of Purchase and Property in the Department of the Treasury for use by counties, municipalities or other contracting units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a term not to exceed the term of that contract.

Any contract for services other than professional services, the statutory length of which contract is for three years or less, may include provisions for no more than one two-year, or two one-year, extensions, subject to the following limitations: a. The contract shall be awarded by resolution of the governing body upon a finding by the governing body that the services are being performed in an effective and efficient manner; b. No such contract shall be extended so that it runs for more than a total of five consecutive years; c. Any price change included as part of an extension shall be based upon the price of the original contract as cumulatively adjusted pursuant to any previous adjustment or extension and shall not exceed the change in the

index rate for the 12 months preceding the most recent quarterly calculation available at the time the contract is renewed; and d. The terms and conditions of the contract remain substantially the same.

All multiyear leases and contracts entered into pursuant to this section, including any two-year or one-year extensions, except 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 for the provision or performance of goods or services 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), (30), (31), (34), (35) or (37) 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), (36) or (37) 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 in the Department of Community Affairs shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the fiscal year.

All contracts shall cease to have effect at the end of the contracted period and shall not be extended by any mechanism or provision, unless in conformance with the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), except that a contract may be extended by mutual agreement of the parties to the contract when a contracting unit has commenced rebidding prior to the time the contract expires or when the awarding of a contract is pending at the time the contract expires.

24. Section 16 of P.L.1971, c.198 (C.40A:11-16) is amended to read as follows:

C.40A:11-16 Separate plans for various types of work; bids; contracts.

16. Separate plans for various types of work; bids; contracts. In the preparation of plans and specifications for the construction, alteration or

repair of any public building by any contracting unit, when the entire cost of the work will exceed the bid threshold, the architect, engineer or other person preparing the plans and specifications may prepare separate plans and specifications for

(1) The plumbing and gas fitting and all kindred work;

(2) Steam power plants, steam and hot water heating and ventilating apparatus and all kindred work;

(3) Electrical work;

(4) Structural steel and ornamental iron work; and

(5) All other work required for the completion of the project.

The contracting agent shall advertise for and receive, in the manner provided by law, either (a) separate bids for each of said branches of work, or (b) bids for all the work, goods and services required to complete the building to be included in a single overall contract, or (c) both. In the case of a single bid under (b) or (c), there shall be set forth in the bid the name or names of all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting, and all kindred work, and of the steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work, each of which subcontractors shall be qualified in accordance with P.L.1971, c.198 (C.40A:11-1 et seq.). The contracting unit shall require evidence of performance security to be submitted simultaneously with the list of the subcontractors. Evidence of performance security may be supplied by the bidder on behalf of himself and any or all subcontractors, or by each respective subcontractor, or by any combination thereof which results in evidence of performance security equaling, but in no event exceeding, the total amount bid.

Whenever a bid sets forth more than one subcontractor for any of the specialty trade categories (1) through (4) specified hereinabove in this section, the bidder shall submit to the contracting unit a certificate signed by the bidder listing each subcontractor named in the bid for that category. The certificate shall set forth the scope of work, goods and services for which the subcontractor has submitted a price quote and which the bidder has agreed to award to each subcontractor should the bidder be awarded the contract. The certificate shall be submitted to the contracting unit simultaneously with the list of the subcontractors. The certificate may take the form of a single certificate listing all subcontractors or, alternatively, a separate certificate may be submitted for each subcontractor. If a bidder does not submit a certificate or certificates to the contracting unit, the contracting unit shall award the contract to the next lowest responsible bidder.

Contracts shall be awarded to the lowest responsible bidder. In the event that a contract is advertised in accordance with (c) above said contract

shall be awarded in the following manner: If the sum total of the amounts bid by the lowest responsible bidder for each branch is less than the amount bid by the lowest responsible bidder for all the work, goods and services, the contracting unit shall award separate contracts for each of such branches to the lowest responsible bidder therefor, but if the sum total of the amounts bid by the lowest responsible bidder for each branch is not less than the amount bid by the lowest responsible bidder for all the work, goods and services, the contracting unit shall award a single overall contract to the lowest responsible bidder for all of such work, goods and services. In every case in which a contract is awarded under (b) above, all payments required to be made under such contract for work, goods and services supplied by a subcontractor shall, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor.

25. Section 1 of P.L.1979, c.464 (C.40A:11-16.2) is amended to read as follows:

C.40A:11-16.2 Partial payments; deposit bonds.

1. Any contract, the total price of which exceeds $100,000.00, entered into by a contracting unit involving the construction, reconstruction, alteration, repair or maintenance of any building, structure, facility or other improvement to real property, shall provide for partial payments to be made at least once each month as the work progresses, unless the contractor shall agree to deposit bonds with the contracting unit pursuant to P.L.1979, c.152 (C.40A:11-16.1).

26. Section 2 of P.L.1979, c.464 (C.40A:11-16.3) is amended to read as follows:

C.40A:11-16.3 Withholding of payments.

2. a. With respect to any contract entered into by a contracting unit pursuant to section 1 of P.L.1979, c.464 (C.40A:11-16.2) for which the contractor shall agree to the withholding of payments pursuant to P.L.1979, c.152 (C.40A:11-16.1), 2% of the amount due on each partial payment shall be withheld by the contracting unit pending completion of the contract.

b. Upon acceptance of the work performed pursuant to the contract for which the contractor has agreed to the withholding of payments pursuant to subsection a. of this section, all amounts being withheld by the contracting unit shall be released and paid in full to the contractor within 45 days of the final acceptance date agreed upon by the contractor and the contracting unit, without further withholding of any amounts for any purpose whatsoever, provided that the contract has been completed as indicated. If the contracting unit requires maintenance security after acceptance of the work

performed pursuant to the contract, such security shall be obtained in the form of a maintenance bond. The maintenance bond shall be no longer than two years and shall be no more than 100% of the project costs.

27. Section 3 of P.L.1979, c.464 (C.40A:11-16.4) is amended to read as follows:

C.40A:11-16.4 Partial payments for materials.

3. Any contract entered into by a contracting unit pursuant to section 1 of P.L.1979, c.464 (C.40A:11-16.2) may also provide for partial payments at least once in each month with respect to all materials placed along or upon the site, or stored at secured locations, which are suitable for use in the execution of the contract, if the person providing the materials furnishes releases of liens for the materials at the time each estimate of work is submitted for payment. The total of all the partial payments shall not exceed the cost of the materials.

28. Section 19 of P.L.1971, c.198 (C.40A:11-19) is amended to read as follows:

C.40A:11-19 Liquidated damages.

19. Any contract made pursuant to P.L.1971, c.198 (C.40A:11-1 et seq.) may include liquidated damages for the violation of any of the terms and conditions thereof or the failure to perform said contract in accordance with its terms and conditions, or the terms and conditions of P.L.1971, c.198 (C.40A:11-1 et seq.).

29. Section 21 of P.L.1971, c.198 (C.40A:11-21) is amended to read as follows:

C.40A:11-21 Guarantee to be furnished with bid.

21. A person bidding on a contract for the erection, alteration or repair of a public building, structure, facility or other improvement to real property, the total price of which exceeds $100,000, shall furnish a guarantee as provided for herein. A contracting unit may provide that a person bidding on any other contract, advertised in accordance with law, shall furnish a guarantee as provided for herein. The guarantee shall be payable to the contracting unit so that if the contract is awarded to the bidder, the bidder will enter into a contract therefor and will furnish any performance bond or other security required as a guarantee or indemnification. The guarantee shall be in the amount of 10% of the bid, but not in excess of $20,000.00, except as otherwise provided herein, and may be given, at the option of the bidder, by certified check, cashier's check or bid

bond. In the event that any law or regulation of the United States imposes any condition upon the awarding of a monetary grant to any contracting unit, which condition requires the depositing of a guarantee in an amount other than 10% of the bid or in excess of $20,000.00 the provisions of this section shall not apply and the requirements of the law or regulation of the United States shall govern.

30. Section 22 of P.L.1971, c.198 (C.40A:11-22) is amended to read as follows:

C.40A:11-22 Surety company certificate.

22. a. A person bidding on a contract for the erection, alteration or repair of a building, structure, facility or other improvement to real property, the total price of which exceeds $100,000, shall furnish a certificate from a surety company, as provided for herein. A contracting unit may provide that a person bidding on any other contract shall furnish a certificate from a surety company, as provided for herein.

b. When a surety company bond is required in the advertisement or specifications for a contract, every contracting unit shall require from any bidder submitting a bid in accordance with plans, specifications and advertisements, as provided for by law, a certificate from a surety company stating that it will provide the contractor with a bond in such sum as is required in the advertisement or in the specifications.

This certificate shall be obtained for a bond--

(1) For the faithful performance of all provisions of the specifications or for all matters which may be contained in the notice to bidders, relating to the performance of the contract, and

(2) If any be required, for a guarantee bond for the faithful performance of the contract provisions relating to the repair and maintenance of any work, project or facility and its appurtenances and keeping the same in good and serviceable condition during the term of the bond as provided for in the notice to bidders or in the specifications, or

(3) In such other form as may be provided in the notice to bidders or in the specifications.

If a bidder desires to offer the bond of an individual instead of that of a surety company, the bidder shall submit with the bid a certificate signed by such individual similar to that required of a surety company.

The contracting unit may reject any such bid if it is not satisfied with the sufficiency of the individual surety offered.

31. Section 23 of P.L.1971, c.198 (C.40A:11-23) is amended to read as follows:

C.40A:11-23 Advertisements for bids; bids; general requirements.

23. Advertisements for bids; bids; general requirements. a. All advertisements for bids shall be published in an official newspaper of the contracting unit sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but in no event less than 10 days prior to such date; except that all advertisements for bids on contracts for the collection and disposal of municipal solid waste shall be published in an official newspaper of the contracting unit circulating in the county or municipality, and in at least one newspaper of general circulation published in the State, sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but not less than 60 days prior to that date.

b. The advertisement shall designate the manner of submitting and the method of receiving the bids and the time and place at which the bids will be received. If the published specifications provide for receipt of bids by mail, those bids which are mailed to the contracting unit shall be sealed and shall only be opened for examination at such time and place as all bids received are unsealed and announced. At such time and place the contracting agent of the contracting unit shall publicly receive the bids, and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents, who are then and there present, and shall also make proper record of the prices and terms, upon the minutes of the governing body, if the award is to be made by the governing body of the contracting unit, or in a book kept for that purpose, if the award is to be made by other than the governing body, and in such latter case it shall be reported to the governing body of the contracting unit for its action thereon, when such action thereon is required. No bids shall be received after the time designated in the advertisement.

c. Notice of revisions or addenda to advertisements or bid documents shall be provided as follows:

1) For all contracts except those for construction work and municipal solid waste collection and disposal service, notice shall be published no later than five days, Saturdays, Sundays, and holidays excepted, prior to the date for acceptance of bids, in an official newspaper of the contracting unit and be provided to any person who has submitted a bid or who has received a bid package, in one of the following ways: i) in writing by certified mail or ii) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or iii) by a delivery service that provides certification of delivery to the sender.

2) For all contracts for construction work, notice shall be provided no later than seven days, Saturdays, Sundays, or holidays excepted, prior to the date for acceptance of bids, to any person who has submitted a bid or who has received a bid package in any of the following ways: i) in writing by certified mail or ii) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or iii) by a delivery service that provides certification of delivery to the sender.

3) For municipal solid waste collection and disposal contracts, notice shall be published in an official newspaper of the contracting unit and in at least one newspaper of general circulation published in the State no later than five days, Saturdays, Sundays, and holidays excepted, prior to the date for acceptance of bids.

d. Failure of the contracting unit to advertise for the receipt of bids or to provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the contracting unit from accepting the bids and require the readvertisement for bids pursuant to subsection a. of this section. Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the contracting unit shall not be considered failure by the contracting unit to provide notice.

32. Section 25 of P.L.1971, c.198 (C.40A:11-25) is amended to read as follows:

C.40A:11-25 General power to provide qualification for bidders.

25. The governing body of any contracting unit may establish reasonable regulations appropriate for controlling the qualifications of prospective bidders upon contracts to be awarded on behalf of the contracting unit, by the class or category of goods or services to be provided or performed, which may fix the qualifications required according to the financial ability and experience of the bidders and the capital and equipment available to them pertinent to and reasonably related to the class or category of goods or services to be provided or performed in the performance of any such contract, and may require each bidder to furnish a statement thereof; and if such governing body is not satisfied with the qualifications of any bidder as founded upon such statement, it may refuse to furnish the bidder with any plans or specifications for any public contract or consider any bid made by the bidder for any contract.

Prior to the adoption of any such regulations, a contracting unit shall submit them to a public hearing. Notice of the hearing and a general description of the subject matter of the regulations to be adopted shall be

published in not less than two newspapers circulating in the county or municipality in which the contracting unit is located. Publication shall precede by at least 20 days the date set in the notice for the hearing. The clerk or secretary of the governing body of the contracting unit shall keep a record of the proceedings and of the testimony of any citizen or prospective bidder. Within 10 days after the completion of the hearings, the proposed regulations and a true copy of the hearings shall be forwarded to the Director of the Division of Local Government Services for the director's approval. This approval shall be indicated by a letter from the director to the governing body of the contracting unit. If the director fails to approve or disapprove the regulations within 30 days of their receipt by the director, they shall take effect without the director's approval. The director may disapprove such proposed regulations only if the director finds that:

(a) They are written in a manner which will unnecessarily discourage full, free and open competition; or

(b) They unnecessarily restrict the participation of small businesses in the public bidding process; or

(c) They create undue preferences; or

(d) They violate any other provision of this act, or any other law.

If the director disapproves such proposed regulations within the 30-day period prescribed, they shall be of no force and effect and may not be required as a condition to the acceptance of a bid on any public contract by the contracting unit. Any appeal from a decision of the director to the Local Finance Board shall be subject to the provisions of the "Local Government Supervision Act (1947)", P.L.1947, c.151 (C.52:27BB-1 et seq.).

No qualification rating of any bidder shall be influenced by the bidder's race, religion, sex, national origin, nationality or place of residence or business.

Nothing contained in this act shall limit the right of any court to review a refusal to furnish any such plans or specifications or to consider any bid on any contract advertised.

Any such governing body may adopt a standard form of statement or questionnaire for bidders on public works contracts, and in such case their action shall be governed as provided herein.

33. Section 26 of P.L.1971, c.198 (C.40A:11-26) is amended to read as follows:

C.40A:11-26 Standard questionnaire; effect of unsatisfactory answers.

26. The governing body of any contracting unit may adopt a standard form of statement or questionnaire for bidders and may require from any person proposing to bid upon any such contract a statement or answers showing the

bidder's financial ability and experience in performing public sector work and describing the equipment available to such bidder in the performance of such contract, and if not satisfied with the sufficiency of this statement or answers may refuse to furnish plans and specifications to the bidder.

34. Section 27 of P.L.1971, c.198 (C.40A:11-27) is amended to read as follows:

C.40A:11-27 Standard statements and questionnaires; prospective bidders; responses.

27. Such statements and questionnaires shall be standardized for like classes of goods or services to be submitted to prospective bidders who may be required to respond to questions under oath. The statement or answer shall disclose fully the financial ability, adequacy of plant and equipment, organization and prior experience of the prospective bidder, and such other pertinent and material facts as may be required.

35. Section 28 of P.L.1971, c.198 (C.40A:11-28) is amended to read as follows:

C.40A:11-28 Classification of prospective bidders; notice.

28. Prospective bidders shall be classified as to the character and amount of goods or services contracts as to which they shall be qualified to submit bids, and bids shall be accepted only from persons so qualified. The classification shall be made and an immediate notice thereof shall be sent to the prospective bidders by certified or registered mail within eight days after the date of receipt of the responsive statement or answers.

36. Section 29 of P.L.1971, c.198 (C.40A:11-29) is amended to read as follows:

C.40A:11-29 Reclassification of prospective bidders; request for; time limit.

29. If any person, after being notified of a classification, shall be dissatisfied therewith or with the classification of other bidders, that person may request in writing a hearing before such governing body, and may present such further evidence with respect to the financial responsibility, organization, plant and equipment, or experience of that person or other prospective bidders as might tend to justify a different classification.

Where a request is made for the change of classification of another prospective bidder, the applicant therefor shall notify such other bidder by certified or registered mail of the time and place of hearing, as fixed by the governing body, and at the hearing shall present satisfactory evidence that the notice was served as herein required, before any matters pertaining to a change of classification of such other bidder shall be taken up. After

hearing such evidence the governing body may, in its discretion, by appropriate action, change or retain the classification of any bidder.

No change in classification to be effective for any contract where bidding therefor has been duly advertised, shall be made unless the written request therefor shall have been received at least 20 days before the final day for submission of bids.

All requests for change in classification and notice of any action sent by certified or registered mail to the parties directly affected thereby, shall be acted upon by the governing body concerned at least eight days prior to the date fixed for the next opening of bids on any contract or contracts for which such persons might be qualified to bid as a result of the reclassification.

37. Section 31 of P.L.1971, c.198 (C.40A:11-31) is amended to read as follows:

C.40A:11-31 Reconsideration by board of review; request for; time limit.

31. Any prospective bidder who is dissatisfied with an original classification or reclassification may upon receipt of notice thereof, request in writing a hearing of the matter before the board of review. The request shall be filed with the contracting agent and the secretary of the board.

The board shall hold a hearing at which the prospective bidder shall be entitled to be heard and to submit additional information.

The board shall review the responsibility of all prospective bidders who have filed statements or answers, considering both the statement, answers and any additional information given at the hearing, and shall certify to the contracting unit concerned, its decision as to the original classifications or reclassifications, if any. The decisions shall be made by a majority vote.

In order for any change in classification by the board to be effective for a contract previously advertised, the request shall be filed not less than five days prior to the final day for submission of bids, and the board shall hold a hearing and act upon the request not less than two days prior to the date fixed for the next opening of bids on any public works contract for which such prospective bidders might be qualified to bid as a result of the reclassification.

38. Section 32 of P.L.1971, c.198 (C.40A:11-32) is amended to read as follows:

C.40A:11-32 Rejection of bids after qualification of bidder; hearing.

32. Nothing herein contained shall be construed as depriving any governing body of the right to reject a bid at any time prior to the actual award of a contract, where the circumstances of the prospective bidder have changed subsequent to the qualification and classification of the bidder,

which in the opinion of the awarding contracting unit would adversely affect the responsibility of the bidder. Before taking final action on any such bid, the contracting agent concerned shall notify the bidder and afford the bidder an opportunity to present any additional information which might tend to sustain the existing classification.

No person shall be qualified to bid on any contract unless that person shall have submitted a statement or answers as herein required within a period of six months preceding the date of opening of bids for the contract, if the bidders thereon are required to be classified hereunder. In any case where the contracting unit shall require classification of the bidders in compliance with these sections, each bidder on any contract shall be required to submit a statement listing the changes in the statement or answers herein required as part of the bidder's bid submission.

39. Section 36 of P.L.1971, c.198 (C.40A:11-36) is amended to read as follows:

C.40A:11-36 Sale or other disposition of personal property.

36. Any contracting unit by resolution of its governing body may authorize by sealed bid or public auction the sale of its personal property not needed for public use.

(1) If the estimated fair value of the property to be sold exceeds 15 percent of the bid threshold in any one sale and it is neither livestock nor perishable goods, it shall be sold at public sale to the highest bidder.

(2) The contracting unit need not advertise for bids when it makes any such sale to the United States, the State of New Jersey, another contracting unit, any body politic to which it contributes tax raised funds, any foreign nation which has diplomatic relations with the United States, or any governmental unit in the United States.

(3) Notice of the date, time and place of the public sale together with a description of the items to be sold and the conditions of sale shall be published in an official newspaper. Such sale shall be held not less than seven nor more than 14 days after the latest publication of the notice thereof.

(4) If no bids are received the property may then be sold at private sale without further publication or notice thereof, but in no event at less than the estimated fair value; or the contracting unit may if it so elects reoffer the property at public sale. As used herein, "estimated fair value" means the market value of the property between a willing seller and a willing buyer less the cost to the contracting unit to continue storage or maintenance of any personal property not needed for public use to be sold pursuant to this section.

(5) A contracting unit may reject all bids if it determines such rejection to be in the public interest. In any case in which the contracting unit has

rejected all bids, it may readvertise such personal property for a subsequent public sale. If it elects to reject all bids at a second public sale, pursuant to this section, it may then sell such personal property without further publication or notice thereof at private sale, provided that in no event shall the negotiated price at private sale be less than the highest price of any bid rejected at the preceding two public sales and provided further that in no event shall the terms or conditions of sale be changed or amended.

(6) If the estimated fair value of the property to be sold does not exceed the applicable bid threshold in any one sale or is either livestock or perishable goods, it may be sold at private sale without advertising for bids.

(7) Notwithstanding the provisions of this section, by resolution of the governing body, a contracting agent may include the sale of personal property no longer needed for public use as part of specifications to offset the price of a new purchase.

40. Section 37 of P.L.1971, c.198 (C.40A:11-37) is amended to read as follows:

C.40A:11-37 Division of Local Government Services to assist contracting units.

37. The Division of Local Government Services in the Department of Community Affairs is hereby authorized to assist contracting units in all matters affecting the administration of this law.

41. R.S.40:8-2 is amended to read as follows:

Municipal airports; general powers.

40:8-2. The governing body of any municipality may acquire, establish, construct, own, control, lease, equip, improve, maintain, operate and regulate airports or landing fields for the use of airplanes and other aircraft within or without the limits of such municipality and may use for such purpose or purposes any property, owned or controlled by such municipality, suitable therefor, provided that the provision or performance of goods or services in connection with the operation, management or administration of an airport shall be done pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) and any supplements thereto.

42. R.S.40:8-3 is amended to read as follows:

County airports; general powers.

40:8-3. The governing body of any county may acquire, by lease or purchase, and establish, construct, own, control, lease, equip, improve, maintain, operate and regulate airports or landing fields for the use of airplanes and other aircraft within the limits of such counties, and may use

for such purpose or purposes any property, owned or controlled by such county, suitable therefor, provided that the provision or performance of goods or services in connection with the operation, management or administration of an airport shall be done pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) and any supplements thereto.

43. R.S.40:8-6 is amended to read as follows:

Control of airports; regulations; fees.

40:8-6. The governing body of a municipality or county which has established an airport or landing field and acquired, leased or set apart real property for such purpose may construct, improve, equip, maintain and operate the same, or may vest jurisdiction for the construction, improvement, equipment, maintenance and operation thereof, in any suitable officer, board or body of such municipality or county. Provision or performance of goods or services in connection with the operation, management or administration of an airport shall be done pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) and any supplements thereto. The expenses of such construction, improvement, equipment, maintenance and operation shall be a municipal or county charge, as the case may be.

The governing body of any municipality or county may adopt regulations and establish fees or charges for the use of such airport or landing field, or may authorize an officer, board or body of such municipality or county having jurisdiction to adopt such regulations and establish such fees or charges, subject, however, to the approval of such governing body before they shall take effect.

C.40A:11-37.1 Rules.

44. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Director of the Division of Local Government Services after consultation with the Commissioner of Education may adopt rules implementing the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) and the "Public School Contracts Law," N.J.S.18A:18A-1 et seq.

C.18A:18A-4.1 Use of competitive contracting by boards of education; purposes.

45. Notwithstanding the provisions of any law, rule or regulation to the contrary, competitive contracting may be used by boards of education in lieu of public bidding for procurement of specialized goods and services the price of which exceeds the bid threshold, for the following purposes:

a. The purchase or licensing of proprietary computer software designed for board of education purposes, which may include hardware intended for

use with the proprietary software. This subsection shall not be utilized for the purpose of acquiring general purpose computer hardware or software;

b. The hiring of a for-profit entity or a not-for-profit entity incorporated under Title 15A of the New Jersey Statutes for the purpose of:

(1) the operation, management or administration of recreation or social service facilities or programs; or

(2) the operation, management or administration of data processing services;

c. Services performed by an energy services company, including the design, measurement, financing and maintenance of energy savings equipment or renovations, which result in payment derived, in whole or in part, from the sale of verified energy savings over the term of an agreement with a public utility or subsidiary, but not the provision or performance of the physical improvements that result in energy savings, provided that such savings are calculated pursuant to guidelines promulgated by the Board of Public Utilities and further provided that the Local Finance Board, in consultation with the State Board of Education, shall find that the terms and conditions of any financing agreement are reasonable;

d. Telecommunications transmission or switching services that are not part of a tariff or schedule of charges filed with the Board of Public Utilities;

e. The purchase of specialized machinery or equipment of a technical nature, or servicing thereof, which will not reasonably permit the drawing of specifications;

f. Food services provided by food service management companies when not part of programs administered by the New Jersey Department of Agriculture, Bureau of Child Nutrition Programs;

g. Driver education courses provided by licensed driver education schools;

h. At the option of the board of education, any good or service that is exempt from bidding pursuant to N.J.S.18A:18A-5;

i. Laboratory testing services;

j. Concessions;

k. The operation, management or administration of other services, with the approval of the Division of Local Government Services in the Department of Community Affairs.

Any purpose included herein shall not be considered by a board of education as an extraordinary unspecifiable service pursuant to paragraph (2) of subsection a. of N.J.S.18A:18A-5.

C.18A:18A-4.2 Five-year contract term limit; exceptions.

46. Unless an exception is provided for under N.J.S.18A:18A-42 permitting a longer contract duration, contracts awarded pursuant to section 49 of P.L.1999, c.440 (C.18A:18A-4.5) may be for a term not to exceed five years.

C.18A:18A-4.3 Competitive contracting initiated by board of education resolution; process administration.

47. a. In order to initiate competitive contracting, the board of education shall pass a resolution authorizing the use of competitive contracting each time specialized goods or services enumerated in section 45 of P.L.1999, c.440 (C.18A:18A-4.1) are desired to be contracted. If the desired goods or services have previously been contracted for using the competitive contracting process then the original resolution of the board of education shall suffice.

b. The competitive contracting process shall be administered by a purchasing agent qualified pursuant to subsection b. of section 9 of P.L.1971, c.198 (C.40A:11-9) or by legal counsel of the board of education, or by the school business administrator of the board of education. Any contracts awarded under this process shall be made by resolution of the board of education subject to the provisions of subsection e. of section 49 of P.L.1999, c.440 (C.18A:18A-4.5).

C.18A:18A-4.4 Request for proposals; documentation; provisions.

48. The competitive contracting process shall utilize a request for proposals documentation in accordance with the following provisions:

a. The purchasing agent or counsel or school business administrator shall prepare or have prepared a request for proposal documentation, which shall include: all requirements deemed appropriate and necessary to allow for full and free competition between vendors; information necessary for potential vendors to submit a proposal; and a methodology by which the board of education will evaluate and rank proposals received from vendors.

b. The methodology for the awarding of competitive contracts shall be based on an evaluation and ranking, which shall include technical, management, and cost related criteria, and may include a weighting of criteria, all developed in a way that is intended to meet the specific needs of the contracting unit, and where such criteria shall not unfairly or illegally discriminate against or exclude otherwise capable vendors. When an evaluation methodology uses a weighting of criteria, at the option of the board of education the weighting to be accorded to each criterion may be disclosed to vendors prior to receipt of the proposals. The methodology for awarding competitive contracts shall comply with such rules and regulations as the Director of the Division of Local Government Services in the Department of Community Affairs, after consultation with the Commissioner of Education may adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. At no time during the proposal solicitation process shall the purchasing agent or counsel or school business administrator convey

information, including price, to any potential vendor which could confer an unfair advantage upon that vendor over any other potential vendor. If a purchasing agent or counsel or school business administrator desires to change proposal documentation, the purchasing agent or counsel or school business administrator shall notify only those potential vendors who received the proposal documentation of any and all changes in writing and all existing documentation shall be changed appropriately.

d. All proposals and contracts shall be subject to the provisions of section 1 of P.L.1977, c.33 (C.52:25-24.2) requiring submission of a statement of corporate ownership and the provisions of P.L.1975, c.127 (C.10:5-31 et seq.) concerning equal employment opportunity and affirmative action.

C.18A:18A-4.5 Competitive contracting proposal solicitation.

49. Competitive contracting proposals shall be solicited in the following manner:

a. A notice of the availability of request for proposal documentation shall be published in an official newspaper of the board of education at least 20 days prior to the date established for the submission of proposals. The board of education shall promptly reply to any request by an interested vendor by providing a copy of the request for proposals. The board of education may charge a fee for the proposal documentation that shall not exceed $50.00 or the cost of reproducing the documentation, whichever is greater.

b. Each interested vendor shall submit a proposal which shall include all the information required by the request for proposals. Failure to meet the requirements of the request for proposals may result in the board of education disqualifying the vendor from further consideration. Under no circumstances shall the provisions of a proposal be subject to negotiation by the board of education.

c. If the board of education, at the time of solicitation, utilizes its own employees to provide the goods or perform the services, or both considered for competitive contracting, the board of education shall, at any time prior to, but no later than the time of solicitation for competitive contracting proposals, notify affected employees of the board of educations's intention to solicit competitive contracting proposals. Employees or their representatives shall be permitted to submit recommendations and proposals affecting wages, hours, and terms and conditions of employment in such a manner as to meet the goals of the competitive contract. If employees are represented by an organization that has negotiated a contract with the board of education, only the bargaining unit shall be authorized to submit such recommendations or proposals. When requested by such employees, the board of education shall provide such information regarding budgets and the costs of

performing the services by such employees as may be available. Nothing shall prevent such employees from making recommendations that may include modifications to existing labor agreements in order to reduce such costs in lieu of award of a competitive contract, and agreements implementing such recommendations may be considered as cause for rejecting all other proposals.

d. The purchasing agent or counsel or school business administrator shall evaluate all proposals only in accordance with the methodology described in the request for proposals. After proposals have been evaluated, the purchasing agent or counsel or school business administrator shall prepare a report evaluating and recommending the award of a contract or contracts. The report shall list the names of all potential vendors who submitted a proposal and shall summarize the proposals of each vendor. The report shall rank vendors in order of evaluation, shall recommend the selection of a vendor or vendors, as appropriate, for a contract, shall be clear in the reasons why the vendor or vendors have been selected among others considered, and shall detail the terms, conditions, scope of services, fees, and other matters to be incorporated into a contract. The report shall be made available to the public at least 48 hours prior to the awarding of the contract, or when made available to the board of education, whichever is sooner. The board of education shall have the right to reject all proposals for any of the reasons set forth in N.J.S.18A:18A-22.

e. Award of a contract shall be made by resolution of the board of education within 60 days of the receipt of the proposals, except that the proposals of any vendors who consent thereto, may, at the request of the board of education, be held for consideration for such longer period as may be agreed.

f. The report prepared pursuant to subsection d. of this section shall become part of the public record and shall reflect the final action of the board of education. Contracts shall be executed pursuant to N.J.S.18A:18A-40.

g. The secretary of the board of education shall publish a notice in the official newspaper of the board of education summarizing the award of a contract, which shall include but not be limited to, the nature, duration, and amount of the contract, the name of the vendor and a statement that the resolution and contract are on file and available for public inspection in the office of the secretary of the board of education.

h. The Director of the Division of Local Government Services in the Department of Community Affairs, after consultation with the Commissioner of Education, may adopt additional rules and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to effectuate the provisions of

sections 45 through 49 of P.L.1999, c.440 (C.18A:18A-4.1 through C.18A:18A-4.5).

50. N.J.S.18A:18A-2 is amended to read as follows:

Definitions.

18A:18A-2. As used in this chapter, unless the context otherwise indicates:

a. "Board of education" means and includes the board of education of any local school district, consolidated school district, regional school district, county vocational school and any other board of education or other similar body other than the State Board of Education, the Commission on Higher Education or the Presidents' Council, established and operating under the provisions of Title 18A of the New Jersey Statutes and having authority to make purchases and to enter into contracts for the provision or performance of goods or services. The term "board of education" also shall include the board of trustees of a charter school established under P.L.1995, c.426 (C.18A:36A-1 et seq.).

b. "Purchasing agent" means the secretary, business administrator or the business manager of the board of education duly assigned the authority, responsibility and accountability for the purchasing activity of the board of education and having the power to prepare advertisements, to advertise for and receive bids and to award contracts as permitted by this chapter, but if there be no secretary, business administrator or business manager, such officer, committees or employees to whom such power has been delegated by the board of education.

c. (Deleted by amendment, P.L.1999, c.440.)

d. "District" means and includes any local school district, consolidated school district, regional school district, county vocational school and any other board of education or other similar body other than the State board, established under the provisions of Title 18A of the New Jersey Statutes.

e. (Deleted by amendment, P.L.1999, c.440.)

f. (Deleted by amendment, P.L.1999, c.440.)

g. "Extraordinary unspecifiable services" means services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor.

h. "Professional services" means services rendered or performed by a person authorized by law to practice a recognized profession and whose practice is regulated by law and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services may also mean services rendered in the provision or

performance of goods or services that are original and creative in character in a recognized field of artistic endeavor.

i. (Deleted by amendment, P.L.1999, c.440.)

j. "Purchases" means transactions, for a valuable consideration, creating or acquiring an interest in goods, services and property, except real property or any interest therein.

k. "Work" means any task, program, undertaking, or activity, related to any development, redevelopment, construction or reconstruction performed or provided pursuant to a contract with a board of education.

l. "Aggregate" means the sums expended or to be expended for the provision or performance of any goods or services in connection with the same immediate purpose or task, or the furnishing of similar goods or services, during the same contract year through a contract awarded by a purchasing agent.

m. "Bid threshold" means the dollar amount set in N.J.S.18A:18A-3, above which a board of education shall advertise for and receive sealed bids in accordance with procedures set forth in N.J.S.18A:18A-1 et seq.

n. "Contract" means any agreement, including but not limited to a purchase order or a formal agreement, which is a legally binding relationship enforceable by law, between a vendor who agrees to provide or perform goods or services and a board of education which agrees to compensate a vendor, as defined by and subject to the terms and conditions of the agreement. A contract also may include an arrangement whereby a vendor compensates a board of education for the vendor's right to perform a service, such as, but not limited to, operating a concession.

o. "Contract year" means the period of 12 consecutive months following the award of a contract.

p. "Competitive contracting" means the method described in sections 45 through 49 of P.L.1999, c.440 (C.18A:18A-4.1 through C.18A:18A-4.5) of contracting for specialized goods and services in which formal proposals are solicited from vendors; formal proposals are evaluated by the purchasing agent or counsel or school business administrator; and the board of education awards a contract to a vendor or vendors from among the formal proposals received.

q. "Goods and services" or "goods or services" means any work, labor, commodities, equipment, materials, or supplies of any tangible or intangible nature, except real property or any interest therein, provided or performed through a contract awarded by a purchasing agent, including goods and property subject to N.J.S.12A:2-101 et seq.

r. "Library and educational goods and services" means textbooks, copyrighted materials, student produced publications and services incidental thereto, including but not limited to books, periodicals, newspapers,

documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter and audiovisual and other materials of a similar nature, necessary binding or rebinding of library materials, and specialized computer software used as a supplement or in lieu of textbooks or reference material.

s. "Lowest price" means the least possible amount that meets all requirements of the request of a purchasing agent.

t. "Lowest responsible bidder or vendor" means the bidder or vendor: (1) whose response to a request for bids offers the lowest price and is responsive; and (2) who is responsible.

u. "Official newspaper" means any newspaper designated by the board of education pursuant to R.S.35:1-1 et seq.

v. "Purchase order" means a document issued by the purchasing agent authorizing a purchase transaction with a vendor to provide or perform goods or services to the board of education, which, when fulfilled in accordance with the terms and conditions of a request of a purchasing agent and other provisions and procedures that may be established by the board of education, will result in payment by the board of education.

w. "Quotation" means the response to a formal or informal request made by a purchasing agent to a vendor for provision or performance of goods or services, when the aggregate cost is less than the bid threshold. Quotations may be in writing, or taken verbally if a record is kept by the purchasing agent.

x. "Responsible" means able to complete the contract in accordance with its requirements, including but not limited to requirements pertaining to experience, moral integrity, operating capacity, financial capacity, credit, and workforce, equipment, and facilities availability.

y. "Responsive" means conforming in all material respects to the terms and conditions, specifications, legal requirements, and other provisions of the request.

z. "Public works" means building, altering, repairing, improving or demolishing any public structure or facility constructed or acquired by a board of education to house school district functions or provide water, waste disposal, power, transportation and other public infrastructures.

aa. "Concession" means the granting of a license or right to act for or on behalf of the board of education, or to provide a service requiring the approval or endorsement of the board of education, and which may or may not involve a payment or exchange, or provision of services by or to the board of education, provided that the term concession shall not include vending machines.

bb. "Index rate" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local

Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis.

cc. "Proprietary" means goods or services of a specialized nature, that may be made or marketed by a person or persons having the exclusive right to make or sell them, when the need for such goods or services has been certified in writing by the board of education to be necessary for the conduct of its affairs.

dd. "Service or services" means the performance of work, or the furnishing of labor, time, or effort, or any combination thereof, not involving or connected to the delivery or ownership of a specified end product or goods or a manufacturing process. Service or services may also include an arrangement in which a vendor compensates the board of education for the vendor's right to operate a concession.

51. N.J.S.18A:18A-3 is amended to read as follows:

Bid threshold.

18A:18A-3. a. When the cost or price of any contract awarded by the purchasing agent in the aggregate, does not exceed in a contract year the total sum of $17,500, the contract may be awarded by a purchasing agent when so authorized by resolution of the board of education without public advertising for bids and bidding therefor, except that the board of education may adopt a resolution to set a lower threshold for the receipt of public bids or the solicitation of competitive quotations. If the purchasing agent is qualified pursuant to subsection b. of section 9 of P.L.1971, c.198 (C.40A:11-9) the board of education may establish that the bid threshold may be up to $25,000. Such authorization may be granted for each contract or by a general delegation of the power to negotiate and award such contracts pursuant to this section.

b. Commencing in the fifth year after the year in which P.L.1999, c.440 takes effect, and every five years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount and the higher threshold amount which the board of education is permitted to establish as set forth in subsection a. of this section or the threshold amount resulting from any adjustment under this subsection, in direct proportion to the rise or fall of the index rate as that term is defined in N.J.S.18A:18A-2, and shall round the adjustment to the nearest $1,000. The Governor shall notify all local school districts of the adjustment no later than June 1 of every fifth year. The adjustment shall become effective on July 1 of the year in which it is made.

Any contract made pursuant to this section may be awarded for a period of 24 consecutive months, except that contracts for professional services pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 may be awarded for a period not exceeding 12 consecutive months.

52. N.J.S.18A:18A-4 is amended to read as follows:

Contract awarded by board of education resolution; disqualification conditions.

18A:18A-4. a. Every contract for the provision or performance of any goods or services, the cost of which in the aggregate exceeds the bid threshold, shall be awarded only by resolution of the board of education to the lowest responsible bidder after public advertising for bids and bidding therefor, except as is provided otherwise in this chapter or specifically by any other law.

The board of education may, by resolution approved by a majority of the board of education and subject to subsections b. and c. of this section, disqualify a bidder who would otherwise be determined to be the lowest responsible bidder, if the board of education finds that it has had prior negative experience with the bidder.

b. As used in this section, "prior negative experience" means any of the following:

(1) the bidder has been found, through either court adjudication, arbitration, mediation, or other contractually stipulated alternate dispute resolution mechanism, to have: failed to provide or perform goods or services; or failed to complete the contract in a timely manner; or otherwise performed unsatisfactorily under a prior contract with the board of education;

(2) the bidder defaulted on a contract, thereby requiring the board of education to utilize the services of another contractor to provide the goods or perform the services or to correct or complete the contract;

(3) the bidder defaulted on a contract, thereby requiring the board of education to look to the bidder's surety for completion of the contract or tender of the costs of completion; or

(4) the bidder is debarred or suspended from contracting with any of the agencies or departments of the executive branch of the State of New Jersey at the time of the contract award, whether or not the action was based on experience with the board of education.

c. The following conditions apply if the board of education is contemplating a disqualification based on prior negative experience:

(1) The existence of any of the indicators of prior negative experience set forth in this section shall not require that a bidder be disqualified. In each instance, the decision to disqualify shall be made within the discretion

of the board of education and shall be rendered in the best interests of the board of education.

(2) All mitigating factors shall be considered in determining the seriousness of the prior negative experience and in deciding whether disqualification is warranted.

(3) The bidder shall be furnished by the board of education with a written notice (a) stating that a disqualification is being considered; (b) setting forth the reason for the disqualification; and (c) indicating that the bidder shall be accorded an opportunity for a hearing before the board of education if the bidder so requests within a stated period of time. At the hearing, the bidder shall show good cause why the bidder should not be disqualified by presenting documents and testimony. If the board of education determines that good cause has not been shown by the bidder, it may vote to find the bidder lacking in responsibility and, thus, disqualified.

(4) Disqualification shall be for a reasonable, defined period of time which shall not exceed five years.

(5) A disqualification, other than a disqualification pursuant to which a board of education is prohibited by law from entering into a contract with a bidder, may be voided or the period thereof may be reduced, in the discretion of the board of education, upon the submission of a good faith application under oath, supported by documentary evidence, setting forth substantial and appropriate grounds for the granting of relief, such as reversal of a judgment, or actual change of ownership, management or control of the bidder.

(6) An opportunity for a hearing need not be offered to a bidder whose disqualification is based on its suspension or debarment by an agency or department of the executive branch of the State of New Jersey. The term of such a disqualification shall be concurrent with the term of the suspension or debarment by the State agency or department.

d. The purchase of text books and materials that exceed the bid threshold and are approved by a board of education pursuant to N.J.S.18A-34-1 shall not require the further adoption of a resolution for purchase.

53. N.J.S.18A:18A-5 is amended to read as follows:

Exceptions to requirement for advertising.

18A:18A-5. Exceptions to requirement for advertising. Any contract, the amount of which exceeds the bid threshold, shall be negotiated and awarded by the board of education by resolution at a public meeting without public advertising for bids and bidding therefor if

a. The subject matter thereof consists of:

(1) Professional services. The board of education 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 an official newspaper, 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 board of education;

(2) Extraordinary unspecifiable services which cannot reasonably be described by written specifications. The application of this exception as to extraordinary unspecifiable services shall be construed narrowly in favor of open competitive bidding where possible and the Director of the Division of Local Government Services in the Department of Community Affairs is authorized to establish rules and regulations after consultation with the Commissioner of Education limiting its use in accordance with the intention herein expressed; and the board of education shall in each instance state supporting reasons for its action in the resolution awarding the contract for extraordinary unspecifiable services and shall forthwith cause to be printed, in the manner set forth in paragraph (1) of this subsection, a brief notice of the award of such contract;

(3) The doing of any work by employees of the board of education;

(4) The printing of all legal notices; and legal briefs, records and appendices to be used in any legal proceeding in which the board of education may be a party;

(5) Library and educational goods and services;

(6) Food supplies, including food supplies for home economics classes, when purchased pursuant to rules and regulations of the State board and in accordance with the provisions of N.J.S.18A:18A-6;

(7) 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, in accordance with the tariffs and schedules of charges made, charged and exacted, filed with said board;

(8) The printing of bonds and documents necessary to the issuance and sale thereof by a board of education;

(9) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with such services, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;

(10) Insurance, including the purchase of insurance coverage and consultant services, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;

(11) Publishing of legal notices in newspapers as required by law;

(12) The acquisition of artifacts or other items of unique intrinsic, artistic or historic character;

(13) Those goods and services necessary or required to prepare and conduct an election;

(14) (Deleted by amendment, P.L.1999,c.440.)

(15) (Deleted by amendment, P.L.1999, c.270).

(16) (Deleted by amendment, P.L.1999,c.440.)

(17) The doing of any work by persons with disabilities employed by a sheltered workshop;

(18) Expenses for travel and conferences;

(19) The provision or performance of goods or services for the support or maintenance of proprietary computer hardware and software, except that this provision shall not be utilized to acquire or upgrade non-proprietary hardware or acquire or update non-proprietary software;

(20) Purchases of goods and services at rates set by the Universal Service Fund administered by the Federal Communications Commission;

(21) Goods and services paid with funds that: are raised by or collected from students to support the purchase of student oriented items or materials, such as yearbooks, class rings, and a class gift; and are deposited in school or student activity accounts; and require no budget appropriation from the board of education;

(22) Food services provided by food service management companies pursuant to procedures established by the New Jersey Department of Agriculture, Bureau of Child Nutrition Programs;

(23) Vending machines providing food or drink.

b. 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, authority or board of education or any other state or subdivision thereof.

c. Bids have been advertised pursuant to N.J.S.18A:18A-4 on two occasions and (1) no bids have been received on both occasions in response to the advertisement, or (2) the board of education has rejected such bids on two occasions because it has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the board of education prior to the advertising therefor, or have not been independently arrived at in open competition, or (3) on one occasion no bids were received pursuant to (1) and on one occasion all bids were rejected pursuant to (2), in whatever sequence; any such contract 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 board of education authorizing such a contract; provided, however, that:

(a) A reasonable effort is first made by the board of education to determine that the same or equivalent goods or services, 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 board of education is located, or any municipality in close proximity to the board of education;

(b) The terms, conditions, restrictions and specifications set forth in the negotiated contract are not substantially different from those which were the subject of competitive bidding pursuant to N.J.S.18A:18A-4; and

(c) Any minor amendment or modification of any of the terms, conditions, restrictions and specifications which were the subject of competitive bidding pursuant to N.J.S.18A:18A-4 shall be stated in the resolution awarding the contract; provided further, however, that if on the second occasion the bids received are rejected as unreasonable as to price, the board of education 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 board of education shall not award such contract 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 vendor, and is a reasonable price for such goods or services.

d. Whenever a board of education shall determine that a bid was not arrived at independently in open competition pursuant to subsection c.(2) of N.J.S.18A:18A-5, it shall thereupon notify the county prosecutor of the county in which the board of education 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.

e. The board of education has solicited and received at least three quotations on materials, supplies or equipment for which a State contract has been issued pursuant to N.J.S.18A:18A-10, and the lowest responsible quotation is at least 10% less than the price the board would be charged for the identical materials, supplies or equipment, in the same quantities, under the State contract. Any such contract or agreement entered into pursuant to subsection d. or subsection e. may be made, negotiated or awarded only upon adoption of a resolution by the affirmative vote of two-thirds of the full membership of the board of education at a meeting thereof authorizing such a contract or agreement. A copy of the purchase order relating to any such contract, the requisition for purchase order, if applicable, and documentation identifying the price of the materials, supplies or equipment under the State contract and the State contract number shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs within five working days of the award of any such contract by the board of education. The director shall notify the board of

education of receipt of the material and shall make the material available to the State Treasurer. The board of education shall make available to the director upon request any other documents relating to the solicitation and award of the contract, including, but not limited to, quotations, requests for quotations, and resolutions.

54. N.J.S.18A:18A-7 is amended to read as follows:

Emergency contracts.

18A:18A-7. Emergency contracts. Any contract may be negotiated or awarded for a board of education without public advertising for bids and bidding therefor, notwithstanding that the contract price will exceed the bid threshold when an emergency affecting the health or safety of occupants of school property requires the immediate delivery of goods or the performance of services, provided that the contracts are awarded in the following manner:

a. The official in charge of the building, facility or equipment wherein the emergency occurred or such other officer or employee as may be authorized to act in place of that official, shall notify the purchasing agent or a supervisor of the purchasing agent of the need for the performance of a contract, the nature of the emergency, the time of its occurrence and the need for invoking this section. If that person is satisfied that an emergency exists, that person shall be authorized to award a contract or contracts for such purposes as may be necessary to respond to the emergent needs. Such notification shall be reduced to writing and filed with the purchasing agent as soon as practicable.

b. Upon the furnishing of such goods or services, in accordance with the terms of the contract, the contractor furnishing such goods or services, shall be entitled to be paid therefor and the board of education shall be obligated for said payment. The board of education shall take such action as shall be required to provide for the payment of the contract price.

c. The Division of Local Government Services in the Department of Community Affairs, after consultation with the Commissioner of Education, shall prescribe rules and procedures to implement the requirements of this section.

d. The board of education may prescribe additional rules and procedures to implement the requirements of this section.

55. N.J.S.18A:18A-8 is amended to read as follows:

Contracts not to be divided.

18A:18A-8. Contracts not to be divided. a. No contract in the aggregate which is single in character or which necessarily or by reason of the quantities required to effectuate the purpose of the contract includes the provision or performance of additional goods or services, shall be divided,

so as to bring it or any of the parts thereof under the bid threshold, for the purpose of dispensing with the requirement of public advertising and bidding therefor.

b. In contracting for the provision or performance of any goods or services included in or incidental to the provision or performance of any work which is single in character or inclusive of the provision or performance of additional goods or services, all of the goods or services requisite for the completion of such contract shall be included in one contract.

C.18A:18A-8.1 Rules.

56. For the purpose of ensuring consistency between the "Local Public Contracts Law, " P.L.1971, c.198 (C.40A:11-1 et seq.), and the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., the Director of the Division of Local Government Services in the Department of Community Affairs, after consultation with the Commissioner of Education, and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules concerning determinations of aggregation for the purposes of whether a contract is subject to public bidding as set forth in sections 3, 4 and 7 of P.L.1971, c.198 (C.40A:11-3, 40A:11-4 and 40A:11-7) and N.J.S.18A:18A-3, N.J.S.18A:18A-4, and N.J.S.18A:18A-8.

57. N.J.S.18A:18A-9 is amended to read as follows:

Periodic solicitation of bids.

18A:18A-9. Periodic solicitation of bids. Every board of education shall, on an annual basis or at such lesser intervals to be fixed by it, solicit by public advertisement the submission of bids for the provision or performance of goods or services which are and which under N.J.S.18A:18A-4 can be contracted to be provided or performed only after public advertisement for bids and bidding therefor and all contracts for the provision or performance of such goods or services shall be awarded only in that manner.

58. N.J.S.18A:18A-10 is amended to read as follows:

Board of education purchases through State agency; procedure.

18A:18A-10. Board of education purchases through State agency; procedure. a. A board of education, without advertising for bids, or after having rejected all bids obtained pursuant to advertising therefor, by resolution may purchase any goods or services pursuant to a contract or contracts for such goods or services entered into on behalf of the State by the Division of Purchase and Property.

b. A board of education may also use, without advertising for bids, or having rejected all bids obtained pursuant to advertising, the Federal Supply Schedules of the General Services Administration promulgated by the Director of the Division of Purchase and Property in the Department of the Treasury pursuant to section 1 of P.L.1996, c.16 (C.52:34-6.1), subject to the following conditions:

(1) the price of the goods or services being procured is no greater than the price offered to federal agencies;

(2) the Federal Supply Schedules may be used only for purchases of up to $500,000 per year or for one product unit at any price and only for reprographic equipment or services, including digital copiers, used by the board of education;

(3) the board of education receives the benefit of federally mandated price reductions during the term of the contract and is protected from price increases during that time;

(4) the price of the goods or services being procured is no greater than the price of the same or equivalent goods or services under the State contract, unless the board of education determines that because of factors other than price, selection of a vendor from the Federal Supply Schedules would be more advantageous to the board of education;

(5) a copy of the purchase order relating to any such contract, the requisition or request for purchase order, if applicable, and documentation identifying the price of the goods or services under the Federal Supply Schedules shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs within five working days of the award of any such contract by the board of education. The director shall notify the board of education of the receipt of the material and shall make the material available to the State Treasurer. The board of education shall make available to the director upon request any other documents relating to the solicitation and award of the contract.

c. Whenever a purchase is made, the board of education shall place its order with the vendor offering the lowest price, including delivery charges, that best meets the requirements of the board of education. Prior to placing such an order, the board of education shall document with specificity that the goods or services selected best meet the requirements of the board of education.

59. N.J.S.18A:18A-11 is amended to read as follows:

Joint purchases by districts, municipalities, counties; authority.

18A:18A-11. Joint purchases by districts, municipalities, counties; authority. The boards of education of two or more districts may provide

jointly by agreement for the provision and performance of goods and services for their respective districts, or one or more boards of education may provide for such provision or performance of goods or services by joint agreement with the governing body of any municipality or county.

60. N.J.S.18A:18A-12 is amended to read as follows:

Contents of agreement.

18A:18A-12. Contents of agreement. a. Such agreements shall be entered into by resolution adopted by each participating board of education, municipality or county and shall set forth the categories of goods or services to be provided or performed, the manner of advertising for bids and of awarding of contracts, the method of payment by each participating board of education, municipality or county, and other matters deemed necessary to carry out the purposes of the agreement.

b. Each participant'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 participant.

61. N.J.S.18A:18A-13 is amended to read as follows:

Purchases and contracts subject to law and rules and regulations.

18A:18A-13. Purchases and contracts subject to law and rules and regulations. Such purchases and all contracts pertaining thereto shall be subject to all provisions of law and the applicable rules and regulations of the State board.

62. N.J.S.18A:18A-14 is amended to read as follows:

Controversies or disputes; determination; appeal.

18A:18A-14. Controversies or disputes; determination; appeal. In the event that any controversy or dispute shall arise among the parties (except a municipality or county) to any such contract, the same shall be referred to the county superintendent of the county in which the districts are situate for determination and his determination thereon shall be binding, subject to appeal to the commissioner and the State board pursuant to law. In the event that the districts are in more than one county, the controversy or dispute shall be referred to the county superintendents of the counties for joint determination, and if they shall be unable to agree upon a joint determination within 30 days, the controversy or dispute shall be referred to the commissioner for determination.

63. N.J.S.18A:18A-15 is amended to read as follows:

Specifications generally.

18A:18A-15. Specifications generally. Any specifications for the provision or performance of goods or services under this chapter shall be drafted in a manner to encourage free, open and competitive bidding. In particular, no specifications under this chapter may:

a. Require any standard, restriction, condition or limitation not directly related to the purpose, function or activity for which the contract is awarded; or

b. Require that any bidder be a resident of, or that the bidder's place of business be located in, the county or school district in which the contract will be awarded or performed, unless the physical proximity of the bidder is requisite to the efficient and economical performance of the contract; or

c. Discriminate on the basis of race, religion, sex, national origin creed, color, ancestry, age, marital status, affectional or sexual orientation, familial status, liability for service in the Armed Forces of the United States, or nationality; or

d. Require, with regard to any contract, the furnishing of any "brand name," but may in all cases require "brand name or equivalent," except that if the goods or services to be provided or performed are proprietary, such goods or services may be purchased by stipulating the proprietary goods or services in the bid specification in any case in which the resolution authorizing the contract so indicates, and the special need for such proprietary goods or services is directly related to the performance, completion or undertaking of the purpose for which the contract is awarded; or

e. Fail to include any option for renewal, extension, or release which the board of education may intend to exercise or require; or any terms and conditions necessary for the performance of any extra work; or fail to disclose any matter necessary to the substantial performance of the contract.

The specifications for every contract for public work, the entire cost whereof will exceed $20,000.00, shall provide that the board of education, through its authorized agent, shall upon completion of the contract report to the department as to the contractor's performance, and shall also furnish such report from time to time during performance if the contractor is then in default.

Any specification which knowingly excludes prospective bidders by reason of the impossibility of performance, bidding or qualification by any but one bidder, except as provided herein, shall be null and void and of no effect and shall be readvertised for receipt of new bids, and the original contract shall be set aside by the board of education.

No provision in this section shall be construed to prevent a board of education from designating that a contract for goods or services shall be awarded to a small business enterprise, a minority business enterprise or a women's business enterprise pursuant to P.L.1985, c.490 (C.18A:18A-51 et seq.).

Any prospective bidder who wishes to challenge a bid specification shall file such challenges in writing with the purchasing agent no less than three business days prior to the opening of the bids. Challenges filed after that time shall be considered void and having no impact on the board of education or the award of a contract.

C.18A:18A-15.1 Payment from bequest, legacy or gift; conditions.

64. Goods or services, the payment for which utilizes only funds received by a board of education from a bequest, legacy or gift, shall be subject to the provisions of N.J.S.18A:18A-1 et seq., except that if such bequest, legacy or gift contains written instructions as to the specifications, manufacturer or vendor, or source of supply of the goods or services to be provided or performed, such instructions shall be honored.

65. N.J.S.18A:18A-18 is amended to read as follows:

Preparation of separate plans, specifications for certain construction work, goods and services; bidding; awarding of contracts.

18A:18A-18. a. In the preparation of plans and specifications for the construction, alteration or repair of any building by a board of education, when the entire cost of the work will exceed the bid threshold, separate plans and specifications may be prepared for each of the following, and all work kindred thereto to be performed or furnished in connection therewith:

(1) The plumbing and gas fitting work;

(2) The heating and ventilating systems and equipment;

(3) The electrical work, including any electrical power plant;

(4) The structural steel and ornamental iron work;

(5) General construction, which shall include all other work required for the completion of the project.

b. The board of education or its purchasing agent shall advertise for and receive, in the manner provided by law, (1) separate bids for each of the branches of work specified in subsection a. of this section, or (2) bids for all the work, goods and services required to complete the building to be included in a single overall contract, or (3) both. In the case of a single bid under paragraph (2) or (3) of this subsection, there will be set forth in the bid the name or names of all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting, and all kindred work, and of the heating and ventilating systems and equipment, and electrical work, structural steel and ornamental iron work, each of which subcontractors shall be qualified in accordance with N.J.S.18A:18A-1 et seq. The school district shall require evidence of performance security to be submitted simultaneously with the list of the subcontractors. Evidence of performance security may be supplied by the bidder on behalf of himself and any or all

subcontractors, or by each respective subcontractor, or by any combination thereof which results in evidence of performance security equaling, but in no event exceeding, the total amount bid.

c. Contracts shall be awarded to the lowest responsible bidder in each branch of work in the case of separate bids and to the single lowest responsible bidder in the case of single bids. In the event that a contract is advertised in accordance with paragraph (3) of subsection b. of this section, the contract shall be awarded in the following manner: If the sum total of the amounts bid by the lowest responsible bidder for each branch is less than the amount bid by the lowest responsible bidder for all the work, goods and services, the board of education shall award separate contracts for each of such branches to the lowest responsible bidder therefor, but if the sum total of the amount bid by the lowest responsible bidder for each branch is not less than the amount bid by the lowest responsible bidder for all the work, goods and services, the board of education shall award a single overall contract to the lowest responsible bidder for all of such work, goods and services. In every case in which a contract is awarded under paragraph (2) or (3) of subsection b. of this section, all payments required to be made under such contract for work, goods and services supplied by a subcontractor may, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor. Payments to a subcontractor for work and materials supplied in connection with the contract shall be made within 10 calendar days of the receipt of payment for that work or the delivery of those materials by the subcontractor in accordance with the provisions of P.L.1991, c.133 (C.2A:30A-1 et seq.), and any regulations promulgated thereunder.

66. N.J.S.18A:18A-20 is amended to read as follows:

American goods and products to be used where possible.

18A:18A-20. American goods and products to be used where possible. Each board of education shall provide, in the specifications for all contracts for work for which it will pay any part of the cost or work which by contract it will ultimately own and maintain, that only manufactured and farm products of the United States, wherever available, be used in such work.

67. N.J.S.18A:18A-21 is amended to read as follows:

Advertisements for bids; bids; general requirements.

18A:18A-21. Advertisements for bids; bids; general requirements. a. Except as provided in section 5 of P.L.1985, c.490 (C.18A:18A-55), all advertisements for bids shall be published in an official newspaper

sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but in no event less than 10 days prior to such date.

b. The advertisement shall designate the manner of submitting and of receiving the bids and the time and place at which the bids will be received. If the published specifications provide for receipt of bids by mail, those bids which are mailed to the board of education shall be sealed and shall be opened only for examination at such time and place as all bids received are unsealed and announced. At such time and place the purchasing agent of the board of education shall publicly receive the bids and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents who are then and there present. A proper record of the prices and terms shall be made in the minutes of the board. No bids shall be received after the time designated in the advertisement.

c. Notice of revisions or addenda to advertisements or bid documents shall be provided as follows:

(1) For all contracts except those for construction work, notice shall be published no later than five days, Saturdays, Sundays, and holidays excepted, prior to the date for acceptance of bids, in an official newspaper of the board of education and be provided to any person who has submitted a bid or who has received a bid package, in one of the following ways: (a) in writing by certified mail or (b) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or (c) by a delivery service that provides certification of delivery to the sender.

(2) For all contracts for construction work, notice shall be provided no later than seven days, Saturdays, Sundays, or holidays excepted, prior to the date for acceptance of bids, to any person who has submitted a bid or who has received a bid package in any of the following ways: i) in writing by certified mail or ii) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or iii) by a delivery service that provides certification of delivery to the sender.

d. Failure of the board of education to advertise for the receipt of bids or to provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the board of education from accepting the bids and require the readvertisement for bids pursuant to subsection a. of this section. Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the board of education shall not be considered failure by the board of education to provide notice.

68. N.J.S.18A:18A-22 is amended to read as follows:

Rejection of bids.

18A:18A-22. Rejection of bids. A board of education may reject all bids for any of the following reasons:

a. The lowest bid substantially exceeds the cost estimates for the goods or services;

b. The lowest bid substantially exceeds the board of education's appropriation for the goods or services;

c. The board of education decides to abandon the project for provision or performance of the goods or services;

d. The board of education wants to substantially revise the specifications for the goods or services;

e. The purposes or provisions or both of N.J.S.18A:18A-1 et seq. are being violated; and

f. The board of education decides to use the State authorized contract pursuant to N.J.S.18A:18A-10.

69. N.J.S.18A:18A-24 is amended to read as follows:

Security to accompany bid; amount.

18A:18A-24. Security to accompany bid; amount. There may be required from any person bidding on any contract, advertised in accordance with law, that the bid be accompanied by a guarantee payable to the board of education that, if the contract is awarded to the bidder, the bidder will enter into a contract therefor and will furnish any performance bond or other security required as a guarantee or indemnification. The guarantee shall be in the amount of 10% of the bid, but not in excess of $20,000.00, except as otherwise provided herein, and may be given, at the option of the bidder, by certified check, cashier's check or bid bond. In the event that any law or regulation of the United States imposes any condition upon the awarding of a monetary grant to any board of education, which condition requires the depositing of a guarantee in an amount other than 10% of the bid or in excess of $20,000.00, the provisions of this section shall not apply and the requirements of the law or regulation of the United States shall govern.

70. N.J.S.18A:18A-25 is amended to read as follows:

Guarantee certificate.

18A:18A-25. Guarantee certificate. When a surety company bond is required in the advertisement or specifications for a contract, every board of education shall require from any bidder submitting a bid in accordance with plans, specifications and advertisements, as provided for by law, a certificate

from a surety company stating that it will provide the contractor with a bond in such sum as is required in the advertisement or in the specifications.

This certificate shall be obtained for a bond--

a. For the faithful performance of all provisions of the specifications or for all matters which may be contained in the notice to bidders, relating to the performance of the contract; including the guarantees required under article 12 of chapter 44 of Title 2A of the New Jersey Statutes; and

b. If any be required, for a guarantee bond for the faithful performance of the contract provisions relating to the repair and maintenance of any work, project or facility and its appurtenances and keeping the same in good and serviceable condition during the term of the bond as provided for in the notice to bidders or in the specifications; or

c. In such other form as may be provided in the notice to bidders or in the specifications.

If a bidder desires to offer the bond of an individual instead of that of a surety company, the bidder shall submit with the bid a certificate signed by such individual similar to that required of a surety company.

The board of education may reject any such bid if it is not satisfied with the sufficiency of the individual surety offered.

71. N.J.S.18A:18A-27 is amended to read as follows:

Regulations for qualifications of prospective bidders.

18A:18A-27. The State Treasurer may establish reasonable regulations appropriate for controlling the qualifications of prospective bidders upon contracts for public works, the entire cost whereof will exceed the bid threshold, by the amount, class or category of goods or services to be provided or performed which may fix the qualifications required according to the financial ability and experience of the bidders and the capital and equipment available to them pertinent to and reasonably related to the class or category of goods or services to be provided or performed in the performance of any such contract, and may require each bidder to furnish a statement thereof.

Such regulations shall be written in a manner:

a. Which will not unnecessarily discourage full, free and open competition; or

b. Which will not unnecessarily restrict the participation of small business in the public bidding process; or

c. Which will not create undue preferences; or

d. Which will not violate any other provision of this chapter, or any other law.

No qualification rating of any bidder shall be influenced by the bidder's race, religion, sex, national origin, nationality or place of residence.

Such regulations shall not be effective unless they have been adopted as provided in the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

72. N.J.S.18A:18A-36 is amended to read as follows:

Time for making awards, deposits returned.

18A:18A-36. Time for making awards, deposits returned. a. The board of education shall award the contract or reject all bids within such time as may be specified in the invitation to bid, but in no case more than 60 days, except that the bids of any bidders who consent thereto may, at the request of the board of education, be held for consideration for such longer period as may be agreed. All bid security except the security of the three apparent lowest responsible bidders shall, if requested, be returned after 10 days from the opening of the bids, Sundays and holidays excepted and the bids of such bidders shall be considered as withdrawn. Within three days after the awarding of the contract and the approval of the contractor's performance bond the bid security of the remaining unsuccessful bidders shall be returned to them forthwith, Sundays and holidays excepted.

b. The contract shall be signed by all parties within the time limit set forth in the specifications, which shall not exceed 21 days, Sundays and holidays excepted, after the making of the award; provided, however, that all parties to the contract may agree to extend the limit set forth in the specifications beyond the 21-day limit required in this subsection. The contractor, upon written request to the board of education, is entitled to receive, within seven days of the request, an authorization to proceed pursuant to the terms of the contract on the date set forth in the contract for work to commence, or, if no date is set forth in the contract, upon receipt of authorization. If for any reason the contract is not awarded and the bidders have paid for or paid a deposit for the plans and specifications to the board of education, the payment or deposit shall immediately be returned to the bidders when the plans and specifications are returned in reasonable condition within 90 days of notice that the contract has not been awarded.

73. N.J.S.18A:18A-37 is amended to read as follows:

Award of purchases, contracts or agreements.

18A:18A-37. Award of purchases, contracts or agreements. All contracts enumerated in this section shall be awarded as follows:

a. For all contracts that in the aggregate are less than the bid threshold but 15 percent or more of that amount, and for those contracts that are for

subject matter enumerated in subsection a. of N.J.S.18A:18A-5, except for paragraph (1) of that subsection concerning professional services and paragraph (3) of that subsection concerning work by employees of the board of education, the purchasing agent shall award the contract after soliciting at least two competitive quotations, if practicable. The award shall be made to a vendor whose response is most advantageous, price and other factors considered. The purchasing agent shall retain the record of the quotation solicitation and shall include a copy of the record with the voucher used to pay the vendor.

b. When in excess of the bid threshold, and after documented effort by the purchasing agent to secure competitive quotations, a contract for extraordinary unspecifiable services may be awarded when the purchasing agent has determined in writing that solicitation of competitive quotations is impracticable. Any such contract shall be awarded by resolution of the board of education.

c. If authorized by the board of education by resolution, all contracts that are in the aggregate less than 15 percent of the bid threshold may be awarded by the purchasing agent without soliciting competitive quotations.

d. Whenever two or more responses to a request of a purchasing agent offer equal prices and are the lowest responsible bids or proposals, the board of education may award the contract to the vendor whose response, in the discretion of the board of education, is the most advantageous, price and other factors considered. In such a case, the award resolution or purchase order documentation shall explain why the vendor selected is the most advantageous.

74. N.J.S.18A:18A-40 is amended to read as follows:

Form and execution of contracts and bonds.

18A:18A-40. Form and execution of contracts and bonds. All contracts for the provision or performance of goods or services shall be in writing. The State Board of Education may, subject to the requirements of law, prescribe the forms and manner in which contracts shall be made and executed, and the form and manner of execution and approval of all guarantee, indemnity, fidelity and other bonds.

75. Section 1 of P.L.1987, c.343 (C.18A:18A-40.1) is amended to read as follows:

C.18A:18A-40.1 Partial payments.

1. Any contract, the total price of which exceeds $100,000.00, entered into by a board of education involving the construction, reconstruction, alteration, repair or maintenance of any building, structure, facility or other

improvement to real property, shall provide for partial payments to be made at least once each month as the work progresses, unless the contractor shall agree to deposit bonds with the board of education pursuant to section 2 of P.L.1987, c.343 (C.18A:18A-40.2).

76. Section 3 of P.L.1987, c.343 (C.18A:18A-40.3) is amended to read as follows:

C.18A:18A-40.3 Withholding of partial payments.

3. With respect to any contract entered into by a board of education pursuant to section 1 of P.L.1987, c.343 (C.18A:18A-40.1) for which the contractor shall agree to the withholding of payments pursuant to section 2 of P.L.1987, c.343 (C.18A:18A-40.2), 5% of the amount due on each partial payment shall be withheld by the board of education pending completion of the contract if the contractor does not have a performance bond. If the contractor does have a performance bond, 2% of the amount due on each partial payment shall be withheld by the board of education when the outstanding balance of the contract exceeds $500,000, and 5% of the amount due on each partial payment shall be withheld by the board of education when the outstanding balance of the contract is $500,000 or less.

77. N.J.S.18A:18A-41 is amended to read as follows:

Liquidated damages.

18A:18A-41. Liquidated damages. Any contract made pursuant to chapter 18A of Title 18A of the New Jersey Statutes may include liquidated damages for the violation of any of the terms and conditions thereof or the failure to perform said contract in accordance with its terms and conditions, or the terms and conditions of chapter 18A of Title 18A of the New Jersey Statutes.

78. N.J.S.18A:18A-42 is amended to read as follows:

Multiyear contracts.

18A:18A-42. Multiyear contracts. All contracts for the provision or performance of goods or services shall be awarded for a period not to exceed 24 consecutive months, except that contracts for professional services pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall be awarded for a period not to exceed 12 consecutive months. Any board of education may award a contract for longer periods of time as follows:

a. Supplying of:

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

(2) Fuel or oil for use of automobiles, autobuses, motor vehicles or equipment, for any term not exceeding in the aggregate, three years;

(3) 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; or

b. Plowing and removal of snow and ice, for any term not exceeding in the aggregate, three years; or

c. Collection and disposal of garbage and refuse, for any term not exceeding in the aggregate, three years; or

d. Data processing service, for any term of not more than seven years; or

e. Insurance, including the purchase of insurance coverages, insurance consultant or administrative services, and including participation in a joint self-insurance fund, risk management program or related services provided by a school board insurance group, or participation in an insurance fund established by a county pursuant to N.J.S.40A:10-6, or a joint insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more than three years; or

f. Leasing or servicing of automobiles, motor vehicles, electronic communications equipment, machinery and equipment of every nature and kind and textbooks and non-consumable instructional materials, for any term not exceeding in the aggregate, five years; provided, however, such contracts shall be awarded only subject to and in accordance with rules and regulations promulgated by the State Board of Education; or

g. Supplying of any product or the rendering of any service by a company providing voice, data, transmission or switching services, for a term not exceeding five years; or

h. (Deleted by amendment, P.L.1999, c.440.)

i. Driver education instruction conducted by private, licensed driver education schools, for any term not exceeding in the aggregate, three years;

j. Provision or performance of goods or services for the purpose of conserving energy in the buildings owned by any local board of education, the entire price of which shall be established as a percentage of the resultant savings in energy costs, for a term not to exceed 15 years; except that these contracts shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy costs;

k. 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;

l. Laundry service and the rental, supply and cleaning of uniforms for any term of not more than three years;

m. Food supplies and food services for any term of not more than three years;

n. Purchases made under a contract awarded by the Director of the Division of Purchase and Property in the Department of the Treasury for use by counties, municipalities or other contracting units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a term not to exceed the term of that contract.

Any contract for services other than professional services, the statutory length of which contract is for three years or less, may include provisions for no more than one two-year, or two one-year, extensions, subject to the following limitations: a. the contract shall be awarded by resolution of the board of education upon a finding by the board of education that the services are being performed in an effective and efficient manner; b. no such contract shall be extended so that it runs for more than a total of five consecutive years; c. any price change included as part of an extension shall be based upon the price of the original contract as cumulatively adjusted pursuant to any previous adjustment or extension and shall not exceed the change in the index rate for the 12 months preceding the most recent quarterly calculation available at the time the contract is renewed; and d. the terms and conditions of the contract remain substantially the same.

All multiyear leases and contracts entered into pursuant to this section 18A:18A-42, including any two-year or one-year extensions, except contracts for insurance coverages, insurance consultant or administrative services, participation or membership in a joint self-insurance fund, risk management programs or related services of a school board insurance group, participation in an insurance fund established by a county pursuant to N.J.S.40A:10-6 or contracts for thermal energy authorized pursuant to subsection a. above, and contracts for the provision or performance of goods or services to promote energy conservation authorized pursuant to subsection j. of this section, 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. All contracts shall cease to have effect at the end of the contracted period and shall not be extended by any mechanism or provision, unless in conformance with the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., except that a contract may be extended by mutual agreement of the parties to the contract when a board of education has commenced rebidding prior to the time the contract expires or when the awarding of a contract is pending at the time the contract expires.

79. N.J.S.18A:18A-44 is amended to read as follows:

Inspection, condemnation and rejection of goods and services.

18A:18A-44. All goods and services provided or performed under contract shall be inspected by the purchasing agent of the district, if there be a purchasing agent of the district, but if there be no purchasing agent of the district, they may be inspected by an appropriate officer employed by the board to whom such power shall have been delegated by the board, and subject to the approval of the board the purchasing agent or such officer, as the case may be, shall condemn any goods or services which in his judgment do not conform to the specifications of the contract therefor.

80. N.J.S.18A:18A-45 is amended to read as follows:

Manner and method of sale.

18A:18A-45. Manner and method of sale. Any board of education may, by resolution and by sealed bid or public auction, authorize the sale of its personal property not needed for school purposes.

a. If the estimated fair value of the property to be sold exceeds 15 percent of the bid threshold in any one sale and it is neither livestock nor perishable goods, it shall be sold at public sale to the highest bidder.

b. Notice of the date, time and place of the public sale, together with a description of the items to be sold and the conditions of sale, shall be published once in an official newspaper. Such sale shall be held not less than seven nor more than 14 days after the publication of the notice thereof.

c. Personal property may be sold to the United States, the State of New Jersey, another board of education, any body politic, any foreign nation which has diplomatic relations with the United States, or any governmental unit in these United States by private sale without advertising for bids.

d. If no bids are received the property may then be sold at private sale without further publication or notice thereof, but in no event at less than the estimated fair value; or the board of education may if it so elect, reoffer the property at public sale. As used herein, "estimated fair value" means the market value of the property between a willing seller and a willing buyer less the cost to the board of education to continue storage or maintenance of any personal property not needed for school purposes to be sold pursuant to this section.

e. A board of education may reject all bids if it determines such rejection to be in the public interest. In any case in which the board of education has rejected all bids, it may readvertise such personal property for a subsequent public sale. If it elects to reject all bids at a second public sale, pursuant to this section, it may then sell such personal property without further publication or notice thereof at private sale, provided that in no

event shall the negotiated price at private sale be less than the highest price of any bid rejected at the preceding two public sales and provided further that in no event shall the terms or conditions of sale be changed or amended.

f. If the estimated fair value of the property to be sold does not exceed the applicable bid threshold established pursuant to subsection a. of this section in any one sale or is either livestock or perishable goods, it may be sold at private sale without advertising for bids.

g. Notwithstanding the provisions of this section, by resolution of the board of education, a purchasing agent may include the sale of personal property no longer needed for school purposes as part of specifications to offset the price of a new purchase.

C.18A:18A-49.2 Rules.

81. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Director of the Division of Local Government Services in the Department of Community Affairs, after consultation with the Commissioner of Education, may adopt rules implementing the provisions of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq.

82. Section 1 of P.L.1981, c.447 (C.5:10-21.1) is amended to read as follows:

C.5:10-21.1 Purchases, contracts, or agreements over threshold amount.

1. a. All purchases, contracts, or agreements where the cost or contract price exceeds the sum of $25,000 or, after the effective date of P.L.1999, c.440, the amount determined pursuant to subsection b. of this section shall, except as otherwise provided in this act, be made, negotiated, or awarded only after public advertisement for bids therefor and shall be awarded to that responsible bidder whose bid, conforming to the invitation for bids, is most advantageous to the authority, in its judgment, upon consideration of price and other factors. Any bid may be rejected when the authority determines that it is in the public interest to do so.

Any purchase, contract, or agreement where the cost or contract price is less than or equal to $25,000 or, after the effective date of P.L.1999, c.440, the amount determined pursuant to subsection b. of this section may be made, negotiated, or awarded by the authority without advertising and in any manner which the authority, in its judgment, deems necessary to serve its unique interests and purposes and which promotes, whenever practicable, full and free competition by the acceptance of quotations or proposals or by the use of other suitable methods.

b. Commencing in the fifth year after the year in which P.L.1999, c.440 takes effect, and every five years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold

amount set forth in subsection a. of this section, or after the effective date of P.L.1999, c.440, the threshold amount resulting from any adjustment under this subsection, in direct proportion to the rise or fall of the index rate as that term is defined in section 2 of P.L.1971, c.198 (C.40A:11-2), and shall round the adjustment to the nearest $1,000. The Governor shall, no later than June 1 of every fifth year, notify the authority of the adjustment. The adjustment shall become effective on July 1 of the year in which it is made.

83. Section 4 of P.L.1981, c.447 (C.5:10-21.4) is amended to read as follows:

C.5:10-21.4 Exemptions; circumstances.

4. Any purchase, contract, or agreement may be made, negotiated, or awarded pursuant to section 2 of P.L.1981, c.447 (C.5:10-21.2) when:

a. Standardization of equipment and interchangeability of parts is in the public interest;

b. Only one source of supply or service is available;

c. The safety or protection of the authority's or other public property requires;

d. The exigency of the authority's service will not admit of advertisement;

e. More favorable terms can be obtained from a primary source of supply of an item or service;

f. Bid prices, after advertising, are not reasonable or have not been independently arrived at in open competition; but no negotiated purchase, contract, or agreement may be entered into under this subsection after the rejection of all bids received unless (1) notification of the intention to negotiate and reasonable opportunity to negotiate is given to each responsible bidder; (2) the negotiated price is lower than the lowest rejected bid price of a responsible bidder; and (3) the negotiated price is the lowest negotiated price offered by any responsible contractor;

g. The purchase is to be made from, or the contract is to be made with, the federal or any state government or agency or political subdivision thereof; or

h. Purchases are to be made through or by the Director of the Division of Purchase and Property pursuant to section 1 of P.L.1959, c.40 (C.52:27B-56.1), or through a contract made by any of the following: the Hackensack Meadowlands Development Commission established under section 5 of P.L.1968, c.404 (C.13:17-5); the New Jersey Highway Authority established under section 4 of P.L.1952, c.16 (C.27:12B-4); the New Jersey Turnpike Authority established under section 3 of P.L.1948, c.454 (C.27:23-3); the New Jersey Water Supply Authority established under section 4 of P.L.1981, c.293 (C.58:1B-4); the South Jersey Transportation Authority established under section 4 of P.L.1991, c.252 (C.27:25A-4); the Port Authority of New York and New Jersey established under

R.S.32:1-4; the Delaware River Port Authority established under R.S.32:3-2; the Higher Education Student Assistance Authority established under N.J.S.18A:71A-3.

84. Section 6 of P.L.1984, c.128 (C.13:17-6.1) is amended to read as follows:

C.13:17-6.1 Purchases, contracts, or agreements over threshold amount; public bids.

6. a. All purchases, contracts, or agreements where the cost or contract price exceeds the sum of $25,000 or, after the effective date of P.L.1999, c.440, the amount determined pursuant to subsection b. of this section shall be made, negotiated, or awarded only after public advertisement for bids therefor and shall be awarded to that responsible bidder whose bid, conforming to the invitation for bids, is most advantageous to the Hackensack Meadowlands Development Commission, in its judgment, upon consideration of price and other factors; provided, however, that such advertising shall not be required when the contract to be entered into is one for the furnishing or performing of services of a professional nature, or when the purchase is to be made through or by the Director of the Division of Purchase and Property pursuant to section 1 of P.L.1959, c.40 (C.52:27B-56.1), or through a contract made by any of the following: the New Jersey Sports and Exposition Authority established under section 4 of P.L.1971, c.137 (C.5:10-4), the New Jersey Highway Authority established under section 4 of P.L.1952, c.16 (C.27:12B-4); the New Jersey Turnpike Authority established under section 3 of P.L.1948, c.454 (C.27:23-3); the New Jersey Water Supply Authority established under section 4 of P.L.1981, c.293 (C.58:1B-4); the South Jersey Transportation Authority established under section 4 of P.L.1991, c.252 (C.27:25A-4); the Port Authority of New York and New Jersey established under R.S.32:1-4; the Delaware River Port Authority established under R.S.32:3-2; the Higher Education Student Assistance Authority established under N.J.S.18A:71A-3. Any bid may be rejected when the commission determines that it is in the public interest to do so.

Any purchase, contract, or agreement where the cost or contract price is less than or equal to $25,000 or, after the effective date of P.L.1999, c.440, the amount determined pursuant to subsection b. of this section may be made, negotiated, or awarded by the commission without advertising and in any manner which the commission, in its judgment, deems necessary to serve its unique interests and purposes and which promotes, whenever practicable, full and free competition by the acceptance of quotations or proposals or by the use of other suitable methods.

b. Commencing in the fifth year after the year in which P.L.1999, c.440 takes effect, and every five years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in subsection a. of this section, or after the effective date of P.L.1999, c.440, the threshold amount resulting from any adjustment under this subsection, in direct proportion to the rise or fall of the index rate as that term is defined in section 2 of P.L.1971, c.198 (C.40A:11-2), and shall round the adjustment to the nearest $1,000. The Governor shall, no later than June 1 of every fifth year, notify the commission of the adjustment. The adjustment shall become effective on July 1 of the year in which it is made.

85. Section 1 of P.L.1968, c.459 (C.27:12B-5.2) is amended to read as follows:

C.27:12B-5.2 Standing operating rules, procedures for entering into contracts by Highway Authority.

1. a. The New Jersey Highway Authority, in the exercise of its authority to make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, shall adopt standing operating rules and procedures providing that, except as hereinafter provided, no contract on behalf of the authority shall be entered into for the doing of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds the sum of $25,000 or, after the effective date of P.L.1999, c. 440, the amount determined pursuant to subsection b. of this section unless the authority shall first publicly advertise for bids therefor, and shall award the contract to the lowest responsible bidder; provided, however, that such advertising shall not be required where the contract to be entered into is one for the furnishing or performing of services of a professional nature, or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities of this State and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the said board, or when the purchase is to be made through or by the Director of the Division of Purchase and Property pursuant to section 1 of P.L.1959, c.40 (C.52:27B-56.1), or through a contract made by any of the following: the New Jersey Sports and Exposition Authority established under section 4 of P.L.1971, c.137 (C.5:10-4); the Hackensack Meadowlands Development Commission established under section 5 of P.L.1968, c.404 (C.13:17-5); the New Jersey Turnpike Authority established under section 3 of P.L.1948, c.454 (C.27:23-3); the New Jersey Water Supply Authority established under section 4 of P.L.1981, c.293 (C.58:1B-4); the South Jersey Transportation

Authority established under section 4 of P.L.1991, c.252 (C.27:25A-4); the Port Authority of New York and New Jersey established under R.S.32:1-4; the Delaware River Port Authority established under R.S.32:3-2; the Higher Education Student Assistance Authority established under N.J.S.18A:71A-3. Contracts for towing and storage services shall be advertised and awarded pursuant to subsection c. of this section.

This subsection shall not prevent the authority from having any work done by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience require, or the exigency of the authority's service will not admit of such advertisement. In such case the authority shall, by resolution, passed by the affirmative vote of a majority of its members, declare the exigency or emergency to exist, and set forth in the resolution the nature thereof and the approximate amount to be so expended.

b. Commencing in the fifth year after the year in which P.L.1999, c.440 takes effect, and every five years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in subsection a. of this section, or after the effective date of P.L.1999, c.440, the threshold amount resulting from any adjustment under this subsection, in direct proportion to the rise or fall of the index rate as that term is defined in section 2 of P.L.1971, c.198 (C.40A:11-2), and shall round the adjustment to the nearest $1,000. The Governor shall, no later than June 1 of every fifth year, notify the authority of the adjustment. The adjustment shall become effective on July 1 of the year in which it is made.

c. The authority shall adopt regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to provide open and competitive procedures for awarding contracts for towing and storage services. Towing and storage services on a highway project may be provided on a rotating basis, provided that the authority determines that there would be no additional cost to the authority, excepting administrative costs, as a result of those services being provided on a rotating basis. The regulations shall fix maximum towing and storage fees, and establish objective criteria to be considered in awarding a contract for towing and storage services which shall include, but shall not be limited to, reliability, experience, response time, acceptance of credit cards and prepaid towing contracts, adequate equipment to safely handle a sufficient volume of common vehicle types under a variety of traffic and weather conditions, location of storage and repair facilities, security of vehicles towed or stored, financial return to the authority, maintenance of adequate liability insurance and appropriate safeguards to protect the personal safety of customers, including considerations related to the criminal background of employees.

The Division of Consumer Affairs in the Department of Law and Public Safety shall provide, at the authority's request, a report to the authority on any prospective contractor for which the division has information relevant to the prospective contractor's service record, subject to the provisions of the New Jersey consumer fraud act, P.L.1960, c.39 (C. 56:8-1 et seq.). The Division of Insurance Fraud Prevention in the Department of Banking and Insurance also shall provide, at the authority's request, a report to the authority on any prospective contractor for which the division has information relevant to the prospective contractor's service record, subject to the "New Jersey Insurance Fraud Prevention Act," P.L.1983, c.320 (C.17:33A-1 et seq.).

86. Section 1 of P.L.1968, c.461 (C.27:23-6.1) is amended to read as follows:

C.27:23-6.1 Standing operating rules, procedures for entering into contracts by Turnpike Authority.

1. a. The New Jersey Turnpike Authority, in the exercise of its authority to make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, shall adopt standing operating rules and procedures providing that, except as hereinafter provided, no contract on behalf of the authority shall be entered into for the doing of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds the sum of $25,000 or, after the effective date of P.L.1999,c.440, the amount determined pursuant to subsection b. of this section unless the authority shall first publicly advertise for bids therefor, and shall award the contract to the lowest responsible bidder; provided, however, that such advertising shall not be required where the contract to be entered into is one for the furnishing or performing services of a professional nature, or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utility Commissioners of this State and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the said board, or when the purchase is to be made through or by the Director of the Division of Purchase and Property pursuant to section 1 of P.L.1959, c.40 (C.52:27B-56.1), or through a contract made by any of the following: the New Jersey Sports and Exposition Authority established under section 4 of P.L.1971, c.137 (C.5:10-4); the Hackensack Meadowlands Development Commission established under section 5 of P.L.1968, c.404 (C.13:17-5); the New Jersey Highway Authority established under section 4 of P.L.1952, c.16 (C.27:12B-4); the New Jersey Water Supply Authority established

under section 4 of P.L.1981, c.293 (C.58:1B-4); the South Jersey Transportation Authority established under section 4 of P.L.1991, c.252 (C.27:25A-4); the Port Authority of New York and New Jersey established under R.S.32:1-4; the Delaware River Port Authority established under R.S.32:3-2; the Higher Education Student Assistance Authority established under N.J.S.18A:71A-3.

This subsection shall not prevent the authority from having any work done by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience require, or the exigency of the authority's service will not admit of such advertisement. In such case the authority shall, by resolution, passed by the affirmative vote of a majority of its members, declare the exigency or emergency to exist, and set forth in the resolution the nature thereof and the approximate amount to be so expended.

b. Commencing in the fifth year after the year in which P.L.1999, c.440 takes effect, and every five years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in subsection a. of this section, or after the effective date of P.L.1999, c.440, the threshold amount resulting from any adjustment under this subsection, in direct proportion to the rise and fall of the index rate as that term is defined in section 2 of P.L.1971, c.198 (C.40A:11-2), and shall round the adjustment to the nearest $1,000. The Governor shall, no later than June 1 of every fifth year, notify the authority of the adjustment. The adjustment shall become effective on July 1 of the year in which it is made.

87. Section 8 of P.L.1991, c.252 (C.27:25A-8) is amended to read as follows:

C.27:25A-8 Purchases, contracts, agreements awarded directly by authority; public bids; exceptions.

8. a. All purchases, contracts or agreements made pursuant to this act shall be made or awarded directly by the authority, except as otherwise provided in this act, only after public advertisement for bids therefor in the manner provided by the authority and notwithstanding the provisions of any other laws to the contrary.

b. Any purchase, contract or agreement may be made, negotiated or awarded by the authority without public bid or advertising under the following circumstances:

(1) When the aggregate amount involved does not exceed the amount set forth in, or the amount calculated by the Governor pursuant to, section 2 of P.L.1954, c.48 (C.52:34-7);

(2) To acquire subject matter which is described in section 4 of P.L.1954, c.48 (C.52:34-9);

(3) To make a purchase or award or make a contract or agreement under the circumstances described in section 5 of P.L.1954, c.48 (C.52:34-10);

(4) When the contract to be entered into is for the furnishing or performing services of a professional or technical nature or for the supplying of any product or the rendering of any service by a public utility;

(5) When the authority deems it appropriate to have any work performed by its own employees;

(6) When the authority has advertised for bids on two occasions and has received no bids on both occasions in response to its advertisement, or received no responsive bids. Any purchase, contract or agreement may then be negotiated and may be awarded to any contractor or supplier determined to be responsible except that 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;

(7) When a piece of equipment or part thereof requires diagnostic repairs;

(8) The printing of bonds and documents necessary to the issuance and sale thereof;

(9) To contract pursuant to subsection w. of section 7 of this act; or

(10) When a purchase is to be made through or by the Director of the Division of Purchase and Property pursuant to section 1 of P.L.1959, c.40 (C.52:27B-56.1), or through a contract made by any of the following: the New Jersey Sports and Exposition Authority established under section 4 of P.L.1971, c.137 (C.5:10-4); the Hackensack Meadowlands Development Commission established under section 5 of P.L.1968, c.404 (C.13:17-5); the New Jersey Highway Authority established under section 4 of P.L.1952, c.16 (C.27:12B-4); the New Jersey Turnpike Authority established under section 3 of P.L.1948, c.454 (C.27:23-3); the New Jersey Water Supply Authority established under section 4 of P.L.1981, c.293 (C.58:1B-4); the Port Authority of New York and New Jersey established under R.S.32:1-4; the Delaware River Port Authority established under R.S.32:3-2; the Higher Education Student Assistance Authority established under N.J.S.18A:71A-3.

88. Section 22 of P.L.1981, c.293 (C.58:1B-22) is amended to read as follows:

C.58:1B-22 Authority contracts.

22. a. The authority is hereby authorized to make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers. No contract on behalf of the

authority shall be entered into for the doing of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds the sum of $25,000 or, after the effective date of P.L.1999, c.440, the amount determined pursuant to subsection b. of this section, unless the authority shall first publicly advertise for bids therefor, and shall award the contract to the lowest responsible bidder; but advertising shall not be required where the contract to be entered into is one for the furnishing or performing services of a professional nature, or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities, and tariffs and schedules of the charges made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the board, or when the purchase is to be made through or by the Director of the Division of Purchase and Property pursuant to section 1 of P.L.1959, c.40 (C.52:27B-56.1), or through a contract made by any of the following: the New Jersey Sports and Exposition Authority established under section 4 of P.L.1971, c.137 (C.5:10-4); the Hackensack Meadowlands Development Commission established under section 5 of P.L.1968, c.404 (C.13:17-5); the New Jersey Highway Authority established under section 4 of P.L.1952, c.16 (C.27:12B-4); the New Jersey Turnpike Authority established under section 3 of P.L.1948, c.454 (C.27:23-3); the South Jersey Transportation Authority established under section 4 of P.L.1991, c.252 (C.27:25A-4); the Port Authority of New York and New Jersey established under R.S.32:1-4; the Delaware River Port Authority established under R.S.32:3-2; the Higher Education Student Assistance Authority established under N.J.S.18A:71A-3. This subsection shall not prevent the authority from having any work done by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires, or the exigency of the authority service will not admit of such advertisement. In such case the authority shall, by resolution, passed by the affirmative vote of a majority of its members, declare the exigency or emergency to exist, and set forth in the resolution the nature thereof and the approximate amount to be expended.

b. Commencing in the fifth year after the year in which P.L.1999, c.440 takes effect, and every five years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in subsection a. of this section, or after the effective date of P.L.1999, c.440, the threshold amount resulting from any adjustment under this subsection in direct proportion to the rise or fall of the index rate as that term is defined in section 2 of P.L.1971, c.198 (C.40A:11-2), and shall round the adjustment to the nearest $1,000. The Governor shall, no later

than June 1 of every fifth year, notify the authority of the adjustment. The adjustment shall become effective on July 1 of the year in which it is made.

89. Section 1 of P.L.1959, c.40 (C.52:27B-56.1) is amended to read as follows:

C.52:27B-56.1 Joint purchases.

1. The Director of the Division of Purchase and Property may, by joint action, purchase any articles used or needed by the State and the Palisades Interstate Park Commission, the New Jersey Highway Authority, the New Jersey Turnpike Authority, the Delaware River Joint Toll Bridge Commission, the Port Authority of New York and New Jersey, the South Jersey Port Corporation, the Passaic Valley Sewerage Commission, the Delaware River Port Authority, Rutgers, The State University, the University of Medicine and Dentistry of New Jersey, the New Jersey Sports and Exposition Authority, the New Jersey Housing Finance Agency, the New Jersey Mortgage Finance Authority, the New Jersey Health Care Facilities Financing Authority, the New Jersey Education Facilities Authority, the New Jersey Economic Development Authority, the South Jersey Transportation Authority, the Hackensack Meadowlands Development Commission, the New Jersey Water Supply Authority, the Higher Education Student Assistance Authority or any other agency, commission, board, authority or other such governmental entity which is established and is allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member.

90. Section 30 of P.L.1948, c.92 (C.52:18A-30) is amended to read as follows:

C.52:18A-30 State Treasurer, Deputy State Treasurer; additional duties.

30. The State Treasurer, in addition to the functions, powers and duties specifically conferred and imposed upon the position, shall:

(a) Maintain suitable headquarters for the department and such other quarters within the State as he may deem necessary to the department's proper functioning;

(b) Have general responsibility for all of the department's operations under this act;

(c) Supervise the organization of the department and changes in the organization thereof, except that the divisions, boards, commissions and offices, herein specifically provided shall be maintained;

(d) Formulate and adopt rules and regulations for the efficient conduct of the work and general administration of the department, its officers and

employees and as may be necessary for the Department of the Treasury to carry out its duties as set forth by law; and

(e) Make an annual report to the Governor and to the Legislature of the department's operations, and render such other reports as the Governor shall from time to time request.

The State Treasurer shall designate as Deputy State Treasurer any officer or employee in the department. Such designation shall be in writing and shall be filed with the Secretary of State. Such designation shall continue in effect until the State Treasurer shall, in the manner herein provided, designate another officer or employee in the department as such Deputy State Treasurer.

The Deputy State Treasurer shall have and exercise the powers and perform the functions and duties of the State Treasurer during the absence or disability of the State Treasurer. The Deputy State Treasurer shall also have and exercise such of the powers and perform such of the functions and duties of the State Treasurer as he shall be authorized and directed by the State Treasurer. Any such authorization and direction shall be in writing, signed by the State Treasurer and filed with the Secretary of State, and shall include a designation of the period during which it shall be and remain in force. No such authorization and direction shall be deemed to preclude the State Treasurer from himself exercising the powers and the performance of the duties included in said authorization and direction. In the event that the State Treasurer shall die, resign or be removed from office, or become disqualified to execute the duties of his office, or a vacancy shall occur in the office of State Treasurer for any cause whatsoever, the person then holding the office of Deputy State Treasurer shall continue to hold such office and shall have and exercise the powers and perform the functions and duties of the State Treasurer until the successor of the State Treasurer shall be appointed and shall qualify.

Notwithstanding any other provision in existing law, the State Treasurer may designate, authorize and direct the Deputy State Treasurer or any other officer or specially designated expert assistant in the department to exercise the power and perform the functions and duties of the State Treasurer as a member of the board of trustees, commission or council vested with the general administration of and responsibility for any employee benefit system, trust, fund, program or plan. Any such authorization and direction shall be in writing, signed by the State Treasurer and filed with the Secretary of State, and shall include a designation of the period during which it shall be and remain in force. No such authorization and direction shall be deemed to preclude the State Treasurer from himself exercising the powers and the performance of the duties included in said authorization and direction.

91. Section 3 of P.L.1969, c.104 (C.52:25-16.1) is amended to read as follows:

C.52:25-16.1 Contract provisions relating to any local contracting unit.

3. The Director of the Division of Purchase and Property may, at the director's discretion, include, in any such contract or contracts on behalf of the State, a provision for the purchase of such materials, supplies, equipment or services by any local contracting unit from such contractor or contractors. Such purchase may be effectuated either as an outright purchase or by installment, lease or rental, so long as the vendor offers financing at an interest rate that is equal to or lower than the State line of credit. The local contracting unit shall have sole responsibility for any payment due the vendor for any such purchase. All purchases shall be subject to audit and inspection by the local contracting unit for which made. The local contracting unit shall file such reports as the Director of the Division of Purchase and Property may require setting forth the expenditure on such contracts. For the purposes of this section, "local contracting unit" means any public agency subject to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.), or the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.).

92. Section 2 of P.L.1985, c.263 (C.52:25-16.6) is amended to read as follows:

C.52:25-16.6 Independent college purchases under State contracts.

2. a. An independent institution of higher education may, at the director's discretion, purchase materials, supplies, equipment or services under any contract awarded on behalf of the State by the Director of the Division of Purchase and Property, subject to such rules as the director may establish.

b. The director may establish limitations with respect to materials, supplies, equipment and services available for purchase and impose other appropriate conditions upon purchasing as deemed necessary to protect the State's own purchasing interests.

c. The independent institution of higher education shall file such reports as the Director of the Division of Purchase and Property may require setting forth the expenditures on such contracts.

93. R.S.52:25-23 is amended to read as follows:

Purchasing authority delegation for amounts under $25,000.

52:25-23. The Director of the Division of Purchase and Property may, by written order, delegate purchasing authority to the using agencies for purchases or contracts not in excess of $25,000.00; except that:

a. Purchases or contracts shall not be divided to circumvent the dollar limit imposed by this section;

b. Prior to issuing purchase orders pursuant to this section, a using agency shall verify the existence of funds for the purchase or contract and shall verify that the article or service to be purchased or contracted for is not available under any of the contracts issued by the Division of Purchase and Property; and

c. Records of all purchases made or contracts negotiated under this section shall be maintained by the using agency and made available for audit by or under the direction of the Director of the Division of Purchase and Property and shall include proper proof that the purchase or contract was made or negotiated competitively, where competition is practicable.

The Director of the Division of Purchase and Property may, by written order, rescind or reduce the level of purchasing authority delegated to any using agency determined by the director to have violated the provisions of the delegated authorization.

94. Section 4 of article 6 of P.L.1944, c.112 (C.52:27B-56) is amended to read as follows:

C.52:27B-56 Powers, duties of director.

4. The director is hereby vested with the powers, duties, and responsibilities involved in the efficient operation of a centralized State purchasing service, and with the custody, operation and maintenance of all State property not chargeable to a particular department. The director shall have authority, subject to the State Treasurer's approval, to organize the division for the effective performance of its functions and purposes herein set forth, and to establish and assess fees to cover administrative costs. The director or the director's designee shall have the authority to conduct investigations and informal hearings regarding any bid protest or vendor performance issues. The director shall also have the authority to issue final agency decisions regarding any bid protest or vendor performance issues. Except as otherwise provided by statute and subject to the State Treasurer's approval, the director shall have final approval of all State contracts including, but not limited to, those entered into pursuant to P.L.1964, c.290 (C.30:6-17 et seq.).

95. Section 2 of P.L.1954, c.48 (C.52:34-7) is amended to read as follows:

C.52:34-7 State bid advertising thresholds.

2. a. Any such purchase, contract or agreement may be made, negotiated, or awarded 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, without advertising, in any manner which the director may deem effective to promote full and free competition whenever competition is practicable, if: (1) the aggregate amount involved does not exceed $25,000.00 or the amount determined pursuant to subsection b. of this section; or (2) (Deleted by amendment, P.L.1985, c.107) or (3) the aggregate amount involved including labor and construction materials does not exceed $25,000.00 or the amount determined pursuant to subsection b. of this section in the case of contracts or agreements for the erection, construction, alteration, or repair of any public building or facility.

When the aggregate amount involved does not exceed $25,000.00 or the amount determined pursuant to subsection b. of this section in the case of contracts or agreements for the erection, construction, alteration, or repair of any public building or facility, the Director of the Division of Purchase and Property or the Director of the Division of Building and Construction may, at the director's discretion, delegate to the appropriate State department or using agency the director's authority to make, negotiate, or award a contract or agreement without advertising.

The Director of the Division of Purchase and Property or the Director of the Division of Building and Construction, as the case may be, shall establish, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations concerning procedural requirements for the making, negotiating or awarding of purchases, contracts or agreements pursuant to this section, at the director's discretion.

b. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of every fifth year beginning in the fifth year after the year in which P.L.1999, c.440 takes effect, adjust the threshold amount set forth in subsection a. of this section, or the threshold amount resulting from any adjustment under this subsection, in direct proportion to the rise or fall of the index rate as that term is defined in section 2 of P.L.1971, c.198 (C.40A:11-2), and shall round the adjustment to the nearest $1,000. The Governor shall, no later than June 1 of every fifth year, notify the Director of the Division of Purchase and Property and the Director of the Division of Building and Construction of the adjustment. The adjustment shall become effective on July 1 of the year in which it is made.

96. Section 7 of P.L.1954, c.48 (C.52:34-12) is amended to read as follows:

C.52:34-12 State advertisement for bids.

7. Whenever advertising is required: (a) specifications and invitations for bids shall permit such full and free competition as is consistent with the procurement of supplies and services necessary to meet the requirements of the using agency and shall, wherever practicable, include such factors as life-cycle costs, sliding percentage preference scales, or other similar analysis as shall be deemed effective by the Director of the Division of Purchase and Property, hereinafter referred to as the director, (b) the advertisement for bids shall be in such newspaper or newspapers selected by the State Treasurer as will best give notice thereof to bidders and shall be sufficiently in advance of the purchase or contract to promote competitive bidding; (c) the advertisement shall designate the time and place when and where sealed proposals shall be received and publicly opened and read, the amount of the cash or certified check, if any, which must accompany each bid, and such other terms as the State Treasurer may deem proper; (d) notice of revisions or addenda to advertisements or bid documents relating to bids shall be published in a newspaper or newspapers as selected by the State Treasurer to best give notice to bidders and sent to the prospective bidder no later than five days, Saturdays, Sundays and holidays excepted, prior to the bid due date; (e) failure to advertise for the receipt of bids or to provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by subsection (d) of this section shall prevent the acceptance of bids and require the readvertisement for bids; (f) for any procurement, the State Treasurer or the director may negotiate with bidders, after bid opening, the final terms and conditions of any procurement, including price; such ability to so negotiate must be expressly set forth in the applicable invitation to bid; (g) award shall be made with reasonable promptness, after negotiation with bidders where authorized, by written notice to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the State, price and other factors considered. Any or all bids may be rejected when the State Treasurer or the Director of the Division of Purchase and Property determines that it is in the public interest so to do. The State Treasurer or designee may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement the provisions of this section.

This section shall apply to all bids received on and after the date of enactment of P.L.1999, c.440.

C.2C:21-34 Penalty for false contract payment claims, representation, for a government contract; grading.

97. a. A person commits a crime if the person knowingly submits to the government any claim for payment for performance of a government contract knowing such claim to be false, fictitious, or fraudulent. If the claim submitted is for $25,000.00 or above, the offender is guilty of a crime of the second degree. If the claim exceeds $2,500.00, but is less than $25,000.00, the offender is guilty of a crime of the third degree. If the claim is for $2,500.00 or less, the offender is guilty of a crime of the fourth degree.

b. A person commits a crime if the person knowingly makes a material representation that is false in connection with the negotiation, award or performance of a government contract. If the contract amount is for $25,000.00 or above, the offender is guilty of a crime of the second degree. If the contract amount exceeds $2,500.00, but is less than $25,000.00, the offender is guilty of a crime of the third degree. If the contract amount is for $2,500.00 or less, the offender is guilty of a crime of the fourth degree.

98. N.J.S.2C:27-4 is amended to read as follows:

Unlawful benefits for official behavior; grading.

2C:27-4. a. A person commits a crime if the person, as a public servant:

(1) directly or indirectly, knowingly solicits, accepts or agrees to accept any benefit from another for or because of any official act performed or to be performed by the person or for or because of a violation of official duty;

(2) directly or indirectly, knowingly receives any benefit from another who is or was in a position, different from that of a member of the general public, to benefit, directly or indirectly, from a violation of official duty or the performance of official duties; or

(3) directly or indirectly, knowingly receives any benefit from or by reason of a contract or agreement for goods, property or services if the contract or agreement is awarded, made or paid by the agency that employs the person or if the goods, property or services are provided to the government agency that employs the public servant.

b. A person commits a crime if the person offers, confers or agrees to confer a benefit, acceptance of which is prohibited by this section.

c. Any offense proscribed by this section is a crime of the second degree. If the benefit solicited, accepted, agreed to be accepted, offered, conferred or agreed to be conferred is of a value of $200.00 or less, any offense proscribed by this section is a crime of the third degree.

99. N.J.S.2C:27-6 is amended to read as follows:

Unlawful benefits acceptance.

2C:27-6. a. Except as provided in subsection d. of this section, a public servant commits a crime if the person, knowingly and under color of office, directly or indirectly solicits, accepts or agrees to accept any benefit for that person or another not allowed by law.

b. Except as provided in subsection d. of this section, a person commits a crime if the person, directly or indirectly, confers or agrees to confer any benefit not allowed by law to a public servant.

c. (Deleted by amendment, P.L.1999, c.440.)

d. This section shall not apply to:

(1) Fees prescribed by law to be received by a public servant, or any other benefit to which the public servant is otherwise legally entitled; or

(2) Gifts or other benefits conferred on account of kinship or other personal, professional or business relationship independent of the official status of the recipient; or

(3) Trivial benefits the receipt of which involve no risk that the public servant would perform official duties in a biased or partial manner.

e. An offense under this section is a crime of the third degree. If the gift or other benefit is of a value of $200.00 or less, any offense proscribed by this section is a crime of the fourth degree.

C.2C:27-9 Unlawful official business transaction where interest is involved; grading; conditions.

100. A public servant commits a crime of the fourth degree if, while performing his official functions on behalf of a governmental entity, the public servant knowingly transacts any business with himself, a member of his immediate family, or a business organization in which the public servant or an immediate family member has an interest. For purposes of this section, an interest in a business organization shall not include aggregate familial ownership or control of one percent or less of an interest in the capital or equity of the business organization. A public servant shall not be guilty of an offense under this section if the public servant's performance of official functions would not affect the public servant, family member or business organization differently than such performance would affect the public generally, or would not affect the public servant, family member or business organization, as a member of a business, profession, occupation or group, differently than such performance would affect any other member of such business, profession, occupation or group.

101. Section 10 of P.L.1991, c.29 (C.40A:9-22.10) is amended to read as follows:

C.40A:9-22.10 Violations, penalties.

10. a. An appointed local government officer or employee found guilty by the Local Finance Board or a county or municipal ethics board of the violation of any provision of P.L.1991, c.29 (C.40A:9-22.1 et seq.) or of any code of ethics in effect pursuant to P.L.1991, c.29 (C.40A:9-22.1 et seq.), shall be fined not less than $100.00 nor more than $500.00, which penalty may be collected in a summary proceeding pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The board or a county or municipal ethics board shall report its findings to the office or agency having the power of removal or discipline of the appointed local government officer or employee and may recommend that further disciplinary action be taken.

b. An elected local government officer or employee found guilty by the Local Finance Board or a county or municipal ethics board of the violation of any provision of P.L.1991, c.29 (C.40A:9-22.1 et seq.) or of any code of ethics in effect pursuant to P.L.1991, c.29 (C.40A:9-22.1 et seq.), shall be fined not less than $100.00 nor more than $500.00, which penalty may be collected in a summary proceeding pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

c. The remedies provided herein are in addition to all other criminal and civil remedies provided under the law.

102. Section 10 of P.L.1971, c.182 (C.52:13D-21) is amended to read as follows:

C.52:13D-21 Executive Commission on Ethical Standards; penalties for persons found guilty by commission.

10. (a) The Executive Commission on Ethical Standards created pursuant to P.L.1967, chapter 229 is continued and established in the Department of Law and Public Safety and shall constitute the first commission under P.L.1971, c.182 (C.52:13D-12 et al.).

(b) The commission shall be composed of seven members appointed by the Governor from among State officers and employees serving in the Executive Branch. Each member shall serve at the pleasure of the Governor during the term of office of the Governor appointing the member and until the member's successor is appointed and qualified. The Governor shall designate one member to serve as chairman and one member to serve as vice-chairman of the commission.

(c) Each member of the said commission shall serve without compensation but shall be entitled to be reimbursed for all actual and necessary expenses incurred in the performance of the member's duties.

(d) The Attorney General shall act as legal adviser and counsel to the said commission. The Attorney General shall upon request advise the commission in the rendering of advisory opinions by the commission, in the approval and review of codes of ethics adopted by State agencies in the Executive Branch and in the recommendation of revisions in codes of ethics or legislation relating to the conduct of State officers and employees in the Executive Branch.

(e) The said commission may, within the limits of funds appropriated or otherwise made available to it for the purpose, employ such other professional, technical, clerical or other assistants, excepting legal counsel, and incur such expenses as may be necessary for the performance of its duties.

(f) The said commission, in order to perform its duties pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.), shall have the power to conduct investigations, hold hearings, compel the attendance of witnesses and the production before it of such books and papers as it may deem necessary, proper and relevant to the matter under investigation. The members of the said commission and the persons appointed by the commission for such purpose are hereby empowered to administer oaths and examine witnesses under oath.

(g) The said commission is authorized to render advisory opinions as to whether a given set of facts and circumstances would, in its opinion, constitute a violation of the provisions of P.L.1971, c.182 (C.52:13D-12 et al.) or of a code of ethics promulgated pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.).

(h) The said commission shall have jurisdiction to initiate, receive, hear and review complaints regarding violations, by any State officer or employee or special State officer or employee in the Executive Branch, of the provisions of P.L.1971, c.182 (C.52:13D-12 et al.) or of any code of ethics promulgated pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.). Any complaint regarding a violation of a code of ethics may be referred by the commission for disposition in accordance with subsection (d) of section 12 of P.L.1971, c.182 (C.52:13D-23).

(i) Any State officer or employee or special State officer or employee found guilty by the commission of violating any provision of P.L.1971, c.182 (C.52:13D-12 et al.) or of a code of ethics promulgated pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.) shall be fined not less than $100.00 nor more than $500.00, which penalty may be collected in a summary proceeding pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and may be suspended from his office or employment by order of the commission for a period of not in excess of one year. If the commission finds that the conduct of such officer or employee constitutes a willful and continuous disregard of the provisions

of P.L.1971, c.182 (C.52:13D-12 et al.) or of a code of ethics promulgated pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.), it may order such person removed from his office or employment and may further bar such person from holding any public office or employment in this State in any capacity whatsoever for a period of not exceeding five years from the date on which the person was found guilty by the commission.

(j) The remedies provided herein are in addition to all other criminal and civil remedies provided under the law.

103. Section 13 of P.L.1954, c.48 (C.52:34-18) is amended to read as follows:

C.52:34-18 Violations; crime.

13. Any person knowingly authorizing, consenting to, making or procuring to be made any purchase, contract or agreement in violation of any of the provisions of P.L.1954, c.48 (C.52:34-6 et seq.) or knowingly making or procuring to be made payment of State funds for or on account of any purchase, contract or agreement known to him to have been made or entered into in violation of any of the provisions of P.L.1954, c.48 (C.52:34-6 et seq.) shall be guilty of a crime of the fourth degree.

104. Section 11 of P.L.1970, c.73 (C.56:9-11) is amended to read as follows:

C.56:9-11 Violations, crime; grading.

11. a. Any person who shall knowingly violate any of the provisions of P.L.1970, c.73 (C.56:9-1 et seq.) or knowingly aid or advise in such violation is guilty of a crime.

b. Any person convicted pursuant to the provisions of subsection a. of this section of a violation involving or affecting trade or commerce of a value less than $1,000,000.00 shall be guilty of a crime of the third degree. Any person convicted pursuant to the provisions of subsection a. of this section of a violation involving or affecting trade or commerce of a value equal to or greater than $1,000,000.00 shall be guilty of a crime of the second degree. Any person convicted pursuant to the provisions of subsection a. of this section of a violation involving bid rigging on public contracts, regardless of the value of trade or commerce involved or affected, shall be guilty of a crime of the second degree.

c. Notwithstanding the provisions of subsections a. and b. of N.J.S.2C:43-3, a person convicted of a crime of the second degree under this section shall be subject to a fine of not less than $50,000.00 nor more than $300,000.00, or, in the case of a corporation, partnership, or other business entity, be subject to a fine of not less than $250,000.00 nor more than

$1,000,000.00, or imprisonment, or both, and a person convicted of a crime of the third degree under this section shall be subject to a fine of not less than $25,000.00 nor more than $150,000.00, or, in the case of a corporation, partnership, or other business entity, be subject to a fine of not less than $100,000.00 nor more than $300,000.00, or imprisonment, or both.

105. N.J.S.18A:71A-10 is amended to read as follows:

Contracts, purchases, records, travel.

18A:71A-10. Contracts, Purchases, Records, Travel.

a. The authority, in the exercise of its power to make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, shall adopt standing operating rules and procedures providing that, except as hereinafter provided, no contract on behalf of the authority shall be entered into for the doing of any work, or for the hiring of equipment or vehicles, when the sum to be expended exceeds the sum of $25,000 or, after the effective date of P.L.1999, c.440, the amount determined pursuant to subsection b. of this section, unless the authority shall first publicly advertise for bids therefor, and shall award the contract to the lowest responsible bidder; provided, however, that such advertising shall not be required when the contract to be entered into is one for the furnishing or performing of services of a professional nature, or when the purchase is to be made through or by the Director of the Division of Purchase and Property pursuant to section 1 of P.L.1959, c.40 (C.52:27B-56.1), or through a contract made by any of the following: the New Jersey Sports and Exposition Authority established under section 4 of P.L.1971, c.137 (C.5:10-4); the Hackensack Meadowlands Development Commission established under section 5 of P.L.1968, c.404 (C.13:17-5); the New Jersey Highway Authority established under section 4 of P.L.1952, c.16 (C.27:12B-4); the New Jersey Turnpike Authority established under section 3 of P.L.1948, c.454 (C.27:23-3); the New Jersey Water Supply Authority established under section 4 of P.L.1981, c.293 (C.58:1B-4); the South Jersey Transportation Authority established under section 4 of P.L.1991, c.252 (C.27:25A-4); the Port Authority of New York and New Jersey established under R.S.32:1-4; and the Delaware River Port Authority established under R.S.32:3-2. Waiver of bid advertising and of actual bidding shall be made by resolution of the authority for those goods, services, and contracts described in sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and 52:34-10).

This subsection shall not prevent the authority from having any work done by its own employees, nor shall it apply when the safety or protection of its or other public property requires. In the case of exigency or emergency, the

authority shall, by resolution passed by the affirmative vote of a majority of its members, declare the exigency or emergency to exist, and set forth in the resolution the nature thereof and the approximate amount to be so expended.

b. Commencing in the fifth year after the year in which P.L.1999, c.440 takes effect, and every five years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in subsection a. of this section, or the threshold amount resulting from any adjustment under this subsection, in direct proportion to the rise or fall of the index rate as that term is defined in section 2 of P.L.1971, c.198 (C.40A:11-2), and shall round the adjustment to the nearest $1,000. The Governor shall, no later than June 1 of every fifth year, notify the authority of the adjustment. The adjustment shall become effective July 1 of the year in which it is made.

c. The authority, in the exercise of its power to make purchases and enter into contracts, leases and agreements necessary or incidental to the performance of its duties and the execution of its powers, shall adopt standing operating rules and procedures providing that, subject to subsections a. and b. of this section, for purchases, contracts, leases and agreements payable exclusively with or out of funds transferred from the Higher Education Student Assistance Fund, the purchases, contracts, leases and agreements shall be subject to the authority's sole approval. Approval of the purchases, contracts, leases, and agreements shall not be required by any other department, division, board, bureau, agency, office or officer of the State.

d. The authority, without advertising for bids, or after having rejected all bids obtained pursuant to advertising therefor, may purchase any materials, supplies or equipment pursuant to a contract or contracts for the materials, supplies or equipment entered into on behalf of the State. Any department, division, commission, board, bureau, agency, office or officer of the State may, by joint action with the authority, purchase any articles used or needed by the State and the authority.

e. Records subject to the record retention requirements set forth under 20 U.S.C.s.1071 et seq., 20 U.S.C.s.1070c et seq., and 20 U.S.C.s.1104 et seq. and implementing regulations and rules shall not be "public records" for purposes of the "Destruction of Public Records Law (1953)," P.L.1953, c.410 (C.47: 3-15 et seq.), notwithstanding the provisions of any law to the contrary.

f. The executive director shall have the power to approve of travel consistent with Office of Management and Budget travel regulations, except that for travel that is payable exclusively with or out of funds transferred from the Higher Education Student Assistance Fund, no approval shall be required by the Director of the Office of Management and Budget.

106. Section 1 of P.L.1996, c.16 (C.52:34-6.1) is amended to read as follows:

C.52:34-6.1 Purchase of goods, services from Federal Supply Schedules for State agencies.

1. Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.) to the contrary, the Director of the Division of Purchase and Property in the Department of the Treasury shall promulgate the Federal Supply Schedules of the Federal General Services Administration pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as an alternate price guide for the purchase of goods and services for State agencies and for the entities defined in section 1 of P.L.1959, c.40 (C.52:27B-56.1), subject to the following conditions:

(1) the price of the goods or services being procured is no greater than the price offered to federal agencies;

(2) the Federal Supply Schedules may be used only for purchases of up to $500,000 per year or for one product unit at any price and only for reprographic equipment or services, including digital copiers, used by the State;

(3) the State receives the benefit of federally mandated price reductions during the term of the contract and is protected from price increases during that time; and

(4) the price of the goods or services being procured is no greater than the price of the same or equivalent goods or services under the State contract, unless the State determines that because of factors other than price, selection of a vendor from the Federal Supply Schedules would be more advantageous to the State.

107. Section 2 of P.L.1996, c.16 (C.52:34-6.3) is amended to read as follows:

C.52:34-6.3 Purchase of goods, services by certain State authorities from Federal Supply Schedules.

2. Notwithstanding the provisions of any other law to the contrary, the State authorities authorized to contract independently under various provisions of State law may also use, without advertising for bids, or having rejected all bids obtained pursuant to advertising, the Federal Supply Schedules of the General Services Administration, promulgated by the Director of the Division of Purchase and Property in the Department of the Treasury pursuant to section 1 of P.L.1996, c.16 (C.52:34-6.1), subject to the following conditions:

(1) the price of the goods or services being procured is no greater than the price offered to federal agencies;

(2) the Federal Supply Schedules may be used only for purchases of up to $500,000 per year or for one product unit at any price and only for

reprographic equipment or services, including digital copiers, used by the authority;

(3) the authority receives the benefit of federally mandated price reductions during the term of the contract and is protected from price increases during that time;

(4) the price of the goods or services being procured is no greater than the price of the same or equivalent goods or services under the State contract, unless the authority determines that because of factors other than price, selection of a vendor from the Federal Supply Schedules would be more advantageous to the authority;

(5) a copy of the purchase order relating to any such contract, the requisition or request for purchase order, if applicable, and documentation identifying the price of the goods or services under the Federal Supply Schedules shall be filed with the State Treasurer within five working days of the award of any such contract by the authority. The authority shall make available to the State Treasurer upon request any other documents relating to the solicitation and award of the contract.

Repealer.

108. The following are repealed:
N.J.S.2C:27-7
P.L.1972, c.112 (C.40A:11-12.1 to 40A:11-12.6)
N.J.S.18A:18A-38
N.J.S.18A:18A-39
Section 1 of P.L.1981, c.186 (C.18A:18A-42.1)

109. This act shall take effect 90 days after enactment.

Approved January 18, 2000.

CHAPTER 441

AN ACT concerning coverage for biologically-based mental illness in the State Health Benefits Program and amending and supplementing P.L.1961, c.49.

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

C.52:14-17.29d Definitions relative to biologically-based mental illness.

1. As used in this act:

"Biologically-based mental illness" means a mental or nervous condition that is caused by a biological disorder of the brain and results in a clinically

significant or psychological syndrome or pattern that substantially limits the functioning of the person with the illness including, but not limited to, schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, panic disorder and pervasive developmental disorder or autism.

"Carrier" means an insurance company, health service corporation, hospital service corporation, medical service corporation or health maintenance organization authorized to issue health benefits plans in this State.

"Same terms and conditions" means that a carrier cannot apply different copayments, deductibles or benefit limits to biologically-based mental health benefits than those applied to other medical or surgical benefits.

C.52:14-17.29e Biologically-based mental illness terms, conditions, in health benefits contracts.

2.a. The State Health Benefits Commission shall ensure that every contract purchased by the commission on or after the effective date of this act that provides hospital or medical expense benefits shall provide coverage for biologically-based mental illness under the same terms and conditions as provided for any other sickness under the contract.

b. Nothing in this section shall be construed to change the manner in which a carrier determines:

(1) whether a mental health care service meets the medical necessity standard as established by the carrier; or

(2) which providers shall be entitled to reimbursement for providing services for mental illness under the contract.

c. The commission shall provide notice to employees regarding the coverage required by this section in accordance with this subsection and regulations promulgated by the Commissioner of Health and Senior Services 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 employee; (2) the yearly informational packet sent to the employee; or (3) July 1, 2000. The commission shall also ensure that the carrier under contract with the commission, upon receipt of information that a covered person is receiving treatment for a biologically-based mental illness, shall promptly notify that person of the coverage required by this section.

3. Section 5 of P.L.1961, c.49 (C.52:14-17.29) is amended to read as follows:

C.52:14-17.29 State health benefits program.

5. (A) The contract or contracts purchased by the commission pursuant to section 4 shall provide separate coverages or policies as follows:

(1) Basic benefits which shall include:
(a) Hospital benefits, including outpatient;
(b) Surgical benefits;
(c) Inpatient medical benefits;
(d) Obstetrical benefits; and
(e) Services rendered by an extended care facility or by a home health agency and for specified medical care visits by a physician during an eligible period of such services, without regard to whether the patient has been hospitalized, to the extent and subject to the conditions and limitations agreed to by the commission and the carrier or carriers.

Basic benefits shall be substantially equivalent to those available on a group remittance basis to employees of the State and their dependents under the subscription contracts of the New Jersey "Blue Cross" and "Blue Shield" Plans. Such basic benefits shall include benefits for:
(i) Additional days of inpatient medical service;
(ii) Surgery elsewhere than in a hospital;
(iii) X-ray, radioactive isotope therapy and pathology services;
(iv) Physical therapy services;
(v) Radium or radon therapy services;
and the extended basic benefits shall be subject to the same conditions and limitations, applicable to such benefits, as are set forth in "Extended Outpatient Hospital Benefits Rider," Form 1500, 71(9-66), and in "Extended Benefit Rider" (as amended), Form MS 7050J(9-66) issued by the New Jersey "Blue Cross" and "Blue Shield" Plans, respectively, and as the same may be amended or superseded, subject to filing by the Commissioner of Banking and Insurance; and

(2) Major medical expense benefits which shall provide benefit payments for reasonable and necessary eligible medical expenses for hospitalization, surgery, medical treatment and other related services and supplies to the extent they are not covered by basic benefits. The commission may, by regulation, determine what types of services and supplies shall be included as "eligible medical services" under the major medical expense benefits coverage as well as those which shall be excluded from or limited under such coverage. Benefit payments for major medical expense benefits shall be equal to a percentage of the reasonable charges for eligible medical services incurred by a covered employee or an employee's covered dependent, during a calendar year as exceed a deductible for such calendar year of $100.00 subject to the maximums hereinafter provided and to the other terms and conditions authorized by this act. The percentage shall be 80% of the first $2,000.00 of charges for eligible medical services incurred subsequent to satisfaction of the deductible and 100% thereafter. There shall be a separate deductible for each calendar year for (a) each enrolled

employee and (b) all enrolled dependents of such employee. Not more than $1,000,000.00 shall be paid for major medical expense benefits with respect to any one person for the entire period of such person's coverage under the plan, whether continuous or interrupted except that this maximum may be reapplied to a covered person in amounts not to exceed $2,000.00 a year. Maximums of $10,000.00 per calendar year and $20,000.00 for the entire period of the person's coverage under the plan shall apply to eligible expenses incurred because of mental illness or functional nervous disorders, and such may be reapplied to a covered person, except as provided in P.L.1999, c.441 (C.52:14-17.29d et al.). The same provisions shall apply for retired employees and their dependents. Under the conditions agreed upon by the commission and the carriers as set forth in the contract, the deductible for a calendar year may be satisfied in whole or in part by eligible charges incurred during the last three months of the prior calendar year.

Any service determined by regulation of the commission to be an "eligible medical service" under the major medical expense benefits coverage which is performed by a duly licensed practicing psychologist within the lawful scope of his practice shall be recognized for reimbursement under the same conditions as would apply were such service performed by a physician.

(B) Benefits under the contract or contracts purchased as authorized by this act may be subject to such limitations, exclusions, or waiting periods as the commission finds to be necessary or desirable to avoid inequity, unnecessary utilization, duplication of services or benefits otherwise available, including coverage afforded under the laws of the United States, such as the federal Medicare program, or for other reasons.

Benefits under the contract or contracts purchased as authorized by this act shall include those for the treatment of alcoholism where such treatment is prescribed by a physician and shall also include treatment while confined in or as an outpatient of a licensed hospital or residential treatment program which meets minimum standards of care equivalent to those prescribed by the Joint Commission on Hospital Accreditation. No benefits shall be provided beyond those stipulated in the contracts held by the State Health Benefits Commission.

(C) The rates charged for any contract purchased under the authority of this act shall reasonably and equitably reflect the cost of the benefits provided based on principles which in the judgment of the commission are actuarially sound. The rates charged shall be determined by the carrier on accepted group rating principles with due regard to the experience, both past and contemplated, under the contract. The commission shall have the right to particularize subgroups for experience purposes and rates. No increase in rates shall be retroactive.

(D) The initial term of any contract purchased by the commission under the authority of this act shall be for such period to which the commission and the carrier may agree, but permission may be made for automatic renewal in the absence of notice of termination by the commission. Subsequent terms for which any contract may be renewed as herein provided shall each be limited to a period not to exceed one year.

(E) The contract shall contain a provision that if basic benefits or major medical expense benefits of an employee or of an eligible dependent under the contract, after having been in effect for at least one month in the case of basic benefits or at least three months in the case of major medical expense benefits, is terminated, other than by voluntary cancellation of enrollment, there shall be a 31-day period following the effective date of termination during which such employee or dependent may exercise the option to convert, without evidence of good health, to converted coverage issued by the carriers on a direct payment basis. Such converted coverage shall include benefits of the type classified as "basic benefits" or "major medical expense benefits" in subsection (A) hereof and shall be equivalent to the benefits which had been provided when the person was covered as an employee. The provision shall further stipulate that the employee or dependent exercising the option to convert shall pay the full periodic charges for the converted coverage which shall be subject to such terms and conditions as are normally prescribed by the carrier for this type of coverage.

(F) The commission may purchase a contract or contracts to provide drug prescription and other health care benefits or authorize the purchase of a contract or contracts to provide drug prescription and other health care benefits as may be required to implement a duly executed collective negotiations agreement or as may be required to implement a determination by a public employer to provide such benefit or benefits to employees not included in collective negotiations units.

4. This act shall take effect immediately.

Approved January 18, 2000.

JOINT RESOLUTIONS

(2161)

Joint Resolutions

JOINT RESOLUTION NO. 1

A JOINT RESOLUTION creating the "Public Officers Salary Review Commission."

WHEREAS, The Legislature finds and declares that it is necessary to review the salaries of certain public officials to ensure that they are receiving salaries commensurate with their responsibilities and commensurate with the salaries of similar officials in other states; and

WHEREAS, It is necessary to have salaries which do not overpay public officials while at the same time having salaries which pay them appropriate amounts; and

WHEREAS, These salary levels need to be thoroughly reviewed before any pay changes are implemented; and

WHEREAS, It is necessary to develop a consensus and a mechanism to determine what these salaries should be; now, therefore,

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

C.52:14-15.111 "Public Officers Salary Review Commission."

1. There is hereby established a commission to be known as the "Public Officers Salary Review Commission." The commission shall consist of seven members: two members appointed by the Governor, no more than one of whom shall be of the same political party; one member appointed by the President of the Senate; one member appointed by the Senate minority leader; one member appointed by the Speaker of the General Assembly; one member appointed by the Assembly minority leader; and one member appointed by the Chief Justice of the New Jersey Supreme Court. In appointing members to the commission, the Governor, the President of the Senate, the Speaker of the General Assembly, the Senate and Assembly minority leaders, and the Chief Justice shall not appoint members who are in positions that would be affected by the commission's recommendations.

C.52:14-15.112 Duties of commission.

2. a. The commission shall review the salaries of the Governor, cabinet officers, members of the Board of Public Utilities, members of the Casino

Control Commission, Workers' Compensation judges, members of the Legislature, members of the State Commission of Investigation, Justices of the Supreme Court, judges of the Superior Court, judges of the Tax Court, administrative law judges and county prosecutors and shall propose to the Governor and Legislature recommendations concerning changes in these salaries.

b. In reviewing these salaries, the commission shall consider: the responsibilities of each office; the number of hours per week required to perform the responsibilities of each office; comparable positions in the public and private sectors within and outside of the State; the current state of the State and national economies; projections of future economic growth or decline; and projections of future cost of living increases or decreases.

C.52:14-15.113 Organization of commission.

3. The commission shall organize as soon as possible after the appointment of its members and shall select a chairperson and a vice chairperson from among its members. The chairperson shall appoint a secretary who need not be a member of the commission. Vacancies in the membership shall be filled in the same manner as the original appointments.

C.52:14-15.114 Members uncompensated; assistance, employees.

4. Commission members shall serve without compensation. The commission shall be entitled to call to its assistance and avail itself of the services of employees of any State, county, or municipal department, board, bureau, commission or agency as it may require and as may be made available to it for its purposes. The commission shall further be entitled to employ stenographic or other clerical assistance and incur traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

5. This joint resolution shall take effect immediately.

Approved March 5, 1999.

JOINT RESOLUTION NO. 2

A JOINT RESOLUTION designating March 23, 1999 as "National Critical Viewing Day" in New Jersey.

WHEREAS, Our children are New Jersey's most precious resource, and it is our responsibility to foster their development into responsible and productive citizens to sustain our nation in the decades ahead; and

WHEREAS, Research shows that parental and community involvement in children's education is a vital link to achieving quality education and a safe, disciplined learning environment for every child; and

WHEREAS, Television plays an enormous role in the life of children and they benefit from inspiring, educational and informative programs; and

WHEREAS, Studies reveal that an overwhelming majority of America's parents believe that parental involvement in children's television watching is extremely important; and

WHEREAS, Parents are searching for the tools and information to control the impact of television violence and commercialism on their children; and

WHEREAS, The "Family and Community Critical Viewing Project," a partnership of the National PTA and the cable television industry, is committed to providing "Taking Charge of Your TV" workshops and materials to help families make smarter, more informed television viewing choices that make television viewing a positive and educational experience for families; and

WHEREAS, The cable television industry is committed to helping families address concerns about television and its impact on children and is committed to helping families make more informed choices about program viewing and how they watch those programs; and

WHEREAS, The cable television industry, in conjunction with the National PTA, is co-sponsoring "National Critical Viewing Day" on March 23, 1999; and

WHEREAS, "National Critical Viewing Day" will showcase the cable television industry's commitment to critical viewing, to teaching parents, educators and families to make more informed television viewing choices, and to increasing awareness nationwide of the availability of media literacy information, skills and materials; and

WHEREAS, As one example of the activities prepared for "National Critical Viewing Day," Suburban Cable, a cable television provider, will

produce and broadcast a special critical viewing workshop on the evening of March 23rd so that all of its viewers will have the opportunity to learn to take charge of their televisions; now, therefore,

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

1. March 23, 1999 is designated as "National Critical Viewing Day" in New Jersey.

2. The Governor shall issue a proclamation calling on parents and educators throughout the State, in conjunction with the cable television industry and the National PTA, to observe the day with appropriate activities to promote the purposes of "National Critical Viewing Day."

3. This joint resolution shall take effect immediately.

Approved March 22, 1999.

JOINT RESOLUTION NO. 3

A JOINT RESOLUTION designating the third full week of April in each year as "National Organ and Tissue Donor Awareness Week."

WHEREAS, There is an ever-increasing need, nationally and in New Jersey, for donated organs and tissue that can save and enhance lives, give hope and restore health and sight; and

WHEREAS, Last year, New Jersey residents donated their organs and tissues to save and improve the lives of several hundred patients through transplantation; and

WHEREAS, nearly 2,500 residents of this State and more than 62,000 people nationwide still await life-saving organ transplants; and

WHEREAS, New Jersey's nonprofit organ procurement organizations, the New Jersey Organ and Tissue Sharing Network and Delaware Valley Transplant Program, have provided tens of thousands of residents with life-saving and life-enhancing organ and tissue transplants during the past two decades; and

WHEREAS, We have witnessed, both here at home and throughout the world, the renewed life that organ and tissue donation brings to its recipients; and

WHEREAS, It is appropriate for this Legislature to formally recognize the importance of organ and tissue donation and to urge New Jerseyans to learn about donation, discuss this important health issue with their family members, sign and carry a uniform donor card with their personal identification, and thereby give the precious gift of life, health and sight; now, therefore,

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

C.36:2-51 "National Organ and Tissue Donor Awareness Week," designated.

1. The third full week of April in each year is designated as "National Organ and Tissue Donor Awareness Week" in the State of New Jersey, and the citizens of New Jersey are urged to observe the week with appropriate activities and programs.

2. This joint resolution shall take effect immediately.

Approved April 7, 1999.

JOINT RESOLUTION NO. 4

A JOINT RESOLUTION designating the month of April in each year as "Women's Wellness Month."

WHEREAS, Women, due to their multiple roles as mothers, providers, and caregivers often tend to their own basic health care needs last, if at all; and

WHEREAS, The entry of women into the workforce over the past three decades has been marked by increasingly poor health for women, especially in health conditions or diseases seen primarily in men, such as heart disease and smoking-related disorders; and

WHEREAS, Heart disease is increasingly a disease of women and one which can be avoided through proper exercise, diet and stress reduction, if not prevented entirely through early intervention; and

WHEREAS, Breast cancer is a disease suffered by New Jersey's women at a disproportionately high rate compared to the rest of the nation (New Jersey ranks third in the rate of incidence and ranks first for mortality), but one for which the prognosis is vastly improved by early screening and detection by means of mammography and breast examination; and

WHEREAS, Cervical cancer and its precursor, cervical dysplasia, are easily detected through routine pap smears such that statistics show that seven in ten deaths from cervical cancer can be prevented by early detection and intervention; and

WHEREAS, Osteoporosis, a bone thinning disease which primarily affects women and results in painful and disabling fractures, may be prevented through exercise, proper diet and estrogen and may have an improved prognosis by early detection through bone density screenings; and

WHEREAS, The primary causes of death and disability among women in the State of New Jersey are preventable through early detection and changes in health habits; now, therefore,

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

C.36:2-52 "Women's Wellness Month" designated.

1. The month of April in each year is designated "Women's Wellness Month" in the State of New Jersey in order to urge and empower women to take routine and crucial steps necessary to maintain and improve their health, to access information and education about their health and bodies, to schedule routine health check-ups, including pap smears, mammograms, breast examinations and blood cholesterol and bone density screenings, to participate in routine exercise, to maintain a diet based on recommended nutritional guidelines and to utilize information about available health and social services in their communities.

2. All public agencies and private businesses who employ or serve women are hereby urged and called upon to support women as they seek to take control of their own health through education, regular health check-ups and the pursuit of healthier lifestyles.

3. This joint resolution shall take effect immediately.

Approved April 7, 1999.

JOINT RESOLUTION NO. 5

A JOINT RESOLUTION designating that portion of State Highway Route No. 169 in the City of Bayonne, Hudson County, as the "Joseph A. LeFante Memorial Highway."

WHEREAS, Joseph A. LeFante was born on September 8, 1928 in the City of Bayonne and attended the Bayonne schools before attending St. Peter's Institute of Industrial Relations and graduating from the New Jersey Real Estate Institute; and

WHEREAS, Joseph A. LeFante began his public service career in 1960 by serving on the Bayonne Charter Commission and then served as a Councilman in the City of Bayonne for eight years, from 1962 to 1970, during which time he was also a member of the Bayonne Board of School Estimate; and

WHEREAS, Joseph A. LeFante was elected to the General Assembly in 1969, was re-elected three times, and served as Chairman of both the Assembly Appropriations Committee and the Joint Appropriations Committee as well as serving as majority leader during his tenure in the Assembly; and

WHEREAS, Joseph A. LeFante was elected Speaker of the General Assembly when the 197th Legislature organized and served in that post until he resigned his seat in order to serve as the Representative to Congress from the 14th district in the 95th Congress; and

WHEREAS, In 1978 Joseph A. LeFante returned to State service, becoming Commissioner of Community Affairs where he oversaw the department which provides a wide variety of services and programs to the municipalities and counties throughout the State; and

WHEREAS, Joseph A. LeFante became Special Assistant to the Commissioner of Environmental Protection in 1984 and he served in that post until he retired in 1993; and

WHEREAS, In tribute to the long public service of Joseph A. LeFante, who served in positions at the local, State and national level, including serving as Speaker of the General Assembly, Congressman from the 14th District, and Commissioner of Community Affairs, it is altogether fitting and proper that State Highway Route No. 169 in the City of

Bayonne, be designated in memory of Joseph A. LeFante; now, therefore,

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

1. The Commissioner of Transportation shall designate that portion of State Highway Route No. 169 in the City of Bayonne, Hudson County, as the "Joseph A. LeFante Memorial Highway."

2. The Commissioner of Transportation is authorized to erect appropriate signs bearing that name.

3. This joint resolution shall take effect immediately.

Approved April 19, 1999.

JOINT RESOLUTION NO. 6

A JOINT RESOLUTION designating May of each year as "Kindness Awareness Month in New Jersey" in recognition of the importance kindness plays in encouraging individual and social responsibility, happiness and harmony.

WHEREAS, It is essential to teach the ways of kindness to our children so that they may become happy, health, peaceful and productive members of society; and

WHEREAS, Through such teaching we can empower children to take responsibility for their own actions and attitudes and thereby decrease the prevalence of violence, teen pregnancy, and low self-esteem amongst the young citizens of this State; and

WHEREAS, Mission: Kindness has brought this message to young people across this State through programs such as its Children's Fine Arts Competition and Exhibition, and by organizing students, teachers and parents to become "Special Agents of Kindness"; and

WHEREAS, It is desirable to designate a month when all citizens of this State may turn their attention to learning new ways of kindness, committing random acts of kindness, and encouraging happiness and productivity

through individual and social responsibility throughout the year; now, therefore,

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

C.36:2-54 "Kindness Awareness Month in New Jersey" designated.

1. The month of May of each year is hereby designated as "Kindness Awareness Month in New Jersey." All citizens of this State are urged to partake in educational programs and activities to foster kindness.

2. This joint resolution shall take effect immediately.

Approved May 19, 1999.

JOINT RESOLUTION NO. 7

A JOINT RESOLUTION permanently establishing the second week in May as "Human Potential Week."

WHEREAS, New Jersey government, business and industry recognizes the significant role that people with disabilities have in filling essential positions in the workforce, helping to produce goods and services that contribute to the rapidly growing economy; and

WHEREAS, State, county and local governments have established various education and training programs for people with disabilities in order for them to continue to play a role in all aspects of life; and

WHEREAS, A forum is needed to discuss issues of interest to people with physical and mental disabilities, expand communication between disabled and non-disabled people and promote a greater awareness of the needs and concerns of people with disabilities in order to facilitate a oneness of community; and

WHEREAS, State, county and local governments, business and industry must participate in this forum in order to raise the public's awareness of the needs and concerns of persons with disabilities, ensure that government resources for these individuals are effectively utilized, and recognize and celebrate the accomplishments of individuals who have overcome

their physical and mental limitations and have made valuable contributions to their families and communities and to society as a whole; and

WHEREAS, "Human Potential Week" helps to promote awareness of the needs and concerns of persons with disabilities, highlights the significant contributions made by these individuals and provides a forum through which the State can advocate for the full participation of people with disabilities in all aspects of life in our society; now, therefore,

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

C.36:2-55 "Human Potential Week" established.

1. The second week in May shall be permanently established as "Human Potential Week" to promote greater awareness of the needs and concerns of people with disabilities and to highlight the significant contributions these individuals have made to their families and communities and to society as a whole.

C.36:2-56 Proclamation, issuance by Governor.

2. The Governor shall annually issue a proclamation establishing the second week in May as "Human Potential Week" and, with the Legislature, call upon all citizens of the State to celebrate this week with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved May 21, 1999.

JOINT RESOLUTION NO. 8

A JOINT RESOLUTION recognizing the "Code Adam" child safety program, commending those establishments that have adopted such programs to protect children from abduction and urging those retail and business concerns that have not instituted such programs to consider doing so.

WHEREAS, Protecting children is one of society's greatest responsibilities; and

Whereas, Child abduction, an unconscionable and horrendous crime, seems to be on the increase; and

WHEREAS, Parents, and all concerned adults, must be ever vigilant in public places to protect children, who by their very nature are trusting and unsuspecting, from those depraved and vile individuals who would prey on them; and

WHEREAS, Recognizing the dangers of child abductions, some retail concerns have developed their own safety procedures and programs designed to prevent abductors from using crowds of shoppers as cover for their nefarious acts; and

WHEREAS, One of the most successful of these programs to prevent child abduction is "Code Adam," which was developed and utilized by Wal-Mart stores and SAM'S Clubs throughout the nation and which is operational in every Shop-Rite store in New Jersey and New York; and

WHEREAS, Named in tribute to six-year-old Adam Walsh who was abducted from a Florida shopping mall and murdered in 1981, the "Code Adam" alarm in these Wal-Mart stores and SAM'S Clubs signals a missing child and alerts all sales personnel to abandon their normal responsibilities and, in a coordinated and pre-arranged organized fashion, to begin searching for the child and to monitor the various exits to ensure that the child is not removed from the store; and

WHEREAS, It is altogether fitting and proper, and within the public interest, to recognize the "Code Adam" child safety program, commend those establishments that have adopted such programs to protect children from abduction and urge those retail and business concerns that have not instituted such programs to consider doing so; now, therefore

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

1. The State of New Jersey does hereby recognize the "Code Adam" child safety program, commend all those establishments that have adopted such programs to protect children from abduction and urge those retail and business concerns that have not instituted such programs to consider doing so.

2. This joint resolution shall take effect immediately.

Approved June 25, 1999.

JOINT RESOLUTION NO. 9

A JOINT RESOLUTION designating certain roads as the "Washington Victory Trail."

WHEREAS, During the evening of December 25, 1776 and the early morning hours of December 26, 1776, General George Washington and 2,400 soldiers of the Continental Army embarked from McKonkey's Ferry, Pennsylvania and crossed the Delaware River into New Jersey; and

WHEREAS, The crossing was completed in darkness, in the midst of a snow storm that became a cold, driving rain, and over a river that was choked with ice floes; and

WHEREAS, Despite the horrendous weather and the lack of adequate, protective clothing, the soldiers of the Continental Army who made the river crossing endured the harsh conditions, prevailed in their efforts to safely reach New Jersey, and began their march toward Trenton; and

WHEREAS, General Washington divided the army into two groups as they marched toward Trenton, one group which he led along Pennington Road, and the other group under the command of General John Sullivan marched along River Road; and

WHEREAS, The Continental Army marched the nine miles into Trenton, and by 8:00 A.M. on December 26, 1776 had begun a coordinated, surprise attack on the contingent of Hessian soldiers who guarded the British outpost in Trenton; and

WHEREAS, The resulting military victory by the Continental Army over the Hessian soldiers became a decisive turning point in the Revolutionary War and the beginning of further battlefield successes that would insure the continued existence of a fledgling nation created on July 4, 1776; now, therefore,

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

1. The routes traversed by General George Washington and 2,400 soldiers of the Continental Army during their historic march from their

landing site in New Jersey to Trenton shall be designated as the "Washington Victory Trail."

2. The Commissioner of Transportation shall, in consultation with the New Jersey Historical Commission established pursuant to N.J.S.18A:73-21 et seq., identify and designate with appropriate signs the routes of march which were used by General Washington and his soldiers.

3. This joint resolution shall take effect immediately.

Approved June 25, 1999.

JOINT RESOLUTION NO. 10

A JOINT RESOLUTION designating December 7 of each year as "Pearl Harbor Remembrance Day" in New Jersey.

WHEREAS, On December 7, 1941, the Imperial Japanese Navy and Air Force attacked units of the armed forces of the United States stationed at Pearl Harbor, Hawaii; and

WHEREAS, More than 2,000 citizens of the United States were killed and more than 1,000 citizens of the United States were wounded in the attack on Pearl Harbor; and

WHEREAS, The attack on Pearl Harbor marked the entry of the United States into World War II; and

WHEREAS, The veterans of World War II and all other people of the United States commemorate December 7 in remembrance of the attack on Pearl Harbor; and

WHEREAS, Federal legislation designating each December 7 as "National Pearl Harbor Remembrance Day" was enacted in 1994; and

WHEREAS, Commemoration in the State of New Jersey of the attack on Pearl Harbor will instill in all people of this State a greater understanding and appreciation of the selfless sacrifice of the individuals who served in the armed forces of the United States during World War II; now, therefore,

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

C.36:2-57 "Pearl Harbor Remembrance Day" designated.

1. December 7 of each year is designated as "Pearl Harbor Remembrance Day" in New Jersey.

C.36:2-58 Annual proclamation.

2. The Governor shall annually issue a proclamation calling on the people of this State to observe the day with appropriate ceremonies and activities.

C.36:2-59 Flying flag at half-staff.

3. All State and local government agencies and interested organizations, groups and individuals are urged to fly the flags of the United States and the State of New Jersey at half-staff each December 7 in honor of the individuals who died in the attack on Pearl Harbor.

4. This joint resolution shall take effect immediately.

Approved August 16, 1999.

JOINT RESOLUTION NO. 11

A JOINT RESOLUTION permanently establishing September as "New Jersey Cares about Children with Cancer Month."

WHEREAS, Pediatric cancers are those diagnosed from birth to age 14 and account for less than 1% of all cancers diagnosed in New Jersey residents; and

WHEREAS, The most commonly diagnosed pediatric cancers are leukemias, cancers of the central nervous system and lymphomas, which affect the white blood cells of the immune system; and

WHEREAS, Most adult cancers result from lifestyle factors, such as smoking, diet, occupation and exposure to cancer causing agents, but the causes of most pediatric cancers are unknown, although many are known to be related to hereditary conditions; and

WHEREAS, When cancer strikes children, it behaves differently than cancer in adults; only about 20% of adults with cancer show evidence that the disease has spread at the time of diagnosis; and

WHEREAS, 80% of children frequently have a more advanced stage of cancer when they are first diagnosed; and

WHEREAS, New Jersey's total incidence of pediatric cancer rose 5.6% over a 17-year period, from 14.2 to 15 cases for every 100,000 children. In general Caucasian children in New Jersey are more likely than African-American children to develop cancer and boys have higher incidence rates than girls. Although New Jersey's incidence rate remains higher than that of the United States (13.9), the gap between the two rates has narrowed over the years; and

WHEREAS, In the last 20 years, great advances have been made in the treatment of pediatric cancers, leading to declining mortality rates; in the United States, generally, and in New Jersey, specifically, those rates have declined by one-third, from 4.3 to 2.9 deaths per 100,000 children, however, researchers are still trying to understand why the cancer incidence rate is rising in New Jersey as well as the rest of the industrialized world; now, therefore,

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

C.36:2-60 "New Jersey Cares about Children with Cancer Month" designated.

1. The month of September is permanently designated as "New Jersey Cares about Children with Cancer Month" in order to promote the progress made in combating this disease in children and to highlight the fact that more has to be done in New Jersey to help cancer treatment specialists, health care providers, health care planners and researchers provide children with the services necessary to prevent these cancers in the future.

C.36:2-61 Annual proclamation.

2. The Governor shall annually issue a proclamation establishing September as "New Jersey Cares about Children with Cancer Month" and, with the Legislature, call upon the appropriate agencies of State and local government, private organizations and all the citizens of the State to celebrate the month with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved August 30, 1999.

JOINT RESOLUTION NO. 12

A JOINT RESOLUTION designating that portion of State Highway Route No. 208 in Bergen County as the "World War II Veterans Memorial Highway."

WHEREAS, World War II constitutes the most important and far reaching conflict of this century, setting in motion many cultural, social, economic, governmental, and moral changes; and

WHEREAS, The men and women of New Jersey who so bravely and unselfishly served their country in World War II deserve to be memorialized in this State for the benefit of all future generations; and

WHEREAS, A highway permanently dedicated to the memory of those veterans who sacrificed life and limb to fulfill their duty would be a fitting tribute to those veterans; and

WHEREAS, A permanent memorial established in honor of those veterans would forever commemorate their courage and sacrifices; and

WHEREAS, In honor of those veterans who served so admirably in times of war, it is fitting and proper that that portion of State Highway Route No. 208 that runs through Bergen County bear the permanent designation as "World War II Veterans Memorial Highway," honoring all World War II veterans; now, therefore,

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

1. The Commissioner of Transportation shall designate that portion of State Highway Route No. 208 located in Bergen County as the "World War II Veterans Memorial Highway."

2. The Commissioner of Transportation is authorized to erect appropriate signs bearing the name "World War II Veterans Memorial Highway."

3. This joint resolution shall take effect immediately.

Approved September 27, 1999.

JOINT RESOLUTION NO. 13

A JOINT RESOLUTION declaring August 16 in each year as "National Airborne Day" in recognition of the first official Army parachute jump on August 16, 1940.

WHEREAS, Airborne soldiers are a special breed, from the pioneers of the test platoon and glider troops to the present day volunteer paratroopers, who serve on active and reserve duty; and

WHEREAS, The Parachute Test Platoon was authorized by the War Department on June 25, 1940 to experiment with the potential use of airborne troops; and

WHEREAS, The Parachute Test Platoon, composed of 48 volunteers, began training in July 1940, and performed the first official Army parachute jump on August 16, 1940; and

WHEREAS, The success of the Parachute Test Platoon led to the formation of a large and successful airborne contingent serving in World War II to the present; and

WHEREAS, The 82nd Airborne Division was the first Airborne Division organized out of the success of the Parachute Test Platoon and the early airborne training program and has continued in the active service since its creation; and

WHEREAS, The 82nd Airborne Division Association exists to continue and foster that special esprit de corps among fellow paratroopers and to perpetuate the memory of those 82nd Airborne Division troopers who fought and died for our nation, and to further the common bond among all members of the airborne community; and

WHEREAS, The current generation of troopers continue to perfect the art of landing, en masse, in the midst of the enemy, and are subjected to training designed to make them tougher, capable of taking the initiative, and prepared to fight from the instant their boots touch the ground; and

WHEREAS, The general membership of the 82nd Airborne Division Association approved a resolution that August 16 be declared "National Airborne Day;" and

WHEREAS, This State believes that the Parachute Test Platoon's "Jump into History" on August 16, 1940 should be nationally recognized and is proud to be part of the effort to have the date officially recognized nationally; now, therefore,

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

C.36:2-62 "National Airborne Day," August 16; designated.

1. The State of New Jersey hereby declares August 16 in each year as "National Airborne Day" in recognition of the first official Army parachute jump on August 16, 1940.

2. Duly authenticated copies of this joint resolution shall be sent to the President and Vice President of the United States, the Speaker of the House of Representatives, the chairs of the appropriate standing committees of Congress, the presiding officers in each House of the legislatures of the other states of the United States, each member of the United States Congress elected thereto from New Jersey, and the Executive Director of the 82nd Airborne Division Association, Inc.

3. This joint resolution shall take effect immediately.

Approved December 3, 1999.

JOINT RESOLUTION NO. 14

A JOINT RESOLUTION establishing the World War II Veterans' Memorial Advisory Commission.

WHEREAS, The Legislature finds and declares that New Jersey veterans of World War II have not received a suitable memorial from the State; and

WHEREAS, It is proper that the citizens of this State pay tribute to the sacrifices that were made by the men and women from New Jersey who served in the Armed Forces of the United States and in the American Merchant Marine during World War II; and

WHEREAS, A State memorial is a fitting tribute and acknowledgment of the courage and patriotism displayed by our men and women in the military; and

WHEREAS, The memorial will stand as a timeless reminder of the spirit, sacrifice and commitment of those who defended this country and of the moral strength and power of a free people who are united in a common and just cause; now, therefore,

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

1. There is hereby established a commission to be known as the World War II Veterans' Memorial Advisory Commission.

The commission shall consist of 11 members as follows: the Adjutant General of the Department of Military and Veterans' Affairs and the Secretary of State, or their respective designees, who shall serve ex officio; two members of the Senate to be appointed by the President thereof, no more than one of whom shall be from the same political party; two members of the General Assembly to be appointed by the Speaker thereof, no more than one of whom shall be from the same political party; four members of recognized veterans groups in this State, to be appointed by the Adjutant General with the approval of the Governor; and one public member who is a resident of this State, to be appointed by the Adjutant General with the approval of the Governor. In selecting members of recognized veterans groups to serve on the commission, the Adjutant General shall give a preference to World War II veterans.

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

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

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

The commission may meet and hold hearings at such places as it shall designate during the sessions and recesses of the Legislature.

3. The commission shall undertake a study and advise the Governor and the Legislature on a suitable memorial to the veterans of World War II. The study shall include a review, discussion and recommendations on the need for such a memorial, the location for such a memorial, the method for selecting the style, type or design for the memorial, and the appropriate

method for financing the construction and maintenance of the memorial. In the course of its study, the commission also shall review, discuss and make a recommendation on the feasibility of converting or rededicating an existing suitable site or monument as the memorial.

4. The commission shall prepare and submit a final report containing its findings and recommendations, including any recommendations for legislative action that it deems appropriate, to the Governor, the President of the Senate and the Speaker of the General Assembly no later than three months after the commission organizes.

5. This joint resolution shall take effect immediately and shall expire on the 30th day following the submission of the commission's report as required pursuant to section 4 of this joint resolution.

Approved December 8, 1999.

JOINT RESOLUTION NO. 15

A JOINT RESOLUTION designating the Bridgeton All Sports Hall of Fame Museum as the All Sports Museum of Southern New Jersey.

WHEREAS, The Bridgeton All Sports Hall of Fame Museum was established in 1969 by a dedicated group of volunteers; and

WHEREAS, This dedicated group of volunteers maintains and operates this museum with the assistance of the City of Bridgeton; and

WHEREAS, The museum plays a vital role in the sports history of Cumberland County and is a strong part of the Southern Shore Region's tourism efforts; and

WHEREAS, From humble beginnings almost 30 years ago, this museum has grown to contain a variety of exhibits and artifacts representing all aspects of modern day sports; and

WHEREAS, The museum has taken the lead in honoring many of New Jersey's sports heroes with annual induction ceremonies; and

WHEREAS, The museum has recognized to date such stars as Major League Baseball Hall of Fame's Goose Goslin, Chicago Bears quarterback

Steve Romanik, third baseman Don Money, light heavyweight boxing champion Richie Kates, professional race car driver Elton Hildreth, Denver Broncos Super Bowl player Brison Manor, New York Yankees World Series participant Larry Milbourne, baseball scout legends Joe and Rex Bowen, Buffalo Bills coach Harvey Johnson, and former Negro League Stars pitcher Harold Gould; and

WHEREAS, Many well-known athletes have left their mark in Bridgeton by donating memorabilia to the museum, including baseball legend Willie Mays, softball legend Eddie Feigner, boxing great Alexis Arguillo, and the first woman umpire Bernice Gera; now, therefore,

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

C.28:2-28 All Sports Museum of Southern New Jersey designated.

1. The Bridgeton All Sports Hall of Fame Museum is hereby designated as the All Sports Museum of Southern New Jersey. The museum may utilize that designation to promote the purposes for which it was established.

2. A duly authenticated copy of this joint resolution shall be transmitted to the Bridgeton All Sports Hall of Fame Museum and the City of Bridgeton.

3. This joint resolution shall take effect immediately.

Approved January 4, 2000.

JOINT RESOLUTION NO. 16

A JOINT RESOLUTION designating the interchange at Interstate Highway Routes 78 and 287 in the townships of Bedminster and Bridgewater, Somerset County as the "Vincent R. Kramer Interchange."

WHEREAS, Vincent R. Kramer was born and grew up in New Jersey, graduated from Rutgers University in 1941, enlisted in the United States Marine Corps following graduation, and has lived in this State since the completion of an extensive military career; and

WHEREAS, During World War II, Mr. Kramer saw action on Guadalcanal and later in China; and

WHEREAS, During the Korean War, then-Major Kramer earned eight battle stars and was awarded the Navy Cross for leading amphibious assaults behind enemy lines; and

WHEREAS, The extraordinary bravery and tenacity shown by Mr. Kramer during his service in Korea was highlighted in the book, "The Naked Warriors"; and

WHEREAS, Continuing his service to the country, Mr. Kramer served in the Vietnam War from 1963 until his retirement as a Colonel in 1964; and

WHEREAS, It is most fitting and proper for this son of New Jersey to be honored for his bravery, heroism and service during three major armed conflicts by the designation of the interchange at Interstate Highway Routes 78 and 287 in the townships of Bedminster and Bridgewater in his name; now, therefore,

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

1. The Commissioner of Transportation shall designate the interchange at Interstate Highway Routes 78 and 287 in the townships of Bedminster and Bridgewater, Somerset County as the "Vincent R. Kramer Interchange."

2. The Commissioner of Transportation is authorized to place an appropriate plaque on the bridge of such interchange bearing that name.

3. This joint resolution shall take effect immediately.

Approved January 4, 2000.

JOINT RESOLUTION NO. 17

A JOINT RESOLUTION designating April of each year as "Parkinson's Disease Awareness Month" in New Jersey.

WHEREAS, Parkinson's disease is a debilitating, painful and incurable neurological disorder of unknown origin that disrupts and can end the lives of those who suffer from it; and

WHEREAS, Parkinson's disease causes diverse symptoms, including rigidity, slowness of movement, poor balance and tremors, which lead to an impaired ability to walk, speak, swallow and even breathe, the end

result can be a clear mind trapped inside a body that has lost its ability to function; and

WHEREAS, Parkinson's disease takes an enormous emotional, psychological and physical toll on caregivers and families, overwhelming their lives; and

WHEREAS, There are approximately one million Americans, 30,225 of whom are citizens of the State, with Parkinson's disease and 50,000 more who are diagnosed nationally each year, who require the expenditure of $25 billion per year, including medical treatments, disability payments and lost productivity; and

WHEREAS, The mean age of Parkinson's disease onset is in the mid 50's, with 40% of patients developing symptoms between the ages of 50 and 60; and

WHEREAS, The State is a center of ground breaking research and new treatments for Parkinson's disease, with 186 pharmaceutical companies and 60,000 jobs in the pharmaceutical industry, along with top academic research facilities; and

WHEREAS, The historic "Morris K. Udall Parkinson's Disease Research Act of 1997" directs federal funding for Parkinson's disease and April 11 has been proclaimed to be World Parkinson's Day, a day for all to recognize the need for more research and help in dealing with the devastating effects of Parkinson's disease; and

WHEREAS, Increased education and research are needed to develop more treatments and ultimately find a cure for Parkinson's disease and to provide more support programs and services to Parkinson's disease patients, their caregivers and families; and

WHEREAS, The leading public officials of the State and the leaders of the State's medical and scientific research community are now called upon to support the educational and research efforts in the State to find a cure for its citizens suffering from Parkinson's disease; now, therefore,

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

C.36:2-63 "Parkinson's Disease Awareness Month" designated.

1. The month of April of each year is hereby designated as "Parkinson's Disease Awareness Month" in New Jersey.

C.36:2-64 Proclamation.

2. The Governor shall issue a proclamation calling upon public officials and the citizens of this State to observe the month each year with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved January 7, 2000.

JOINT RESOLUTION NO. 18

A JOINT RESOLUTION commemorating the 100th Anniversary of the New Jersey State Bar Association by designating November 8, 1999 as "New Jersey State Bar Association Day."

WHEREAS, The New Jersey State Bar Association was incorporated and officially recognized by the State of New Jersey on November 8, 1899 by 74 attorneys who recognized the need for such an association in this State's legal community and growing economy; and

WHEREAS, Since its founding, the New Jersey State Bar Association has promoted and maintained the highest professional and ethical standards for all people involved in the practice of law; developed and improved legal education and research through the creation of the Institute for Continuing Legal Education; and protected the interests of the public; and

WHEREAS, The New Jersey State Bar Association has been a constant and constructive force in establishing and maintaining an environment of fair dealing and continued access to the courts, while serving as a vital and substantial element in the legal and business affairs of this State; and

WHEREAS, Currently, its Statewide membership is employed in various capacities including public practice, law firms, legal aide societies, business, industry, government, and education; and

WHEREAS, The New Jersey State Bar Association will continue to build upon its activities of the past 100 years to guide the legal profession into the next century with programs to help attorneys provide high quality service to their clients, and education to the general public; and

WHEREAS, It is fitting and proper that the New Jersey State Bar Association be recognized on its 100th Anniversary for its important and valuable contributions to this State; now, therefore,

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

1. This joint resolution commemorates the 100th Anniversary of the New Jersey State Bar Association, and designates November 8, 1999 as "New Jersey State Bar Association Day." This joint resolution also honors the Association for its meritorious record over the past one-hundred years in promoting attorney partnerships with business, government, and the people of New Jersey, thereby fostering justice, growth, and prosperity in this State.

2. A duly authenticated copy of this resolution shall be transmitted to the New Jersey State Bar Association.

3. This joint resolution shall take effect immediately.

Approved January 18, 2000.

AMENDMENTS ADOPTED IN 1999 TO THE 1947 CONSTITUTION

Amendments Adopted in 1999 to the 1947 Constitution

ARTICLE IV, SECTION VII, PARAGRAPH 2

Amend Article IV, Section VII, paragraph 2 to read as follows:

2. No gambling of any kind shall be authorized by the Legislature unless the specific kind, restrictions and control thereof have been heretofore submitted to, and authorized by a majority of the votes cast by, the people at a special election or shall hereafter be submitted to, and authorized by a majority of the votes cast thereon by, the legally qualified voters of the State voting at a general election, except that, without any such submission or authorization:

A. It shall be lawful for bona fide veterans, charitable, educational, religious or fraternal organizations, civic and service clubs, senior citizen associations or clubs, volunteer fire companies and first-aid or rescue squads to conduct, under such restrictions and control as shall from time to time be prescribed by the Legislature by law, games of chance of, and restricted to, the selling of rights to participate, the awarding of prizes, in the specific kind of game of chance sometimes known as bingo or lotto, played with cards bearing numbers or other designations, 5 or more in one line, the holder covering numbers as objects, similarly numbered, are drawn from a receptacle and the game being won by the person who first covers a previously designated arrangement of numbers on such a card, when the entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, religious or public-spirited uses, and in the case of senior citizen associations or clubs to the support of such organizations, in any municipality, in which a majority of the qualified voters, voting thereon, at a general or special election as the submission thereof shall be prescribed by the Legislature by law, shall authorize the conduct of such games of chance therein;

B. It shall be lawful for the Legislature to authorize, by law, bona fide veterans, charitable, educational, religious or fraternal organizations, civic and service clubs, senior citizen associations or clubs, volunteer fire companies and first-aid or rescue squads to conduct games of chance of, and restricted to, the selling of rights

to participate, and the awarding of prizes, in the specific kinds of games of chance sometimes known as raffles, conducted by the drawing for prizes or by the allotment of prizes by chance, when the entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, religious or public-spirited uses, and in the case of senior citizen associations or clubs to the support of such organizations, in any municipality, in which such law shall be adopted by a majority of the qualified voters, voting thereon, at a general or special election as the submission thereof shall be prescribed by law and for the Legislature, from time to time, to restrict and control, by law, the conduct of such games of chance;

C. It shall be lawful for the Legislature to authorize the conduct of State lotteries restricted to the selling of rights to participate therein and the awarding of prizes by drawings when the entire net proceeds of any such lottery shall be for State institutions and State aid for education; provided, however, that it shall not be competent for the Legislature to borrow, appropriate or use, under any pretense whatsoever, lottery net proceeds for the confinement, housing, supervision or treatment of, or education programs for, adult criminal offenders or juveniles adjudged delinquent or for the construction, staffing, support, maintenance or operation of an adult or juvenile correctional facility or institution;

D. It shall be lawful for the Legislature to authorize by law the establishment and operation, under regulation and control by the State, of gambling houses or casinos within the boundaries, as heretofore established, of the city of Atlantic City, county of Atlantic, and to license and tax such operations and equipment used in connection therewith. Any law authorizing the establishment and operation of such gambling establishments shall provide for the State revenues derived therefrom to be applied solely for the purpose of providing funding for reductions in property taxes, rental, telephone, gas, electric, and municipal utilities charges of eligible senior citizens and disabled residents of the State, and for additional or expanded health services or benefits or transportation services or benefits to eligible senior citizens and disabled residents, in accordance with such formulae as the Legislature shall by law provide. The type and number of such casinos or gambling houses and of the gambling games which may be conducted in any such establishment shall be determined by or pursuant to the terms of the law authorizing the establishment and operation thereof;

E. It shall be lawful for the Legislature to authorize, by law, (1) the simultaneous transmission by picture of running and harness

horse races conducted at racetracks located within or outside of this State, or both, to gambling houses or casinos in the city of Atlantic City and (2) the specific kind, restrictions and control of wagering at those gambling establishments on the results of those races. The State's share of revenues derived therefrom shall be applied for services to benefit eligible senior citizens as shall be provided by law; and

F. It shall be lawful for the Legislature to authorize, by law, the specific kind, restrictions and control of wagering on the results of live or simulcast running and harness horse races conducted within or outside of this State. The State's share of revenues derived therefrom shall be used for such purposes as shall be provided by law.

Approved November 2, 1999.
Effective December 2, 1999.

ARTICLE VIII, SECTION I, PARAGRAPH 3

Amend Article VIII, Section I, paragraph 3 to read as follows:

3. Any citizen and resident of this State now or hereafter honorably discharged or released under honorable circumstances from active service, in time of war or other emergency as, from time to time, defined by the Legislature, in any branch of the Armed Forces of the United States shall be entitled, annually to a deduction from the amount of any tax bill for taxes on real and personal property, or both, including taxes attributable to a residential unit held by a stockholder in a cooperative or mutual housing corporation, in the sum of $50 or if the amount of any such tax bill shall be less than $50, to a cancellation thereof, except that the deduction or cancellation shall be $100 in tax year 2000, $150 in tax year 2001, $200 in tax year 2002 and $250 in each tax year thereafter. The deduction or cancellation shall not be altered or repealed. Any person hereinabove described who has been or shall be declared by the United States Veterans Administration, or its successor, to have a service-connected disability, shall be entitled to such further deduction from taxation as from time to time may be provided by law. The surviving spouse of any citizen and resident of this State who has met or shall meet his or her death on active duty in time of war or of other emergency as so defined in any such service shall be

entitled, during her widowhood or his widowerhood, as the case may be, and while a resident of this State, to the deduction or cancellation in this paragraph provided for honorably discharged veterans and to such further deduction as from time to time may be provided by law. The surviving spouse of any citizen and resident of this State who has had or shall hereafter have active service in time of war or of other emergency as so defined in any branch of the Armed Forces of the United States and who died or shall die while on active duty in any branch of the Armed Forces of the United States, or who has been or may hereafter be honorably discharged or released under honorable circumstances from active service in time or war or of other emergency as so defined in any branch of the Armed Forces of the United States shall be entitled, during her widowhood or his widowerhood, as the case may be, and while a resident of this State, to the deduction or cancellation in this paragraph provided for honorably discharged veterans and to such further deductions as from time to time may be provided by law.

Approved November 2, 1999.
Effective December 2, 1999.

EXECUTIVE ORDERS

(2195)

EXECUTIVE ORDER NO. 92

WHEREAS, The State of New Jersey has a compelling interest in ensuring that health insurance remain accessible and affordable for all its citizens; and

WHEREAS, It is in the public interest to ensure that an appropriate balance is struck between the mandated benefits that State law requires insurers to provide to its insureds and allowing insurers flexibility to structure their policies in a cost efficient manner to maximize resources available for the delivery of quality health care and minimize costs thereof; and

WHEREAS, The Legislature has introduced several bills, including Assembly Bill No. 1913, that mandate insurance coverage for specific medical procedures; and

WHEREAS, Future piecemeal, uncoordinated legislative efforts to impose additional mandated benefits upon health insurers and health maintenance organizations will likely increase the cost of medical insurance policies for all citizens of the State of New Jersey; and

WHEREAS, There is a need for a comprehensive, coordinated review of all current and pending mandated benefit legislation before any new measures become law;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created the Task Force on Mandated Health Insurance Benefits. The Task Force shall consist of thirteen (13) members as follows:

a. The Commissioner of Health and Senior Services, the Commissioner of Banking and Insurance and the State Treasurer, or their designees, shall serve as ex-officio members of the Task Force.

b. The Governor shall appoint the following members of the Task Force: one (1) member representing the State's commercial health insurance industry; one (1) representative from a health maintenance organization; one (1) representative from the New Jersey Business and

Industry Association or from the State Chamber of Commerce; one (1) member representing hospitals; and one (1) member representing physicians.

c. The Task Force shall include five additional members. One (1) of the members shall be appointed by the Governor. Two (2) of the members shall be appointed by the President of the Senate, no more than one (1) of whom shall be of the same political party. Two (2) of the members shall be appointed by the Speaker of the General Assembly, no more than one (1) of whom shall be of the same political party.

2. The Governor shall designate a chairperson and vice-chairperson of the Task Force from among the foregoing members.

3. The Task Force shall:

a. Evaluate the impact on the quality of health care and the impact on the cost of health care from mandated health benefits currently required by State law and regulations;

b. Assess the anticipated health benefits and estimated costs resulting from pending legislative efforts to impose additional mandated benefits;

c. Identify and analyze cost-effective ways to minimize the impact of approved mandated benefits upon the health care system;

d. Develop recommended guidelines for determining whether additional benefits should be mandated in the future; and

e. Consult with the Health Wellness Promotion Advisory Board in the Department of Health and Senior Services, which is charged with reviewing medical testing and services that will encourage health care consumers to engage in healthy lifestyle behaviors.

4. The Task Force shall present its findings and recommendations to the Governor no later than one year from the date that the Task Force initially convenes.

5. The Task Force is authorized to call upon any department, office or agency of State government to provide such information, resources or other assistance deemed necessary to discharge its responsibilities under this Order. Each department, office, or division and agency of the State is hereby directed, to the extent not inconsistent with law and budgetary constraints, to cooperate with the Task Force to furnish it with such information, personnel and assistance as is necessary to accomplish the purposes of this Order.

6. The Task Force shall hold at least two (2) public hearings as it discharges its responsibilities under this Order.

7. This Order shall take effect immediately.

Dated March 12, 1999.

EXECUTIVE ORDER NO. 93

WHEREAS, Executive Order No. 82 (Whitman) created the Advisory Committee on the Preservation and Use of Ellis Island (the "Advisory Committee"); and

WHEREAS, The Advisory Committee is charged with investigating all potential future uses of the structures on Ellis Island, New Jersey, examining available alternatives to maintain, restore, and put to beneficial use the structures on Ellis Island, New Jersey in a manner consistent with the historic significance of the Island, recommending to the Governor and the State Historic Preservation Officer a plan to maintain, restore, and put to beneficial use the structures on Ellis Island, New Jersey and cooperating with and assisting the State of New York and the City of New York, when appropriate, with respect to the maintenance, restoration, and use of the structures on the portion of Ellis Island within the State of New York; and

WHEREAS, Executive Order No. 90 (Whitman) amended Executive Order No. 82 (Whitman) to provide the opportunity for additional public members to serve on the Advisory Committee and, in so doing, resulted in the possibility that the Advisory Committee would be comprised of an even number of members; and

WHEREAS, The addition of more public members would alleviate the concern that any vote taken by the Advisory Committee could result in a stalemate and would, therefore, be helpful in ensuring that the Advisory Committee accomplish its objectives;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Executive Order No. 90 is hereby repealed.

2. Paragraph 3, section j of Executive Order No. 82 (Whitman) shall be replaced with the following language:

j. No more than ten members of the public to be appointed by the Governor, including but not limited to individuals with professional experience and expertise in urban planning, history, architecture and/or historic restoration.

3. All other provisions of Executive Order No. 82 (Whitman) shall remain in full force and effect.

4. This Order shall take effect immediately.

Dated April 13, 1999.

EXECUTIVE ORDER NO. 94

WHEREAS, The State of New Jersey is committed to leadership in advancing technologies for cleaner and more fuel-efficient automobiles that utilize alternative fuels; and

WHEREAS, The use of advanced technology vehicles ("ATVs") and alternate fuel vehicles ("AFVs") can play an important role in achieving the goals of clean air, conservation of finite energy resources, and reduced greenhouse gas emissions; and

WHEREAS, The State of New Jersey is committed to achieving improvements in air quality mandated by the Federal Clean Air Act; and

WHEREAS, The State of New Jersey is committed to complying with the alternative fuel vehicle requirements of the Federal Energy Policy Act of 1992 ("EPAct"); and

WHEREAS, AFVs are defined as motor vehicles that operate primarily on non-petroleum fuels such as natural gas, propane, electricity, hydrogen and biodiesel; and

WHEREAS, ATVs are defined as motor vehicles that operate primarily on alternative fuels and that meet or exceed California Air Resources Board ("CARB") ultra-low emission vehicles ("ULEV") standards for the applicable model year, and hybrid-electric or fuel cell vehicles powered by conventional or alternative fuels that meet or exceed CARB ULEV standards for the applicable model year; and

WHEREAS, The development and manufacture of ATVs and AFVs and the development of support industries present potential employment opportunities for New Jersey residents; and

WHEREAS, Life-cycle cost analysis can be a useful tool in determining the actual costs to the State of acquiring and operating new motor vehicles;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created the New Jersey Advanced Technology Vehicle Task Force ("Task Force").

2. The Task Force shall be composed of 7 members as follows:
(a) The President of the Board of Public Utilities ("BPU"), or his designee;
(b) The Chief Executive Officer and Secretary of the Commerce and Economic Growth Commission, or his designee;
(c) The Commissioner of the Department of Environmental Protection, or his designee;
(d) The Commissioner of the Department of Transportation, or his designee;
(e) The State Treasurer, or his designee;
(f) The Attorney General, or his designee; and
(g) The Executive Director of the New Jersey Economic Development Authority ("EDA"), or her designee.

3. The Governor shall designate a chair and a vice-chair of the Task Force from among the foregoing members.

4. The Task Force shall:
(a) Assist the Department of the Treasury ("Treasury") in developing and coordinating ATV and AFV acquisition plans and vehicle placement for State agencies;

(b) Create and implement a compliance monitoring program to ensure that State fleet vehicles with bi-fuel capabilities operate utilizing an alternative fuel to the maximum extent practicable;

(c) Work with individual State agencies to remove regulatory and other non-economic barriers to increase the use of ATVs and AFVs in public and private fleets throughout New Jersey;

(d) Assist Treasury in establishing life-cycle cost analysis guidelines for the purchase, lease and use of vehicles by State agencies;

(e) Administer an annual Clean Fleets Partner Award to public and private fleets demonstrating outstanding leadership in ATV acquisition and use;

(f) Assist the EDA in reviewing requests for financial assistance from companies that wish to purchase ATVs;

(g) Assist Treasury in preparing a plan for developing the refueling/recharging infrastructure necessary to support the anticipated level of AFV and ATV use by the State motor vehicle fleet; and

(h) Assist Treasury in creating an incentive program for other public entities to defray the incremental costs of converting vehicles to alternative fuel use or of acquiring ATVs.

5. The Task Force shall issue a report to the Governor no later than one year from the date that the Task Force convenes, and annually thereafter, on the State's progress in increasing the acquisition and use of AFVs and ATVs by the State motor vehicle fleet.

6. The State of New Jersey and all State agencies shall exercise leadership in the acquisition and use of ATVs and AFVs. The State shall exceed the EPAct AFV acquisition requirements for State government fleets by 5 percentage points for each model year. In Model Years 1999 and 2000, those additional vehicles acquired to fulfill this enhanced commitment shall meet or exceed CARB low emission vehicle ("LEV") standards in effect for those model years. In Model Year 2001, and thereafter, those additional vehicles acquired to fulfill this enhanced commitment shall meet or exceed CARB ULEV standards in effect for those model years.

7. Treasury shall, in consultation with the Task Force, work with individual State agencies to develop and implement a five-year plan for the integration of ATVs into the State motor vehicle fleet.

8. The EDA shall provide financial assistance in the form of low-interest loans and loan guarantees to qualifying New Jersey companies for projects

for the voluntary purchase of ATVs, consistent with N.J.S.A.34:1B-1 et seq.

9. The New Jersey Department of Transportation, Division of Motor Vehicles, is directed to develop an ATV and AFV school bus inspection program, so that school districts interested in utilizing advanced technology or alternative fuel school buses may do so.

10. Treasury shall take into consideration life-cycle costs when reviewing individual State agency requests for motor vehicle acquisitions.

11. To the extent allowed under law, Treasury shall negotiate reciprocal agreements with other public entities, including educational institutions and municipal and county governments, allowing for the shared use of the existing and planned refueling/recharging infrastructure. To the extent allowed under law, Treasury shall negotiate agreements with the private sector to refuel/recharge the State's ATVs and AFVs.

12. The Task Force is authorized to call upon any department, office, division or agency of State government to provide such data, information, personnel and assistance as deemed necessary to discharge its responsibilities under this Order. Each department, office, division and agency of this State is hereby required, to the extent not inconsistent with law, to cooperate with the Task Force and to furnish it with such information, personnel and assistance as is necessary to accomplish the purpose of this Order.

13. This Order shall take effect immediately.

Dated April 16, 1999.

EXECUTIVE ORDER NO. 95

WHEREAS, The President of the United States has authorized the deployment of United States military forces to Kosovo and surrounding locations as part of a NATO mission, in accordance with law; and

WHEREAS, The President may authorize the Secretary of Defense to call up select members of the Reserve and National Guard to active duty, and may authorize the Secretary of Transportation to call up members of the Coast Guard Reserve; and

WHEREAS, Reserve and National Guard members who are activated during this crisis will serve a vital national interest for which they deserve the full support of the citizens of this State; and

WHEREAS, The State of New Jersey recognizes that a strong, ready Reserve and National Guard are essential to the defense of this country and vital to this State in times of emergency; and

WHEREAS, The State of New Jersey recognizes the personal and economic sacrifices of its employees serving in the Reserve and National Guard who are called to active duty during the Kosovo conflict;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and the Statutes of this State, do hereby ORDER and DIRECT:

1. New Jersey State employees who are called to active duty during the Kosovo conflict shall be entitled upon termination of active duty to return to State employment with full seniority and benefits consistent with State and Federal military reemployment and seniority rights.

2. During active duty for the duration of their activation in this crisis, these State employees shall be entitled to receive a salary equal to the differential between the employee's State salary and the employee's military pay.

3. These State employees shall be entitled to State employee health benefits, life insurance and pension coverage during active duty service for which they receive differential salary as prescribed in this Order as if they were on paid leave of absence.

4. The Commissioner of Personnel shall implement this Executive Order and each department, office, division or agency of the State is authorized and directed, to the extent not inconsistent with law, to cooperate with the Commissioner of Personnel and to make available to the Commissioner such information, personnel and assistance as necessary to accomplish the purposes of this Order.

5. This Order shall take effect immediately.

Dated April 16, 1999.

EXECUTIVE ORDER NO. 96

WHEREAS, The State of New Jersey is committed to protecting the resources we have today to ensure that the New Jersey we pass on to our descendants will be healthy, efficient and just; and

WHEREAS, The State of New Jersey is at the forefront of becoming a "sustainable" state by encouraging economic, social and environmental goals that meet the needs of the present without compromising the ability of future generations to meet their own needs; and

WHEREAS, In 1995, in partnership with the Governor's Office, the nonprofit New Jersey Future engaged in a wide-ranging community dialogue aimed at identifying long-term goals intended to enhance the quality of life for all residents of New Jersey, now and in the future, and identifying important economic, environmental and social indicators which could be utilized to measure our progress toward achieving these goals; and

WHEREAS, The results of the New Jersey Future's findings have recently been compiled in the first-ever Sustainable State Report, "Living With the Future in Mind," which sets 11 goals, concerning economic vitality, transportation and land use efficiency, public health, equity, education quality, natural resource protection, ecological integrity, pollution prevention, housing, good government, and strong communities, culture and recreation, as well as indicators to measure our progress toward these goals; and

WHEREAS, The goals and indicators outlined in the New Jersey Future report offer valuable practical guidance to the State of New Jersey in our efforts to achieve long-term sustainability for the benefit of current and future generations;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. All State Departments and agencies shall:

a. Pursue, as appropriate, policies which comport with the 11 sustainability goals outlined in New Jersey Future's "Living With the Future in Mind" report.

b. Collaborate in the exchange of information among departments and agencies, and establish institutional mechanisms to encourage and facilitate achievement of these goals.

c. Report to the Governor on June 1, 2000, and every year thereafter, on their progress toward goal attainment.

2. This Order shall take effect immediately.

Dated May 20, 1999.

EXECUTIVE ORDER NO. 97

WHEREAS, The State of New Jersey has a compelling interest in ensuring that health care is accessible and affordable for all its citizens; and

WHEREAS, Access to quality health care is vital both to the well-being of individual citizens of the State of New Jersey and to the public health at large; and

WHEREAS, I recently issued Executive Order 92 creating the Task Force on Mandated Health Insurance Benefits that is charged with studying how to strike an appropriate balance between the mandated benefits that State law requires insurers to provide to its insureds and permitting insurers the flexibility to structure their policies in a cost efficient manner to maximize resources available for the delivery of quality health care and minimize the costs thereof; and

WHEREAS, The issue of financial stability of hospital based health care in New Jersey also is being studied by the Advisory Commission on Hospitals in conjunction with various divisions of departments in the Executive Branch of State government; and

WHEREAS, The public interest will be best served by taking note of the findings of the Advisory Commission on Hospitals and combining the efforts of the Task Force on Mandated Health Insurance Benefits and various State agencies, divisions and departments to minimize

duplication and to ensure that this issue is studied as comprehensively as possible; and

WHEREAS, A comprehensive, coordinated review of the affordability and accessibility of health insurance in New Jersey will benefit all the citizens of New Jersey;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created The Task Force on the Affordability and Accessibility of Health Care in New Jersey. The Task Force shall consist of twenty-five (25) members as follows:

a. The Commissioner of Health and Senior Services, the Commissioner of Banking and Insurance and the Commissioner of Human Services, or their designees, shall serve as ex officio members of the Task Force.

b. The Governor shall appoint the following fifteen (15) members of the Task Force: one (1) member representing the State's commercial health insurance industry; one (1) representative from a health maintenance organization; one (1) representative from the New Jersey Business and Industry Association; one (1) representative from the State Chamber of Commerce; two (2) members representing hospitals; one (1) member representing health providers other than hospitals licensed by the Department of Health and Senior Services; one (1) member representing physicians; one (1) member representing nurses; one (1) representative of small business, defined as a business with between two and fifty employees; two (2) Chief Executive Officers or their representatives from corporations that are among the State's twenty-five largest employers; one (1) member representing the interests of organized labor; one (1) member representing the interests of consumers; and one (1) member representing the pharmaceutical industry.

c. The Task Force shall include seven additional members. One (1) of the members shall be appointed by the Governor. Three (3) of the members shall be appointed by the President of the Senate, two (2) of whom shall be State Senators not of the same political party. Three (3) of the members shall be appointed by the Speaker of the General Assembly, two (2) of whom shall be Assembly members not of the same political party.

2. The Governor shall designate a chairperson and vice-chairperson of the Task Force from among the foregoing members.

3. The Task Force shall:

a. Compare the affordability and accessibility of health insurance in New Jersey with the affordability and accessibility of health insurance in other states;

b. Identify cost and access factors that can be controlled or addressed by State legislation or regulation;

c. Assess the impact on the quality of health care and the cost of health insurance from mandated health benefits currently required by State law and regulations;

d. Assess the anticipated health benefits and estimated costs resulting from pending legislative efforts to impose additional mandated benefits;

e. Take note of the findings and recommendations of the Advisory Commission on Hospitals concerning the stability and efficiency of New Jersey's health care delivery system and its impact on the affordability of health insurance;

f. Evaluate the amount that employees contribute to the cost of employer-sponsored health coverage through co-payments, contributions toward premiums or other forms of cost sharing;

g. Consult with the Health Wellness Promotion Advisory Board in the Department of Health and Senior Services, which is charged with reviewing medical testing and services that will encourage health care consumers to engage in healthy lifestyle behaviors; and

h. Provide recommendations concerning steps that need to be taken to ensure that health care is affordable and accessible to the citizens of New Jersey.

4. The Task Force shall periodically issue reports representing its findings and recommendations to the Governor at such times as may be determined by the Chairperson of the Task Force.

5. The Task Force is authorized to call upon any department, office or agency of State government to provide such information, resources or other assistance deemed necessary to discharge its responsibilities under this Order. Each department, office, or division and agency of the State is hereby directed, to the extent not inconsistent with law and within budgetary constraints, to cooperate with the Task Force to furnish it with such information, personnel and assistance as is necessary to accomplish the purposes of this Order.

6. The Task Force shall hold at least two (2) public hearings as it discharges its responsibilities under this Order.

7. This Order shall take effect immediately.

8. Executive Order No. 92 is hereby repealed and its directives are hereby incorporated into this Executive Order.

Dated July 20, 1999.

EXECUTIVE ORDER NO. 98

WHEREAS, The State of New Jersey, like many other states across the Northeast, has suffered from unusually hot, dry weather conditions since July 1998; and

WHEREAS, During the past twelve-month period, measured precipitation throughout the State has been at its lowest level in thirty years, and is among the lowest levels on record; and

WHEREAS, An extended period of above-average temperatures has significantly increased the demand for water and exacerbated the drain on available water supplies; and

WHEREAS, Sources of water supply, both surface and ground, including private wells, have been seriously depleted; and

WHEREAS, Water courses throughout the State have sustained unprecedented daily low stream flows; and

WHEREAS, Cooperative, voluntary efforts to curtail non-essential consumption of water, in addition to mandatory water use restrictions imposed by certain municipalities, counties and water purveyors, have not succeeded in maintaining adequate levels of existing water supplies; and

WHEREAS, The consumption of water throughout the State must be reduced in order to preserve an adequate and dependable supply of water for the region; and

WHEREAS, The Commissioner of the Department of Environmental Protection has found that there exists a water shortage resulting from the natural cause of a prolonged drought which endangers the public health, safety, and welfare of the residents and industry of the State; and

WHEREAS, Without more normalized precipitation, the full cooperation of every person throughout the State, including every resident, visitor, business, State agency and political subdivision, is urgently needed in order to avert more severe restrictions on water usage, which restrictions may potentially lead to disruptions in the local or Statewide economy; and

WHEREAS, It is essential that steps be taken immediately to ensure the maximum conservation of all water resources and to provide for the equitable distribution of the existing water supply; and

WHEREAS, The Commissioner of Environmental Protection, the Water Emergency Task Force and the Drought Coordinator have the authority, pursuant to N.J.S.A. 58:1A-1 et seq. and N.J.A.C. 7:19-1 et seq., to adopt such rules, regulations, orders and directives as deemed necessary to help alleviate the severity of a water emergency;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey by the virtue of the authority vested in me by the Constitution and the Statutes of this State and in accordance with the findings of Robert C. Shinn, Jr., Commissioner of Environmental Protection, made pursuant to the Water Emergency Rules set forth at N.J.A.C. 7:19-1 et seq., do hereby declare a state of water emergency for the entire State of New Jersey, and do hereby DECLARE, ORDER and DIRECT as follows:

1. I declare that a state of water emergency exists throughout New Jersey, as described by reason of the facts and circumstances set forth above.

2. I invoke such emergency powers as are conferred upon me by the Water Supply Management Act, N.J.S.A.58:1A-1 et seq., and the Disaster Control Act, N.J.S.A. App. A:9-30 et seq., and all amendments and supplements thereto.

3. The Commissioner of Environmental Protection, the Water Emergency Task Force and the Drought Coordinator are directed pursuant to N.J.S.A.58:1A-1 et seq. and N.J.A.C.7:19-1 et seq., and other relevant laws, to take whatever steps are necessary and proper to alleviate the water emergency and to effectuate this Order.

4. It shall be the duty of every person in the State, which includes every business, State agency and political subdivision in the emergency area, to fully cooperate in all matters concerning this water emergency.

5. All persons are urged to use water wisely, and to comply fully with voluntary or mandatory restrictions either advised or imposed by the Department of Environmental Protection, applicable municipalities or water purveyors servicing their areas.

6. Any person who shall violate any of the provisions of this Order or shall impede or interfere with any action ordered or taken pursuant to this Order shall be subject to the penalties provided by law under N.J.S.A.58:1A-1 et seq., N.J.S.A. App. A:9-49 et seq., and N.J.A.C.7:19-1 et seq.

7. This Order shall remain in effect until terminated by action of the Governor.

8. This Order shall take effect immediately.

Dated August 5, 1999.

EXECUTIVE ORDER NO. 99

WHEREAS, The State has a continuing obligation to promote volunteerism by serving as an advocate and catalyst for New Jersey's volunteer and community service organizations; and

WHEREAS, The volunteers and community service organizations which serve as vital resources to local communities often go untapped by government agencies; and

WHEREAS, The State must become more flexible in its ability to coordinate volunteer activities in order to better respond to the changing and diverse needs of its citizens; and

WHEREAS, The State will foster the growth of volunteer efforts by integrating and coordinating its extensive volunteer and community service resources with the network of cultural, educational and historical programs which are currently administered within the Department of State;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established a Governor's Office of Volunteerism in the Department of State.

2. The Governor's Office of Volunteerism currently in the Department of Human Services is abolished and all of its functions, powers, duties and responsibilities, except as herein otherwise provided, are continued in the Governor's Office of Volunteerism established under this Executive Order.

3. All appropriations and other moneys available and to become available to the Governor's Office of Volunteerism abolished under this Executive Order are hereby continued in the Governor's Office of Volunteerism established under this Executive Order, and shall be available for the objects and purposes for which appropriated, subject to any terms or conditions of such appropriations.

4. Employees of the Governor's Office of Volunteerism abolished under this Executive Order shall become employees of the Governor's Office of Volunteerism established under this Executive Order, and shall retain their present employment status under Title 11A and their collective negotiations status.

5. The Governor's Office of Volunteerism established under this Executive Order shall be managed by a Director, who shall be appointed by, and serve at the pleasure of, the Secretary of State.

6. All agencies of the State government are directed to cooperate fully with the Governor's Office of Volunteerism established under this Executive Order to promote and coordinate appropriate volunteer opportunities.

7. This Order shall take effect immediately.

Dated August 30, 1999.

EXECUTIVE ORDER NO. 100

WHEREAS, Executive Order No. 98 was issued on August 5, 1999, for the purpose of declaring a state of water emergency for the State of New Jersey due to unusually hot, dry weather conditions and significantly depleted surface and ground water levels, including unprecedented low stream flows across the State; and

WHEREAS, A year-long precipitation deficit coupled with an extended period of above-average temperatures during July and August, dramatically increased water use demands and exacerbated the drain on available water supplies; and

WHEREAS, Coordinated water management measures exercised by water suppliers, municipalities, counties and the State, including water conservation efforts and voluntary and mandatory water use restrictions, effectively curtailed water use demands and has allowed us to preserve available supplies; and

WHEREAS, Substantial rainfall events across much of southern New Jersey has moderated the breadth of the precipitation shortfall in that region; and

WHEREAS, Despite overwhelming cooperation by New Jersey residents and businesses to conserve water, the remainder of the State continues to experience a significant long-term precipitation deficit, compounded by below-normal surface and groundwater supplies serving much of the central and northern regions of New Jersey;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the

Constitution and by the Statutes of this State, do hereby DECLARE, ORDER and DIRECT, as follows:

1. The State of water emergency declared in Executive Order No. 98 no longer exists in the Counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem.

2. The State of water emergency declared in Executive Order No. 98 continues in the Counties of Bergen, Essex, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren. The provisions of Executive Order No. 98 continue in effect for these counties.

3. This Order shall take effect immediately.

Dated September 14, 1999.

EXECUTIVE ORDER NO. 101

WHEREAS, The most recent weather reports as of Wednesday, September 15, 1999, indicate that severe weather conditions are imminent due to the approach of Hurricane Floyd; and

WHEREAS, The storm poses a serious danger and constitutes a disaster from a natural cause which threatens and presently does endanger the health, safety or resources of the residents of one or more municipalities or counties of this State; and which may become in parts of the State, too large in scope to be handled in its entirety by normal municipal operating services; and

WHEREAS, The Constitution and statutes of the State of New Jersey, particularly the provisions of the Laws of 1942, Chapter 251 (N.J.S.A. App. A:9-30 et seq.), the Laws of 1979, Chapter 240 (N.J.S.A.38A:3-6.1), and the Laws of 1963, Chapter 109 (N.J.S.A.38A:2-4) and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, in order to protect the health, safety and welfare of

the people of the State of New Jersey do declare and proclaim that a State of Emergency exists in the State of New Jersey.

NOW, THEREFORE, in accordance with the Laws of 1963, Chapter 109 (N.J.S.A.38A:2-4), I hereby authorize the Adjutant General of the New Jersey National Guard to order to active duty such members of the New Jersey National Guard, that, in his judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety and welfare. He may authorize the employment of any supporting vehicles, equipment, communications or supplies as may be necessary to support the members so ordered.

FURTHERMORE, in accordance with the Laws of 1942, Chapter 251 (N.J.S.A. App. A:9-33 et seq.), as supplemented and amended, I hereby empower the Superintendent of the Division of State Police, who is the State's Director of Emergency Management, through the police agencies under his control, to determine the control and direction of the flow of such vehicular traffic on any State highway, municipal or county road, including the right to detour, reroute or divert any or all traffic, to prevent ingress or egress from any area and to remove parked abandoned vehicles from State highways that he, in his discretion, deems necessary for the protection of the health, safety and welfare of the public.

FURTHERMORE, the Superintendent of the Division of State Police is hereby authorized to order the evacuation of all persons, except for those emergency and governmental personnel whose presence he deems necessary, from any area where their continued presence would present a danger to their health, safety or welfare because of the conditions created by this emergency.

FURTHERMORE, the Superintendent of the Division of State Police is hereby authorized to utilize all facilities owned, rented, operated and maintained by the State of New Jersey to house and shelter persons who may need to be evacuated from a residence, dwelling, building, structure or vehicle during the course of this emergency.

FURTHERMORE, in accordance with the Laws of 1942, Chapter 251 (N.J.S.A. App. A:9-34), as supplemented and amended, I reserve the right to utilize and employ all available resources of the State government and of each and every political subdivision of the State, whether of persons, properties or instrumentalities, and to commandeer and utilize any

personal services and any privately owned property necessary to protect against this emergency.

This Order shall take effect immediately and it shall remain in effect until such time as it is determined by me that an emergency no longer exists.

Dated September 15, 1999.

EXECUTIVE ORDER NO. 102

WHEREAS, A year-long precipitation deficit, coupled with an extended period of above-average temperatures during July and August, dramatically increased water use demands and exacerbated the drain on available water supplies; and

WHEREAS, Executive Order No. 98 was issued on August 5, 1999, for the purpose of declaring a state of water emergency due to drought conditions throughout New Jersey, characterized by unusually hot, dry weather conditions and significantly depleted surface and groundwater levels, including unprecedented low stream flows across the State; and

WHEREAS, Coordinated water management measures exercised by water suppliers, municipalities, counties, and the State, including water conservation efforts and voluntary and mandatory water use restrictions, effectively curtailed water use demands and allowed for the preservation of available supplies; and

WHEREAS, Executive Order No. 100 was issued on September 14, 1999, in order to modify the areas designated under the water emergency due to drought conditions, by removing eight southern New Jersey counties; and

WHEREAS, Abundant rainfall across the State, due in large part to the remnants of Hurricane Floyd, contributed significantly to eradication of the year-long precipitation deficit, restoration of stream flows, and replenishment of water supply storage in critical northeastern New Jersey reservoirs; and

WHEREAS, The year-long precipitation deficit, while moderated by recent rains, continues in many areas, and the rainfall associated with Hurricane Floyd produced widespread flooding and surface water runoff rather than sustained groundwater replenishment; and

WHEREAS, Concerns regarding long-term climatic trends suggest that considerable attention must still be devoted to the stabilization of available water supplies through efficient management and prudent use of the resource; and

WHEREAS, It is appropriate and necessary to remain vigilant by continuing voluntary water conservation practices that are beneficial and essential to the preservation of available water supplies;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby DECLARE, ORDER and DIRECT, as follows:

1. A state of water emergency, as declared by Executive Order No.98, due to the drought, no longer exists anywhere within the State and is hereby terminated in those counties as to which it was not previously terminated by Executive Order No. 100, issued September 14, 1999.

2. All persons are urged to use water wisely and to comply fully with water use measures imposed by the Department of Environmental Protection, applicable municipalities and counties, or water suppliers servicing their areas.

3. This Order shall take effect immediately.

Dated September 27, 1999.

EXECUTIVE ORDER NO. 103

WHEREAS, New Jersey's Sales and Use Tax is a substantial source of revenue for the State, generating in excess of $5 billion annually for essential programs and services; and

WHEREAS, A broad base of the Sales and Use Tax allows the State to maintain a tax rate of six percent; and

WHEREAS, There are currently over one hundred separate pieces of legislation pending in the Legislature that would reduce the base of the Sales and Use Tax Act, N.J.S.A. 54:32B-1 et seq., by excluding from taxation products including bicycle and skating helmets, books, car seats, computers purchased by teachers, fire detection equipment, medical alarm equipment, non-gasoline powered lawn care equipment, and shoe soles and heels; and

WHEREAS, There have been several recent enactments exempting products from the Sales and Use Tax and several bills pending on my desk that provide exemptions for aircraft repairs, Assembly Committee Substitute for Assembly Bill No. 1952/977, and firearm trigger locks and vaults, Assembly Bill Nos. 2420 and 2421, and increasing the exemption threshold for vending machines, Assembly Bill No. 2139; and

WHEREAS, There are currently several pieces of legislation pending in the Legislature that would expand the base of the Sales and Use Tax Act by subjecting products such as pay-per-view video programs to that tax; and

WHEREAS, The ad hoc reduction and expansion of the base of the Sales and Use Tax is gradually changing a tax that is simple to collect, easy to enforce, and a stable revenue generator into a tax that is increasingly more cumbersome to collect, difficult to enforce, and counterproductive to generating stable revenue for essential government programs and services; and

WHEREAS, There is a need for a comprehensive, coordinated review of any pending legislation reducing or expanding the base of the sales tax before any new measures become law, and for an analysis of the effectiveness of any newly enacted legislation, including Assembly Committee Substitute for Assembly Bill No. 1952/977, Assembly Bills Nos. 2420, 2421 and 2139 to ensure that such enactments advance legitimate goals, including but not limited to economic development or business retention;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The creation of the Advisory Committee on the Sales and Use Tax (the "Advisory Committee").

2. The Advisory Committee shall be charged with reviewing proposed expansions and reductions to the base of the Sales and Use Tax as proposed by the Legislature and making recommendations to the Governor and Legislature as to whether such proposals should be enacted into law; furthermore, the Advisory Committee shall be charged with reviewing any new legislation that expands or reduces the base of the Sales and Use Tax within three years of such enactment, and making recommendations to the Governor and Legislature as to whether such legislation has effectively advanced the legitimate goals of the legislation; the foregoing recommendations shall be made by a simple majority vote of Advisory Committee.

3. The Advisory Committee shall be composed of up to 11 members, as follows:

a. The State Treasurer or designee;

b. The Director, Division of Taxation or designee;

c. A representative of a State department or agency to be appointed by the Governor;

d. A professor of the higher education community with substantial expertise in State tax policy to be appointed by the Governor;

e. A member of the Senate to be appointed by the President of the Senate;

f. A member of the Assembly to be appointed by the Speaker of the General Assembly;

g. Five members of the public to be appointed by the Governor.

The Governor shall designate a chair and vice-chair from among the members of the Advisory Committee. The members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties subject to the availability of funds therefor.

4. The Advisory Committee shall organize and meet as soon as practicable following the appointment of its members. The chair shall appoint a secretary who need not be a member of the Advisory Committee. Vacancies on the Advisory Committee shall be filled in the same manner as the original appointment.

5. All State departments and agencies are hereby directed, to the extent not inconsistent with the law and within budget constraints, to

cooperate with the Advisory Committee and to respond to requests for such information, personnel and assistance as may be necessary to accomplish the purpose of this Order.

6. This Order shall take effect immediately.

Dated October 15, 1999.

EXECUTIVE ORDER NO. 104

I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and the Statutes of this State, do hereby ORDER and DIRECT:

1. November 26, 1999, the day following Thanksgiving, shall be granted as a day off to employees who work in the Executive Departments of State Government and who are paid from State funds or from federal funds made available to the State, whose functions, in the opinion of their appointing authority, permit such absence.

2. An alternate day shall be granted to the aforementioned category of employees whose functions, in the opinion of their appointing authority, precludes such absence on November 26, 1999.

Dated November 18, 1999.

EXECUTIVE ORDER NO. 105

WHEREAS, In the face of limited resources, the need exists in the State to rehabilitate, maintain and expand the transportation infrastructure, with the result being that every governmental and transportation body must make critical investment decisions; and

WHEREAS, The complexity of those needs and the economic needs of the State makes it increasingly more difficult to assess the impact of one organization's programs and initiatives on those of other governmental and transportation bodies; and

WHEREAS, The current organizational structure of the New Jersey Department of Transportation ("DOT") permits coordination of capital investment policy development for DOT and New Jersey Transit, but does not coordinate such development with other State governmental and transportation bodies; and

WHEREAS, The transportation decisions facing the State rely increasingly on the implementation of large-scale, multi-organizational initiatives and the ability to maximize available funding sources; and

WHEREAS, There is a need for the development of international/intermodal corridors to enhance business development and the economic well-being of the State, which requires the coordinated efforts of many entities through the establishment of common goals and mechanisms for cooperative decision making;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established an Office of Capital Investment and Coordination in the Department of Transportation to be headed by an Assistant Commissioner for Capital Investment and Coordination who shall be appointed by and serve at the pleasure of the Commissioner of Transportation.

2. The Office of Capital Investment and Coordination will provide coordination among DOT, other transportation agencies, agencies with responsibilities which include New Jersey and its neighboring states, and with federal representatives on legislative and policy issues which impact the transportation needs of the State. The Office shall be responsible for coordinating the development of a consolidated capital investment strategy which considers the priorities and needs of all transportation agencies, and will coordinate the expenditure of State and Federal funds for transportation.

3. The Commissioner may assign staff to the Office of Capital Investment and Coordination as is deemed appropriate to carry out the functions of that Office.

4. All agencies of State government are directed to extend their full cooperation and assistance to DOT in this matter.

5. This Order shall take effect immediately.

Dated November 24, 1999.

EXECUTIVE ORDER NO. 106

WHEREAS, The State of New Jersey is committed to providing every employee with a workplace free from unlawful discrimination and harassment; and

WHEREAS, The State of New Jersey continues to recognize that unlawful discrimination and harassment undermine the integrity of the employment relationship, compromise equal employment opportunity, debilitate morale and interfere with work productivity; and

WHEREAS, The State has an ongoing interest in maintaining a policy prohibiting unlawful discrimination and harassment, encouraging the filing of complaints alleging discrimination, discrimination or hostile work environments in the workplace, and providing appropriate guidance to its employees regarding prohibited activities, employee and supervisor responsibilities, complaint procedures, and related issues of confidentiality, retaliation, discipline and training; and

WHEREAS, The Department of Personnel has submitted a new State policy which prohibits discrimination, harassment or hostile environments in the workplace, and model procedures for filing internal complaints alleging discrimination, harassment, or hostile environments in the workplace;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The New Jersey State Policy Prohibiting Discrimination, Harassment or Hostile Environments in the Workplace, and Model Procedures for Internal Complaints Alleging Discrimination, Harassment or Hostile

Environments in the Workplace, submitted to me by Department of Personnel Commissioner Janice Mitchell Mintz, is hereby authorized and effective throughout the State.

2. This Executive Order supercedes any and all executive orders and policies inconsistent with the New Jersey State Policy Prohibiting Discrimination, Harassment or Hostile Environments in the Workplace, and Model Procedures for Internal Complaints Alleging Discrimination, Harassment or Hostile Environments in the Workplace. All State departments, commissions, State colleges, and authorities shall ensure that their practices are in conformance with this mandate.

3. This Executive Order shall take effect immediately.

Dated December 17, 1999.

EXECUTIVE ORDER No. 107

WHEREAS, Governor Kean established the Governor's Advisory Committee on Public/Private Volunteer Partnerships ("Advisory Committee"); and

WHEREAS, Executive Order No. 71 (1992) issued by Governor Florio renamed the Advisory Committee the Governor's Advisory Council on Volunteerism and Community Service ("Advisory Council"); and

WHEREAS, Executive Order No. 34 (1995) continued the Advisory Council and, among other things, changed the membership of the Council; and

WHEREAS, Executive Order No. 79 (1998) again changed the membership of the Council; and

WHEREAS, Executive Order No. 99 (1999) transferred the Governor's Office of Volunteerism ("Office") from the Department of Human Services to the Department of State in order to better coordinate volunteer and community resources with the State's existing network of cultural, educational and historical programs; and

WHEREAS, in light of the transfer of the Office of Volunteerism to the Department of State, it is advisable to change the membership of the Advisory Council to include the Secretary of State.

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Executive Order No. 79 (1998) shall remain in full force and effect except as modified herein.

2. Paragraph 2 of Executive Order No. 79 (1998) is hereby amended as follows:

The Advisory Council shall consist of not more than 42 members, including ex officio members. The Commissioners of the Departments of Commerce, Community Affairs, Education, Environmental Protection, Health and Senior Services, Human Services and Transportation, the Adjutant General of the Department of Military and Veterans' Affairs, the Attorney General, the Chief Executive Officer of the New Jersey Commerce and Economic Growth Commission, the Executive Director of the Administrative Office of the Courts, the Executive Director of the New Jersey Commission on Community Service, and the Secretary of State, or their designees, as well as one representative of a federal volunteer program, shall serve on the Advisory Council as ex officio members.

3. This Order shall take effect immediately.

Dated December 22, 1999.

EXECUTIVE ORDER No. 108

WHEREAS, Executive Order No. 103 (Florio) established the New Jersey Commission for the Blind and Visually Impaired Rehabilitation Advisory Council (the "CBVI Advisory Council") in, but not of, the New Jersey Department of Human Services, in accordance with the mandates of the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1992, enacted on October 29, 1992, and known as P.L.102-569; and

WHEREAS, Executive Order No. 110 (Florio) established the New Jersey Division of Vocational Rehabilitation Services Rehabilitation Advisory Council ("DVRS Advisory Council") in, but not of, the New Jersey Department of Labor, in accordance with the mandates of the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1992, enacted on October 29, 1992, and known as P.L.102-569; and

WHEREAS, The Rehabilitation Act Amendments of 1998 require the addition of at least two additional members to each Advisory Council, including at least one representative of the State educational agency responsible for the public education of students with disabilities who are eligible to receive services under the Rehabilitation Act and the relevant section of the Individuals with Disabilities Education Act, and at least one representative of the State workforce investment board; and

WHEREAS, The CBVI and DVRS Advisory Councils' memberships shall reflect a majority of qualified persons with disabilities representing the interests of New Jersey's cross-disability population, all of whom shall have knowledge of vocational rehabilitation concepts, programs, policies and services; and

WHEREAS, The CBVI and the DVRS Advisory Councils are designed to be consumer controlled so as to provide individuals with disabilities a stronger and more substantive role in shaping the programs and services established to support their employment goals and aspirations; and

WHEREAS, Certain references to the Individuals with Disabilities Act in Executive Orders Nos. 103 and 110 must be revised to properly reflect the Individuals with Disabilities Education Act;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Pursuant to the Rehabilitation Act Amendments of 1998, CBVI Advisory Council membership shall be increased by at least two additional members.

2. Paragraph 6, section b. of Executive Order No.103 (Florio) is amended to read as follows:

b. at least one representative of a parent training and information center established pursuant to section 682(a) of the Individuals with Disabilities Education Act (20 USCA sec. 1482(2)).

3. Paragraph 6 shall be further amended to include the following language:

i. at least one representative of the New Jersey Department of Education, Office of Special Education; and j. at least one representative of the State workforce investment board.

4. All other provisions of Executive Order No. 103 (Florio) shall remain in full force and effect, except those that are inconsistent with the aforementioned changes.

5. Pursuant to the Rehabilitation Act Amendments of 1998, DVRS Advisory Council membership shall be increased by at least two additional members.

6. Paragraph 3, Section a, subsection (3) of Executive Order No. 110 is amended to read as follows: (3) at least one representative of a parent training and information center established pursuant to section 682(a) of the Individuals with Disabilities Education Act (20 USCA sec. 1482(2)).

7. Paragraph 6 shall be further amended to include the following language:

(10) at least one representative of the New Jersey Department of Education, Office of Special Education; and

(11) at least one representative of the State workforce investment board; and

(12) the Director of the Division of Vocational Rehabilitation Services shall be an ex officio, nonvoting member of the Council.

8. All other provisions of Executive Order No. 110 (Florio) shall remain in full force and effect, except those that are inconsistent with the aforementioned changes.

9. This Order shall take effect immediately.

Dated January 4, 2000.

EXECUTIVE ORDER NO. 109

WHEREAS, Clean and plentiful water is essential to the ecological, economic and social well-being of New Jersey; and

WHEREAS, New Jersey's water resources provide drinking water for residents of the State as well as habitat for numerous species of fish and wildlife; and

WHEREAS, New Jersey's water resources have been impacted by the fact that the State is both an industrial leader and the most densely populated State in the nation, and that these impacts will only become more acute as the population of the State grows by a projected 1 million people over the next 20 years; and

WHEREAS, Over the past three decades, New Jersey has experienced unprecedented development and sprawl, which has resulted in decreases in open lands, wetlands, farmland and other areas that previously served a variety of beneficial environmental functions, including the protection and restoration of the State's water resources; and which, if not properly managed, pose a threat to the preservation and integrity of the water resources of the State by both increasing the volume of stormwater runoff that alters the stream hydrology and degrading the water quality; and

WHEREAS, During 1999, New Jersey experienced significant drought and flood events that caused severe personal and economic hardship to many residents of the State which, to some degree, were exacerbated by the increasing demands placed on the environment by the extent of development which has occurred; and

WHEREAS, It is likely that the State's vulnerability to similar events in the future will be increased unless development is properly managed; and

WHEREAS, Land use decisions should consider and minimize any water resource or other environmental impacts and maximize the economic and social benefits to the State, its municipalities and its residents; and

WHEREAS, Sound water resource management should include a holistic and comprehensive analysis of water resource issues within the various watersheds of the State, with the express purpose of restoration,

maintenance and preservation of the quality of the waters of the State; and

WHEREAS, New Jersey has determined to implement water resource planning on a watershed basis; and

WHEREAS, The Department of Environmental Protection (Department) is authorized to protect the waters of the State through statutory and regulatory authority, including the Water Pollution Control Act, N.J.S.A.58:10A-1 et seq., the Water Quality Planning Act, N.J.S.A.58:11A-1 et seq., and the Water Supply Management Act, N.J.S.A.58:1A-1 et seq., as well as the Department's general powers, set forth at N.J.S.A.13:1D-1 et seq., and regulations the Department has promulgated pursuant to each of those statutes; and

WHEREAS, The Department may, under existing authority, require an alternatives analysis, including an evaluation of critical economic, social, environmental and institutional factors, before making a final decision on an application for approval of a wastewater management plan or an amendment thereto, and, where applicable and consistent with its existing authority, an application for approval of a water quality management plan or an amendment thereto; and

WHEREAS, There is an immediate need to take strong, decisive action to conduct water resource planning on a watershed basis to promote smart growth in a manner that accounts for further secondary and cumulative impacts of such growth;

NOW, THEREFORE, I CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and Statutes of this State, do hereby ORDER and DIRECT:

1. Until such time that the Water Quality Management Planning rules, currently set forth at N.J.A.C.7:15, are repealed and replaced, the Department of Environmental Protection shall determine, consistent with its existing authority, including N.J.A.C.7:15-5.18, what, if any, alternatives analyses must be conducted prior to the Department's making a final decision on an application for approval of a wastewater management plan or amendment thereto and, where applicable and consistent with its existing authority, an application for approval of a water quality management plan or amendment thereto, including, but not limited to, an

evaluation of depletive and consumptive water use, detailed land use, environmental build-out and pollutant loading.

2. For any pending applications as to which the Department has published notice for public comment prior to the date of this Executive Order, the Department shall require alternatives analyses only in those cases in which it determines that a significant water resource issue exists that must be addressed prior to the Department's making a final decision on the application.

3. Within 120 days of this Executive Order, the Department shall meet with each applicant who has submitted an application to determine whether any alternatives analyses will be necessary for the Department to render a final decision on the application, and, if so, what those analyses will be.

4. The Department shall issue a final decision within 120 days of the submission of an application, once the Department deems the application complete.

5. This Order shall take effect immediately.

Dated January 11, 2000.

REORGANIZATION PLANS

(2231)

REORGANIZATION PLAN NO. 001-1999
A PLAN FOR THE TRANSFER, CONSOLIDATION, AND REORGANIZATION OF THE HEALTH ACCESS NEW JERSEY PROGRAM FROM THE NEW JERSEY DEPARTMENT OF HEALTH AND SENIOR SERVICES INTO THE NEW JERSEY DEPARTMENT OF HUMAN SERVICES

PLEASE TAKE NOTICE that on May 24, 1999, Governor Christine Todd Whitman hereby issues this Reorganization Plan No. 001-1999 (hereafter referred to as the "Plan"), to provide for the transfer, consolidation and reorganization of the Health Access New Jersey Program from the New Jersey Department of Health and Senior Services into the New Jersey Department of Human Services.

This Plan is part of the continuing effort to consolidate and align the structure of the Executive Branch in the interest of efficiency and economy, without qualitative or quantitative diminution of services to the public.

GENERAL STATEMENT OF PURPOSE

This Plan will foster the efficient implementation of a coherent policy for the delivery of health care services by the transfer of the Health Access New Jersey Program, created by P.L.1992, c.160, as amended, (codified principally at C.26:2H-18.65) to the Department of Human Services. The Health Access New Jersey Program provides subsidies for health benefits coverage in order to provide health care for low income, uninsured children, working people and those temporarily unemployed, based on a sliding income scale with modest copayments. It also includes the provision of early preventive and primary care. Currently, the Department of Health and Senior Services administers this Program.

Pursuant to N.J.S.A.30:4D-1 et seq., the Department of Human Services, through the Division of Medical Assistance and Health Services, is the single State agency designated to administer the provisions of the New Jersey Medical Assistant and Health Services Act. This Department also administers the Children's Health Care Coverage Program, created by P.L.1997, c.272 (C.30:41-1 et seq.), which provides health care coverage for both Medicaid eligible clients and children in low-income families.

Citizens of this State will benefit from having one department in State government responsible for the administration of all State-subsidized

programs regarding the provision of subsidized, low-cost health care insurance for individuals. This transfer of functions will result in improved efficiency, ensure the coordinated delivery of health care services and simplify the administrative process.

NOW, THEREFORE, pursuant to the "Executive Reorganization Act of 1969," P.L.1969, c.203 (C.52:14C-1 et seq.), I find with respect to the transfer, consolidation, and reorganization provided for in this Plan, that each aspect of the Plan is necessary to accomplish the purpose set forth in section 2 of that act, and that each aspect of this Plan will:

1. Promote the more effective management of the Executive Branch by consolidating within one agency programs related to the provision of State-subsidized health care insurance for individuals;

2. Promote better and more efficient execution of the laws, and provide for the expeditious administration of the public business by consolidating and integrating similar programs within one agency;

3. Group, coordinate and consolidate functions in a more consistent and practical manner according to major purposes;

4. Promote economy to the fullest extent consistent with the efficient operations of the Executive Branch;

5. Increase the efficiency of the operations of the Executive Branch to the fullest extent practicable; and

6. Eliminate duplication and overlapping of effort by having the Health Access New Jersey Program administered by the department whose mission includes the provision of subsidized health care services, thereby better utilizing State resources.

PROVISIONS OF THE REORGANIZATION PLAN

Therefore, I hereby order the following reorganization:

A. ORGANIZATIONAL UNITS

1. The functions, powers and duties of the Commissioner of the Department of Health and Senior Services and the Department of Health and Senior Services pursuant to sections 5 and 15, P.L.1992, c.160, as

amended, to provide for the administration of the Health Access New Jersey Program under that department's jurisdiction shall be transferred to the Commissioner of Human Services and the Department of Human Services.

2. The powers, functions and duties hereby transferred in 1 above shall be organized and implemented within the Department of Human Services, as determined by the Commissioner of Human Services.

3. Only the records, property, and General Fund appropriations available to the Department of Health and Senior Services used in connection with the administration of the Health Access New Jersey Program shall be transferred to the Department of Human Services pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.). With the exception of the Health Access New Jersey Program, the remaining functions, powers and duties of the Commissioner of Health and Senior Services under P.L.1992, c.160, as amended, shall remain with the Commissioner of Health and Senior Services.

4. Whenever any law, rule, regulation, order, contract, document, judicial or administrative proceeding or other matter relating to the Health Access New Jersey Program refers to the Department of Health and Senior Services, the same shall mean the Department of Human Services.

GENERAL PROVISIONS

1. I find that each aspect of this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203. Specifically, this reorganization will promote the more effective management of the Executive Branch and its agencies, will promote economy to the fullest extent consistent with the efficient operation of the Executive Branch according to major purposes, and will eliminate overlapping and duplication of effort.

2. This Plan, or any section or part thereof, that conflicts with federal law or regulation shall be considered null and void unless and until addressed and corrected through an interagency agreement, federal waiver or other means.

3. All acts and parts of acts inconsistent with any of the provisions of this Plan are superseded to the extent of such inconsistencies.

4. If any provisions of this Plan or the application thereof to any person, or circumstances, or the exercise of any power or authority hereunder are held invalid or contrary to law, such holding shall not affect other provisions or applications of this Plan, which can be given effect without the invalid provisions or applications of the Plan, or affect other exercises of power or authority under said provisions not contrary to law. To this end, the provisions of the Plan are declared to be severable.

5. This Plan is intended to protect and promote the public health, safety and welfare and shall be liberally construed to attain the objectives and effect the purposes thereof.

6. All transfers directed by this Plan shall be effectuated pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

7. The Commissioners of the Department of Human Services and the Department of Health and Senior Services may enter into inter-agency agreements, as necessary and appropriate, to effectuate the provisions of this Plan. Nothing in the Plan shall be construed to change the Single State Agency status of the Division of Medical Assistance and Health Services of the Department of Human Services.

A copy of this Plan was filed on May 24, 1999 with the Secretary of State and the Office of Administrative Law for publication in the New Jersey Register. This Plan shall become effective in 60 days, on July 23, 1999, unless disapproved by each House of the Legislature by the passage of a Concurrent Resolution stating in substance that the Legislature does not favor this Plan, or at a date later than July 23, 1999, should the Governor establish such a later date for the effective date of the Plan, or any part thereof, by Executive Order.

PLEASE TAKE NOTICE that this Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the Public Laws and in the New Jersey Register under the heading of "Reorganization Plans."

Filed May 24, 1999.
Effective July 23, 1999.

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