ACTS

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AND

Thirty-Fifth Under the New Constitution

CHAPTERS 76-215

1992

CHAPTER 76

AN ACT concerning capital punishment and amending N.J.S.2C:11-3.

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

1. N.J.S.2C:11-3 is amended to read as follows:

Murder.

2C:11-3. Murder. a. Except as provided in N.J.S.2C:11-4 criminal homicide constitutes murder when:

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

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

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

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

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

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

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

b. Murder is a crime of the first degree but a person convicted of murder shall be sentenced, except as provided in subsection c. of this section, by the court to a term of 30 years, during which the person shall not be eligible for parole or to a specific term of years

which shall be between 30 years and life imprisonment of which the person shall serve 30 years before being eligible for parole.

c. Any person convicted under subsection a. (1) or (2) who committed the homicidal act by his own conduct or who as an accomplice procured the commission of the offense by payment or promise of payment of anything of pecuniary value shall be sentenced as provided hereafter:

(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

(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.

(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.

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.

2. This act shall take effect immediately.

Approved July 31, 1992.

CHAPTER 77

AN ACT concerning the Delaware River and Bay Authority and supplementing P.L.1989, c.191 (C.32:11E-1.1 et seq.).

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

1. For the purposes of complying with the provisions of section 1 of P.L.1989, c.191 (C.32:11E-1.1) the Delaware River and Bay Authority created pursuant to the "Delaware-New Jersey Compact," enacted pursuant to 53 Laws of Delaware, Chapter 145 (17 Del. C. §1701 et seq.) and P.L.1961, c.66 (C.32:11E-1 et seq.), with the consent of the Congress of the United States in accordance with Pub.L. 87-678 (1962), is authorized to approve the Commercial Township Waterfront Development Plan to be located in the Township of Commercial, Cumberland County, and the modifications to the Federal Navigation Project for Middle Thorofare Harbor, Cape May County, which shall be considered projects of the authority as defined pursuant to Article II of the "Delaware-New Jersey Compact," P.L.1961, c.66, as amended pursuant to P.L.1989, c.192 (C.32:11E-1 et seq.).

2. This act shall take effect immediately.

Approved August 5, 1992.

CHAPTER 78

AN ACT authorizing certain mortgage loans within the Police and Firemen's Retirement System, amending P.L.1944, c.255, supplementing P.L.1950, c.270 (C.52:18A-79 et. seq.) and repealing sections 2 through 8 of P.L.1991, c.414.

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

1. Section 1 of P.L.1944, c.255 (C.43:16A-1) is amended to read as follows:

C.43:16A-1 Definitions.

1. As used in this act:

(1) "Retirement system" 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 the assets but shall not exceed 110% of the weighted average, published by the United States Internal Revenue Service, of the rates of interest on 30-year United States Treasury Constant Maturities during the four-year period ending on the last day of the month as of which the annual actuarial valuation is prepared.

(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 at least two years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least one-half of his support from the member or retirant in the 12-month period immediately preceding the member's or retirant's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of the widower subsequent to the death of the member or retirant. In the event of the payment of an accidental death benefit, the two-year qualification shall be waived.

(24) "Widow" shall mean the woman to whom a member or retirant was married at least two years before the date of his death and to whom he continued to be married until the date of his death and who has not remarried. In the event of the payment of an accidental death benefit, the two-year qualification shall be waived.

(25) "Fiscal year" shall mean any year commencing with July 1, and ending with June 30, next following.

(26) "Compensation" shall mean the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular 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.

(29)(Deleted by amendment, P.L.1992, c.78).

(30)(Deleted by amendment, P.L.1992, c.78).

C.43:16A-16.9 Definitions.

2. As used in this act:

"Mortgage loan" means any indebtedness secured by a mortgage on a residential property, which mortgage shall constitute a first lien on the property;

"Residential property" means any real property including land or, in the case of condominiums, an interest in a lot of land, which real property shall consist of a single one or two family dwelling, including appropriate garages or other outbuildings, or unimproved real property if the proceeds of the mortgage loan shall be used exclusively for the purposes of erecting such a single one or two family dwelling thereon.

C.43:16A-16.10 Authority of Director of the Division of Investment.

3. The Director of the Division of Investment shall at all times have authority to invest and reinvest the monies in, and to acquire for or on behalf of, the Police and Firemen's Retirement System of New Jersey mortgage loans on residential property.

C.43:16A-16.11 Eligibility for mortgage loans, conditions of repayment.

4. a. In addition to any loan for which he may be eligible pursuant to the provisions of section 18 of P.L.1964, c.241 (C.43:16A-16.1) and notwithstanding the provisions of that or any other law to the contrary, any member of the Police and Firemen's Retirement System who, at the time of application, is employed by the State or a county, municipality or other political subdivision of the State and who has at least one year of creditable service is, for the purpose of securing for his own occupation as his principal residence a residential property located within this State, eligible to receive a mortgage loan pursuant to the provisions of this act. The mortgage loan shall be used only for the purpose of enabling a borrower to acquire or construct a residential property or refinance an existing residential property loan.

No member shall be eligible hereunder for more than one outstanding mortgage loan at any time, and no member shall be eligible to receive a second mortgage loan on a residential property already mortgaged by him. Preference shall be given in making loans to members who are applying to acquire or construct their first principal place of residence.

b. Any mortgage loan made pursuant to the provisions of this act, together with any interest and expenses to the retirement system associated with the making of that loan, shall be repaid in equal installments.

c. The amount of interest charged with respect to a mortgage loan made pursuant to the provisions of this act shall be fixed for the entire term of the loan. The New Jersey Housing and Mortgage Finance Agency, established under section 4 of P.L.1983, c.530 (C.55:14K-4), shall initially establish the rate within 120

days of the effective date of this act and semiannually reset the rate thereafter. The rate shall be determined by the New Jersey Housing and Mortgage Finance Agency by adding 2% to the index. For the purposes of this subsection, the index shall be the weekly average yield at the time the rate is reset on one-year United States Treasury securities adjusted to a constant maturity as made available by the Federal Reserve Board. The term of any mortgage loan so made shall not exceed 30 years.

d. No mortgage loan made pursuant to the provisions of this act shall be sold, transferred or assigned to any person, nor shall the payments with respect to any mortgage loan so made be assumed by any person other than the member to whom that loan was made, except that in the event of the death of a member, the mortgage may be assignable to a surviving spouse if the spouse is the sole heir to the property.

e. The instrument evidencing a mortgage loan under the provisions of this act may be in such form, and may contain such provisions, not inconsistent with law, as the director may choose to insert for the protection of the retirement system's lien and the preservation of its interest in the real property mortgaged to it.

C.43:16A-16.12 Administration of mortgage loan program.

5. The State Treasurer shall delegate the administration of this mortgage loan program to the New Jersey Housing and Mortgage Finance Agency established under section 4 of P.L.1983, c.530 (C.55:14K-4). The agency shall: a. originate loans; b. appraise the value of any real property eligible to be mortgaged under this act; c. guarantee and insure title to the real property; and d. perform any other service necessary to accomplish the purposes of this act in a manner consistent with the protection of the rights of beneficiaries of the retirement system. The cost of the performance of these services in connection with the making of a mortgage loan shall be charged to the borrower and included in the amount of that mortgage loan.

C.43:16A-16.13 Mortgage loan standards, guidelines.

6. The State Treasurer, with the advice of the State Investment Council, the Board of Trustees of the Police and Firemen's Retirement System, and the New Jersey Housing and Mortgage Finance Agency, shall set mortgage loan standards and guidelines for loans made pursuant to this act, including mortgage loan maturity terms, participation fees, mortgage loan insurance requirements, lender compensation rates, servicing fees, loan-to-

value ratios, minimum and maximum mortgage loan amounts and eligibility standards consistent with section 4 of this act.

C.43:16A-16.14 Loan recipients to occupy residence.

7. Any member receiving a mortgage loan pursuant to the provisions of this act shall, within 120 days of the date on which the loan was made, occupy the residence as his principal dwelling place. If any member receiving a mortgage loan pursuant to the provisions of this act sells, or ceases to occupy as his residence and principal dwelling place, that residential property, the entire amount of that mortgage loan, together with any accrued interest thereon, shall be due and payable on the 120th day following that action.

C.43:16A-16.15 Availability of funds for mortgage loans.

8. a. Upon application of a member for a mortgage loan the director shall, within 90 days, make available to the New Jersey Housing and Mortgage Finance Agency sufficient funds to provide mortgage loans in accordance with the provisions of this act, except that no mortgage loan shall be made at any time when the total of all principal balances owing on mortgage loans made pursuant to this act, less all write-offs and reserves with respect to these mortgage loans, together exceeds, or by the making of the loan would exceed, 10% of the total investment assets, including mortgage loans, of the retirement system. Every mortgage loan made hereunder shall be evidenced by a note or bond and shall be secured by a mortgage on the fee of real property located within this State. Every mortgage shall be certified to be a first lien by an attorney-at-law of this State or certified or guaranteed to be a first lien by a corporation authorized to guarantee titles to land in this State. For the purposes of this section, a mortgage shall be deemed to be a first lien, notwithstanding the existence of a lien for current taxes or assessments not due or payable at the time the loan is made, and notwithstanding the existence of leases, building restrictions, easements, encroachments, or covenants which do not materially lessen the value of the real property to be mortgaged.

b. Pursuant to rules established by the State Treasurer, with the advice of the New Jersey Housing and Mortgage Finance Agency, no mortgage loan shall be made under this act except upon a written certification signed by at least two persons appointed or retained by the appraisers. In the case of a mortgage loan secured by a mortgage upon real property, such certification shall state the opinion of such persons as to the value of the land and the improvements thereon or to be erected thereon and the

character of such improvements. Such certification shall be filed with the records of the retirement system and shall be preserved until the retirement system has no interest, as mortgagee or otherwise, in the real property.

c. No mortgage loan secured by a mortgage on real property shall be made unless the property shall consist of improved real property, or unimproved real property if the proceeds of such loan shall be used for the purposes of erecting improvements thereon.

C.43:16A-16.16 Rules, regulations.

9. The State Treasurer shall, with the advice of the State Investment Council, the Director of the Division of Pensions and the Executive Director of the New Jersey Housing and Mortgage Finance Agency and in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate any rules and regulations necessary to accomplish the purposes of this act.

Repealer.

10. Sections 2 through 8 of P.L.1991, c.414 (C.43:16A-16.3 to 43:16A-16.8) are repealed.

11. This act shall take effect immediately and shall expire five years after the effective date, provided that any mortgage in effect on the expiration date shall remain in effect until retirement of the mortgage.

Approved August 5, 1992.

CHAPTER 79

AN ACT concerning redevelopment and housing by municipal and county governments, prescribing the powers, duties and functions of those governments with respect to redevelopment and housing functions, supplementing Title 40A of the New Jersey Statutes, and amending P.L.1971, c.199, P.L.1975, c.291, P.L.1983, c.313, P.L.1991, c.431 and P.L.1991, c.441.

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

C.40A:12A-1 Short title.

1. This act shall be known and may be cited as the "Local Redevelopment and Housing Law."

C.40A:12A-2 Findings, determinations, declarations.

2. The Legislature hereby finds, determines and declares:

a. There exist, have existed and persist in various communities of this State conditions of deterioration in housing, commercial and industrial installations, public services and facilities and other physical components and supports of community life, and improper, or lack of proper, development which result from forces which are amenable to correction and amelioration by concerted effort of responsible public bodies, and without this public effort are not likely to be corrected or ameliorated by private effort.

b. From time to time the Legislature has, by various enactments, empowered and assisted local governments in their efforts to arrest and reverse these conditions and to promote the advancement of community interests through programs of redevelopment, rehabilitation and incentives to the expansion and improvement of commercial, industrial, residential and civic facilities.

c. As a result of those efforts, there has grown a varied and complex body of laws, all directed by diverse means to the principal goal of promoting the physical development that will be most conducive to the social and economic improvement of the State and its several municipalities.

d. It is the intent of this act to codify, simplify and concentrate prior enactments relative to local redevelopment and housing, to the end that the legal mechanisms for such improvement may be more efficiently employed.

C.40A:12A-3 Definitions.

3. As used in this act:

"Bonds" means any bonds, notes, interim certificates, debentures or other obligations issued by a municipality, county, redevelopment entity, or housing authority pursuant to this act.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

"Governing body" means the body exercising general legislative powers in a county or municipality according to the terms and procedural requirements set forth in the form of government adopted by the county or municipality.

"Housing authority" means a housing authority created or continued pursuant to this act.

"Housing project" means a project, or distinct portion of a project, which is designed and intended to provide decent, safe and sanitary dwellings, apartments or other living accommodations for persons of low and moderate income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare or other purposes. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

"Persons of low and moderate income" means persons or families who are, in the case of State assisted projects or programs, so defined by the Council on Affordable Housing in the Department of Community Affairs, or in the case of federally assisted projects or programs, defined as of "low and very low income" by the United States Department of Housing and Urban Development.

"Public body" means the State or any county, municipality, school district, authority or other political subdivision of the State.

"Public housing" means any housing for persons of low and moderate income owned by a municipality, county, the State or the federal government, or any agency or instrumentality thereof.

"Publicly assisted housing" means privately owned housing which receives public assistance or subsidy, which may be grants or loans for construction, reconstruction, conservation, or rehabilitation of the housing, or receives operational or maintenance subsidies either directly or through rental subsidies to tenants, from a federal, State or local government agency or instrumentality.

"Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise, and indebtedness secured by such liens.

"Redeveloper" means any person, firm, corporation or public body that shall enter into or propose to enter into a contract with a municipality or other redevelopment entity for the redevelopment or rehabilitation of an area in need of redevelopment, or an

area in need of rehabilitation, or any part thereof, under the provisions of this act, or for any construction or other work forming part of a redevelopment or rehabilitation project.

"Redevelopment" means clearance, replanning, development and redevelopment; the conservation and rehabilitation of any structure or improvement, the construction and provision for construction of residential, commercial, industrial, public or other structures and the grant or dedication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, parks, playgrounds, or other public purposes, including recreational and other facilities incidental or appurtenant thereto, in accordance with a redevelopment plan.

"Redevelopment agency" means a redevelopment agency created pursuant to subsection a. of section 11 of P.L.1992, c.79 (C.40A:12A-11) or established heretofore pursuant to the "Redevelopment Agencies Law," P.L.1949, c.306 (C.40:55C-1 et seq.), repealed by this act, which has been permitted in accordance with the provisions of this act to continue to exercise its redevelopment functions and powers.

"Redevelopment area" or "area in need of redevelopment" means an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) or determined heretofore to be a "blighted area" pursuant to P.L.1949, c.187 (C.40:55-21.1 et seq.) repealed by this act, both determinations as made pursuant to the authority of Article VIII, Section III, paragraph 1 of the Constitution. A redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.

"Redevelopment entity" means a municipality or an entity authorized by the governing body of a municipality pursuant to subsection c. of section 4 of P.L.1992, c.79 (C.40A:12A-4) to implement redevelopment plans and carry out redevelopment projects in an area in need of redevelopment, or in an area in need of rehabilitation, or in both.

"Redevelopment plan" means a plan adopted by the governing body of a municipality for the redevelopment or rehabilitation of all or any part of a redevelopment area, or an area in need of rehabilitation, which plan shall be sufficiently complete to indicate its relationship to definite municipal objectives as to

appropriate land uses, public transportation and utilities, recreational and municipal facilities, and other public improvements; and to indicate proposed land uses and building requirements in the redevelopment area or area in need of rehabilitation, or both.

"Redevelopment project" means any work or undertaking pursuant to a redevelopment plan; such undertaking may include any buildings, land, including demolition, clearance or removal of buildings from land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and administrative, community, health, recreational, educational, and welfare facilities.

"Rehabilitation" means an undertaking, by means of extensive repair, reconstruction or renovation of existing structures, with or without the introduction of new construction or the enlargement of existing structures, in any area that has been determined to be in need of rehabilitation or redevelopment, to eliminate substandard structural or housing conditions and arrest the deterioration of that area.

"Rehabilitation area" or "area in need of rehabilitation" means any area determined to be in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14).

C.40A:12A-4 Powers of municipal governing body, planning board.

4. In exercising the redevelopment and rehabilitation functions provided for in this act:

a. A municipal governing body shall have the power to:

(1) Cause a preliminary investigation to be made pursuant to subsection a. of section 6 of P.L.1992, c.79 (C.40A:12A-6) as to whether an area is in need of redevelopment;

(2) Determine pursuant to subsection b. of section 6 of P.L.1992, c.79 (C.40A:12A-6) that an area is in need of redevelopment;

(3) Adopt a redevelopment plan pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7);

(4) Determine pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14) that an area is in need of rehabilitation.

b. A municipal planning board shall have the power to:

(1) Conduct, when authorized by the municipal governing body, a preliminary investigation and hearing and make a recommendation pursuant to subsection b. of section 6 of P.L.1992, c.79 (C.40A:12A-6) as to whether an area is in need of redevelopment;

(2) Make recommendations concerning a redevelopment plan pursuant to subsection e. of section 7 of P.L.1992, c.79 (C.40A:12A-7), or prepare a redevelopment plan pursuant to subsection f. of that section.

(3) Make recommendations concerning the determination of an area in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14).

c. The municipality shall be responsible for implementing redevelopment plans and carrying out redevelopment projects pursuant to section 8 of P.L.1992, c.79 (C.40A:12A-8). The municipality may execute these responsibilities directly, or in addition thereto or in lieu thereof, through either a municipal redevelopment agency, or a municipal housing authority authorized to exercise redevelopment powers pursuant to section 21 of P.L.1992, c.79 (C.40A:12A-21), but there shall be only one redevelopment entity responsible for each redevelopment project. A county improvement authority authorized to undertake redevelopment projects pursuant to the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.) may also act as a redevelopment entity pursuant to this act. The redevelopment entity, so authorized, may contract with any other public body, in accordance with the provisions of section 8 of P.L.1992, c.79 (C.40A:12A-8), for the carrying out of a redevelopment project or any part thereof under its jurisdiction. Notwithstanding the above, the governing body of the municipality may, by ordinance, change or rescind the designation of the redevelopment entity responsible for implementing a redevelopment plan and carrying out a redevelopment project and may assume this responsibility itself, but only the redevelopment entity authorized to undertake a particular redevelopment project shall remain authorized to complete it, unless the redevelopment entity and redeveloper agree otherwise, or unless no obligations have been entered into by the redevelopment entity with parties other than the municipality. This shall not diminish the power of the municipality to dissolve a redevelopment entity pursuant to section 24 of P.L.1992, c.79 (C.40A:12A-24), and section 20 of the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-20).

C.40A:12A-5 Determination of need for redevelopment.

5. A delineated area may be determined to be in need of redevelopment if, after investigation, notice and hearing as provided in section 6 of P.L.1992, c.79 (C.40A:12A-6), the governing body of the municipality by resolution concludes that within the delineated area any of the following conditions is found:

a. The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.

b. The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenantable.

c. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.

d. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.

e. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions, resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare.

f. Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.

g. In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) for the purpose of granting tax exemptions within the enterprise zone district pursu-

ant to the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) or the adoption of a tax abatement and exemption ordinance pursuant to the provisions of P.L.1991, c.441 (C.40A:21-1 et seq.). The municipality shall not utilize any other redevelopment powers within the urban enterprise zone unless the municipal governing body and planning board have also taken the actions and fulfilled the requirements prescribed in P.L.1992, c.79 (C.40A:12A-1 et al.) for determining that the area is in need of redevelopment or an area in need of rehabilitation and the municipal governing body has adopted a redevelopment plan ordinance including the area of the enterprise zone.

C.40A:12A-6 Investigation for determination as redevelopment area, public hearing.

6. a. No area of a municipality shall be determined a redevelopment area unless the governing body of the municipality shall, by resolution, authorize the planning board to undertake a preliminary investigation to determine whether the proposed area is a redevelopment area according to the criteria set forth in section 5 of P.L.1992, c.79 (C.40A:12A-5). Such determination shall be made after public notice and public hearing as provided in subsection b. of this section. The governing body of a municipality shall assign the conduct of the investigation and hearing to the planning board of the municipality.

b. (1) Before proceeding to a public hearing on the matter, the planning board shall prepare a map showing the boundaries of the proposed redevelopment area and the location of the various parcels of property included therein. There shall be appended to the map a statement setting forth the basis for the investigation.

(2) The planning board shall specify a date for and give notice of a hearing for the purpose of hearing persons who are interested in or would be affected by a determination that the delineated area is a redevelopment area.

(3) The hearing notice shall set forth the general boundaries of the area to be investigated and state that a map has been prepared and can be inspected at the office of the municipal clerk. A copy of the notice shall be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks, and the last publication shall be not less than ten days prior to the date set for the hearing. A copy of the notice shall be mailed at least ten days prior to the date set for the hearing to the last owner, if any, of each parcel of property within the area according to the

assessment records of the municipality. A notice shall also be sent to all persons at their last known address, if any, whose names are noted on the assessment records as claimants of an interest in any such parcel. The assessor of the municipality shall make a notation upon the records when requested to do so by any person claiming to have an interest in any parcel of property in the municipality. The notice shall be published and mailed by the municipal clerk, or by such clerk or official as the planning board shall otherwise designate. Failure to mail any such notice shall not invalidate the investigation or determination thereon.

(4) At the hearing, which may be adjourned from time to time, the planning board shall hear all persons who are interested in or would be affected by a determination that the delineated area is a redevelopment area. All objections to such a determination and evidence in support of those objections, given orally or in writing, shall be received and considered and made part of the public record.

(5) After completing its hearing on this matter, the planning board shall recommend that the delineated area, or any part thereof, be determined, or not be determined, by the municipal governing body to be a redevelopment area. After receiving the recommendation of the planning board, the municipal governing body may adopt a resolution determining that the delineated area, or any part thereof, is a redevelopment area. The determination, if supported by substantial evidence, shall be binding and conclusive upon all persons affected by the determination. Notice of the determination shall be served, within 10 days after the determination, upon each person who filed a written objection thereto and stated, in or upon the written submission, an address to which notice of determination may be sent.

(6) If written objections were filed in connection with the hearing, the municipality shall, for 45 days next following its determination to which the objections were filed, take no further action to acquire any property by condemnation within the redevelopment area.

(7) If a person who filed a written objection to a determination by the municipality pursuant to this subsection shall, within 45 days after the adoption by the municipality of the determination to which the person objected, apply to the Superior Court, the court may grant further review of the determination by procedure in lieu of prerogative writ; and in any such action the court may make any incidental order that it deems proper.

c. An area determined to be in need of redevelopment pursuant to this section shall be deemed to be a "blighted area" for the purposes

of Article VIII, Section III, paragraph 1 of the Constitution. If an area is determined to be a redevelopment area and a redevelopment plan is adopted for that area in accordance with the provisions of this act, the municipality is authorized to utilize all those powers provided in section 8 of P.L.1992, c.79 (C.40A:12A-8).

C.40A:12A-7 Adoption of redevelopment plan.

7. a. No redevelopment project shall be undertaken or carried out except in accordance with a redevelopment plan adopted by ordinance of the municipal governing body, upon its finding that the specifically delineated project area is located in an area in need of redevelopment or in an area in need of rehabilitation, or in both, according to criteria set forth in section 5 or section 14 of P.L.1992, c.79 (C.40A:12A-5 or 40A:12A-14), as appropriate.

The redevelopment plan shall include an outline for the planning, development, redevelopment, or rehabilitation of the project area sufficient to indicate:

(1) Its relationship to definite local objectives as to appropriate land uses, density of population, and improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements.

(2) Proposed land uses and building requirements in the project area.

(3) Adequate provision for the temporary and permanent relocation, as necessary, of residents in the project area, including an estimate of the extent to which decent, safe and sanitary dwelling units affordable to displaced residents will be available to them in the existing local housing market.

(4) An identification of any property within the redevelopment area which is proposed to be acquired in accordance with the redevelopment plan.

(5) Any significant relationship of the redevelopment plan to (a) the master plans of contiguous municipalities, (b) the master plan of the county in which the municipality is located, and (c) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.).

b. A redevelopment plan may include the provision of affordable housing in accordance with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the housing element of the municipal master plan.

c. The redevelopment plan shall describe its relationship to pertinent municipal development regulations as defined in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

The redevelopment plan shall supersede applicable provisions of the development regulations of the municipality or constitute an overlay zoning district within the redevelopment area. When the redevelopment plan supersedes any provision of the development regulations, the ordinance adopting the redevelopment plan shall contain an explicit amendment to the zoning district map included in the zoning ordinance. The zoning district map as amended shall indicate the redevelopment area to which the redevelopment plan applies. Notwithstanding the provisions of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or of other law, no notice beyond that required for adoption of ordinances by the municipality shall be required for the hearing on or adoption of the redevelopment plan or subsequent amendments thereof.

d. All provisions of the redevelopment plan shall be either substantially consistent with the municipal master plan or designed to effectuate the master plan; but the municipal governing body may adopt a redevelopment plan which is inconsistent with or not designed to effectuate the master plan by affirmative vote of a majority of its full authorized membership with the reasons for so acting set forth in the redevelopment plan.

e. Prior to the adoption of a redevelopment plan, or revision or amendment thereto, the planning board shall transmit to the governing body, within 45 days after referral, a report containing its recommendation concerning the redevelopment plan. This report shall include an identification of any provisions in the proposed redevelopment plan which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate. The governing body, when considering the adoption of a redevelopment plan or revision or amendment thereof, shall review the report of the planning board and may approve or disapprove or change any recommendation by a vote of a majority of its full authorized membership and shall record in its minutes the reasons for not following the recommendations. Failure of the planning board to transmit its report within the required 45 days shall relieve the governing body from the requirements of this subsection with regard to the pertinent proposed redevelopment plan or revision or amendment thereof. Nothing in this subsection shall diminish the applicability of the provisions of subsection d. of this section with respect to any redevelopment plan or revision or amendment thereof.

f. The governing body of a municipality may direct the planning board to prepare a redevelopment plan or an amendment or revision

to a redevelopment plan for a designated redevelopment area. After completing the redevelopment plan, the planning board shall transmit the proposed plan to the governing body for its adoption. The governing body, when considering the proposed plan, may amend or revise any portion of the proposed redevelopment plan by an affirmative vote of the majority of its full authorized membership and shall record in its minutes the reasons for each amendment or revision. When a redevelopment plan or amendment to a redevelopment plan is referred to the governing body by the planning board under this subsection, the governing body shall be relieved of the referral requirements of subsection e. of this section.

C.40A:12A-8 Effectuation of redevelopment plan.

8. Upon the adoption of a redevelopment plan pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7), the municipality or redevelopment entity designated by the governing body may proceed with the clearance, replanning, development and redevelopment of the area designated in that plan. In order to carry out and effectuate the purposes of this act and the terms of the redevelopment plan, the municipality or designated redevelopment entity may:

a. Undertake redevelopment projects, and for this purpose issue bonds in accordance with the provisions of section 29 of P.L.1992, c.79 (C.40A:12A-29).

b. Acquire property pursuant to subsection i. of section 22 of P.L.1992, c.79 (C.40A:12A-22).

c. Acquire, by condemnation, any land or building which is necessary for the redevelopment project, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

d. Clear any area owned or acquired and install, construct or reconstruct streets, facilities, utilities, and site improvements essential to the preparation of sites for use in accordance with the redevelopment plan.

e. Prepare or arrange by contract for the provision of professional services and the preparation of plans by registered architects, licensed professional engineers or planners, or other consultants for the carrying out of redevelopment projects.

f. Arrange or contract with public agencies or redevelopers for the planning, replanning, construction, or undertaking of any project or redevelopment work, or any part thereof; negotiate and collect revenue from a redeveloper to defray the costs of the redevelopment entity, including where applicable the costs incurred in conjunction

with bonds, notes or other obligations issued by the redevelopment entity, and to secure payment of such revenue; as part of any such arrangement or contract, provide for extension of credit, or making of loans, to redevelopers to finance any project or redevelopment work, or upon a finding that the project or redevelopment work would not be undertaken but for the provision of financial assistance, or would not be undertaken in its intended scope without the provision of financial assistance, provide as part of an arrangement or contract for capital grants to redevelopers; and arrange or contract with public agencies or redevelopers for the opening, grading or closing of streets, roads, roadways, alleys, or other places or for the furnishing of facilities or for the acquisition by such agency of property options or property rights or for the furnishing of property or services in connection with a redevelopment area.

g. Lease or convey property or improvements to any other party pursuant to this section, without public bidding and at such prices and upon such terms as it deems reasonable, provided that the lease or conveyance is made in conjunction with a redevelopment plan, notwithstanding the provisions of any law, rule, or regulation to the contrary.

h. Enter upon any building or property in any redevelopment area in order to conduct investigations or make surveys, sounding or test borings necessary to carry out the purposes of this act.

i. Arrange or contract with a public agency for the relocation, pursuant to the "Relocation Assistance Law of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.), of residents, industry or commerce displaced from a redevelopment area.

j. Make, consistent with the redevelopment plan: (1) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements; and (2) plans for the enforcement of laws, codes, and regulations relating to the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements.

k. Request that the planning board recommend and governing body designate particular areas as being in need of redevelopment or rehabilitation in accordance with the provisions of this act and make recommendations for the redevelopment or rehabilitation of such areas.

l. Study the recommendations of the planning board or governing body for redevelopment of the area.

m. Publish and disseminate information concerning any redevelopment area, plan or project.

n. Do all things necessary or convenient to carry out its powers.

C.40A:12A-9 Agreements with redevelopers.

9. a. All agreements, leases, deeds and other instruments from or between a municipality or redevelopment entity and to or with a redeveloper shall contain a covenant running with the land requiring that the owner shall construct only the uses established in the current redevelopment plan; a provision requiring the redeveloper to begin the building of the improvements for those uses within a period of time which the municipality or redevelopment entity fixes as reasonable; a provision that the redeveloper shall be without power to sell, lease or otherwise transfer the redevelopment area or project, or any part thereof, without the written consent of the municipality or redevelopment entity; a provision that upon completion of the required improvements, the conditions determined to exist at the time the area was determined to be in need of redevelopment shall be deemed to no longer exist, and the land and improvements thereon shall no longer be subject to eminent domain as a result of those determinations; and any other covenants, provisions and continuing controls as may be deemed necessary to effectuate the purposes of this act. The aforesaid covenants, provisions and controls shall be deemed satisfied upon termination of the agreements and covenants entered into by the redeveloper to construct the improvements and to perform the redevelopment. The rights of any third party acquired prior to termination of the agreements, including, but not limited to, any tax exemption or abatement granted pursuant to law, shall not be negatively affected by termination and satisfaction of the covenants.

b. A lease to a redeveloper may provide that all improvements shall become the property of the municipality or redevelopment entity. The execution of a lease with that provision shall not impose upon the municipality or redevelopment entity any liability for the financing, construction, management or operation of any redevelopment project, or any part thereof.

C.40A:12A-10 Relocation of public utility facilities.

10. Whenever a redevelopment entity which has acquired by purchase or condemnation real property for any project or for the widening of existing roads, streets, parkways, avenues or highways or for construction of new roads, streets, parkways, avenues or highways to any project or partly for such purposes and partly for other municipal or county purposes, shall determine that it is necessary that any tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances (herein called "public utility facilities") of any public utility as defined in R.S.27:7-1 in, on, along, over or under the project or real prop-

erty, should be relocated in, or removed from, that project or real property, the public utility owning or operating the public utility facilities shall relocate or remove the same in accordance with the order of the redevelopment entity; provided, however, that the cost and expenses of relocation or removal, including the cost of installing the public utility facilities in a new location, or new locations, and the cost of any lands, or any rights or interest in lands, or any other rights acquired to accomplish the relocation or removal, less the cost of any lands or any rights or interest in lands or any other rights of the public utility paid to the public utility in connection with the relocation or removal, shall be ascertained and paid by the redevelopment entity making such order. In case of any such relocation or removal of public utility facilities, the public utility, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate the public utility facilities in their former location or locations.

C.40A:12A-11 Creation of municipal redevelopment agency.

11. a. The governing body of a municipality may, by ordinance, create a body corporate and politic to be known as the ". . . . . Redevelopment Agency," inserting the name of the municipality creating the agency. The agency shall be an instrumentality of the municipality creating it. A redevelopment agency shall be created pursuant to the procedures of the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

There shall be seven commissioners of a redevelopment agency. The commissioners shall be appointed by the governing body, in the manner generally required for appointments by the form of government under which the municipality is governed. Commissioners shall each serve for a term of five years; except that the first of these appointees shall be designated to serve for the following terms: one for a term of one year, one for a term of two years, two for terms of three years, one for a term of four years, and two for terms of five years. No more than two commissioners shall be officers or employees of the municipality. Each commissioner shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. Any vacancy occurring in the office of commissioner, from any cause, shall be filled in the same manner as the original appointment, but for the unexpired term.

The municipal governing body may provide by ordinance that not more than two of the commissioners shall be members of the governing body. A commissioner who is a member of the governing body shall serve for a term of one year. That ordinance shall provide for the terms of the other commissioners to be appointed to staggered terms in substantial accord with the provisions of this section.

Any redevelopment agency created pursuant to the "Redevelopment Agencies Law," P.L.1949, c.306 (C.40:55C-1 et seq.) and in existence until the repeal of that law by this act, shall continue notwithstanding that repeal, but shall exercise its powers pursuant to the provisions of this act. The five commissioners appointed by the governing body of the municipality shall continue in office until the terms for which they were appointed expire and their successors are appointed and qualified. The terms of those agency commissioners who were appointed by the mayor or the Commissioner of the Department of Community Affairs shall cease and determine 90 days after the effective date of this act.

b. A certificate of the appointment or reappointment of each commissioner shall be filed with the clerk, and that certificate shall be conclusive evidence of the due and proper appointment of that commissioner. A commissioner shall receive no compensation for his services, but shall be entitled to reimbursement for actual expenses necessarily incurred in the discharge of the duties of commissioner, including travel expenses. The powers of the agency shall be vested in the commissioners thereof in office from time to time. Four commissioners shall constitute a quorum for the purpose of conducting business and exercising powers and all other purposes. Action may be taken by the agency upon the affirmative vote of the majority, but not less than four of the commissioners present, unless in any case the bylaws of the agency shall require a larger number. The agency shall select a chairman and a vice-chairman from among the commissioners, and it shall employ an executive director, who shall be its secretary.

c. No commissioner or employee of an agency shall acquire any interest, direct or indirect, in a redevelopment project or in any property included or planned to be included in a project, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials and services to be furnished or used in connection with a project. If any commissioner or employee of an agency owns or controls an interest, direct or indirect, in any property included or planned to be included in a

project, he shall immediately disclose the same in writing to the agency and the disclosure shall be entered upon the minutes of the agency. Failure so to disclose such an interest shall constitute misconduct in office. A commissioner or employee required by this subsection to make a disclosure shall not participate in any action by the agency affecting the property with respect to which disclosure is required. For inefficiency or neglect of duty or misconduct in office a commissioner may be removed by the municipality by which he was appointed; but a commissioner may be removed only after he has been given a copy of the charges at least 10 days prior to the hearing thereon and has had the opportunity to be heard in person or by counsel. In the event of a removal of a commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk of the municipality.

C.40A:12A-12 Executive director of redevelopment agency.

12. The executive director of a redevelopment agency 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. The executive director holding that position at the time this act becomes effective, possessing the required work experience and holding appropriate certification 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 agency in which he holds that post and eligible for equivalent employment in any other local redevelopment agency in this State. The executive director shall serve at the pleasure of the commissioners of the agency, and may be relieved of his duties only after 120 days' notice. The redevelopment agency may provide that the executive director shall be the appointing authority for all or any portion of the employees of the agency. The executive director shall assign and supervise employees in the performance of their duties. If the municipality which established the redevelopment agency has adopted the provisions of Title 11A of the New Jersey Statutes, the executive director shall be in the unclassified service of civil service, and all other employees

shall be in the classified service of civil service, except as may be otherwise provided by that title. A redevelopment agency may adopt the provisions of Title 11A of the New Jersey Statutes separately from the establishing municipality.

C.40A:12A-13 Submission of applications.

13. All applications for development or redevelopment of a designated redevelopment area or portion of a redevelopment area shall be submitted to the municipal planning board for its review and approval in accordance with the requirements for review and approval of subdivisions and site plans as set forth by ordinance adopted pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

C.40A:12A-14 Conditions for determination of need for rehabilitation.

14. a. A delineated area may be determined to be in need of rehabilitation if the governing body of the municipality determines by resolution that there exist in that area conditions such that (1) a significant portion of structures therein are in a deteriorated or substandard condition, (2) there is a continuing pattern of vacancy, abandonment or underutilization of properties in the area, with a persistent arrearage of property tax payments thereon, and (3) a program of rehabilitation, as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3), may be expected to prevent further deterioration and promote the overall development of the community. Where warranted by consideration of the overall conditions and requirements of the community, a finding of need for rehabilitation may extend to the entire area of a municipality. Prior to adoption of the resolution, the governing body shall submit it to the municipal planning board for its review. Within 45 days of its receipt of the proposed resolution, the municipal planning board shall submit its recommendations regarding the proposed resolution, including any modifications which it may recommend, to the governing body for its consideration. Thereafter, or after the expiration of the 45 days if the municipal planning board does not submit recommendations, the governing body may adopt the resolution, with or without modification.

b. A delineated area shall be deemed to have been determined to be an area in need of rehabilitation in accordance with the provisions of this act if it has heretofore been determined to be an area in need of rehabilitation pursuant to P.L.1975, c.104 (C.54:4-3.72 et seq.), P.L.1977, c.12 (C.54:4-3.95 et seq.) or P.L.1979, c.233 (C.54:4-3.121 et seq.).

C.40A:12A-15 Implementation of redevelopment plan.

15. In accordance with the provisions of a redevelopment plan adopted pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7), a municipality or redevelopment entity may proceed with clearance, replanning, conservation, development, redevelopment and rehabilitation of an area in need of rehabilitation. With respect to a redevelopment project in an area in need of rehabilitation, the municipality or redevelopment entity, upon the adoption of a redevelopment plan for the area, may perform any of the actions set forth in section 8 of P.L.1992, c.79 (C.40A:12A-8), except that with respect to such a project the municipality shall not have the power to take or acquire private property by condemnation in furtherance of a redevelopment plan, unless: a. the area is within an area determined to be in need of redevelopment pursuant to this act; or b. exercise of that power is authorized under any other law of this State.

C.40A:12A-16 Powers of municipality, county, housing authority.

16. a. In order to carry out the housing purposes of this act, a municipality, county, or housing authority may exercise the following powers, in addition to those set forth in section 22 of P.L.1992, c.79 (C.40A:12A-22):

(1) Plan, construct, own, and operate housing projects; maintain, reconstruct, improve, alter, or repair any housing project or any part thereof; and for these purposes, receive and accept from the State or federal government, or any other source, funds or other financial assistance;

(2) Lease or rent any dwelling house, accommodations, lands, buildings, structures or facilities embraced in any housing project; and pursuant to the provisions of this act, establish and revise the rents and charges therefor;

(3) Acquire property pursuant to subsection i. of section 22 of P.L.1992, c.79 (C.40A:12A-22);

(4) Acquire, by condemnation, any land or building which is necessary for the housing project, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.);

(5) Issue bonds in accordance with the provisions of section 29 of P.L.1992, c.79 (C.40A:12A-29);

(6) Cooperate with any other municipality, private, county, State or federal entity to provide funds to the municipality or other governmental entity and to homeowners, tenant associations, nonprofit or private developers to acquire, construct, rehabilitate or operate publicly assisted housing, and to provide

rent subsidies for persons of low and moderate income, including the elderly, pursuant to applicable State or federal programs;

(7) Encourage the use of demand side subsidy programs such as certificates and vouchers for low-income families and promote the use of project based certificates which provide subsidies for units in newly constructed and substantially rehabilitated structures, and of tenant based certificates which subsidize rent in existing units;

(8) Cooperate with any State or federal entity to secure mortgage assistance for any person of low or moderate income;

(9) Provide technical assistance and support to nonprofit organizations and private developers interested in constructing low and moderate income housing;

(10) If it owns and operates public housing units, provide to the tenants public safety services, including protection against drug abuse, and social services, including counseling and financial management, in cooperation with other agencies;

(11)Provide emergency shelters, transitional housing and supporting services to homeless families and individuals.

b. All housing projects, programs and actions undertaken pursuant to this act shall accord with the housing element of the master plan of the municipality within which undertaken, and with any fair share housing plan filed by the municipality with the Council on Affordable Housing, based upon the council's criteria and guidelines, pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), whether or not the municipality has petitioned for substantive certification of the plan.

C.40A:12A-17 Creation of housing authority.

17. a. Except as provided in subsection b. of this section, the governing body of any county or municipality may, by ordinance, or by resolution in the case of a county whose charter does not provide for the adoption of ordinances, create a body corporate and politic to be known as the "Housing Authority of . . . ," inserting the name of the county or municipality. The authority shall constitute an agency and instrumentality of the municipality or county creating it. A housing authority shall be created pursuant to the procedures of the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.). The authority shall consist of seven members, of whom five shall be appointed by the governing body of the county or municipality, as the case may be, one by the mayor or other chief executive officer of the municipality, or in the case of a county by the director of the board of

chosen freeholders or by the chief executive officer of the county if the county's charter provides for such an officer, and one by the Commissioner of Community Affairs. The members shall serve for terms of five years and until their respective successors have been appointed and qualified; except that of the five members first appointed by the governing body one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. All appointments shall be subject to and made in the manner required by the law under which the county or municipality is governed. Vacancies shall be filled in the same manner as the original appointments were made, but for the unexpired term. If a vacancy is not filled by the governing body or chief executive officer within 90 days of the occurrence of the vacancy, the Commissioner of the Department of Community Affairs shall notify the governing body or chief executive officer of his intent to fill the vacancy if it is not filled in 30 days. If the vacancy is not filled within that 30 day period, the commissioner may appoint a member for the unexpired term.

In any county or municipality which has heretofore created a housing authority pursuant to R.S.55:14A-4, the members of the authority who were appointed by the governing body and the chief executive officer of the county or municipality and who are in office upon the effective date of this act shall continue in office until the expiration of the terms for which they are appointed and qualified in accordance with the terms of this act.

b. No municipality which has been included with its consent within the area of operation of a county housing authority shall thereafter create a municipal housing authority. Where there is no housing authority in existence in any municipality of a county, the governing body of that county may create a housing authority, and thereafter no municipality within that county shall create an authority without the consent of the county governing body and the county housing authority.

c. A county may provide such publicly assisted housing programs as it chooses anywhere within the county; but it may provide such programs in municipalities which are within the area of operation of a county or municipal housing authority only after adoption of a resolution of the housing authority consenting thereto.

d. No more than one member of a housing authority may be an officer or employee of the municipality or county by which the authority is created. A certificate of the appointment or reappointment of any member shall be filed with the clerk of the

municipality or the county, as the case may be, and that certificate shall be conclusive evidence of the due and proper appointment of that member. A member of an authority shall receive no compensation for his services, but shall be entitled to reimbursement for actual expenses necessarily incurred in the discharge of the duties of membership, including travel expenses. The powers of the authority shall be vested in the members thereof in office from time to time. Four members shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and all other purposes. Action may be taken by the authority upon the affirmative vote of the majority, but not less than four of the members present, unless in any case the bylaws of the authority shall require a larger number. The authority shall select a chairman and a vice-chairman from among its members, and shall employ an executive director, who shall be its secretary.

e. No member or employee of an authority shall acquire any interest, direct or indirect, in any housing project or in any property included or planned to be included in such a project, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials and services to be furnished or used in connection with any housing project. If any member or employee of an authority owns or controls an interest, direct or indirect, in any property included or planned to be included in a housing project he shall immediately disclose the same in writing to the authority and the disclosure shall be entered upon the minutes of the authority. Failure to disclose such an interest shall constitute misconduct in office. A member or employee required by this subsection to make such a disclosure shall not participate in any action by the authority affecting the property with respect to which such disclosure is required. For inefficiency or neglect of duty or misconduct in office a member of an authority may be removed by the governing body or officer by which he was appointed; but a member may be removed only after he has been given a copy of the charges at least 10 days prior to a hearing thereon and has had the opportunity to be heard in person or by counsel. In the event of a removal of any member of an authority a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk of the county or municipality.

C.40A:12A-18 Executive director of housing authority.

18. 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. The executive director holding that position at the time this act becomes effective, 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.

The executive director shall serve at the pleasure of the members of the authority, and may be relieved of his duties only after 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. If the county or municipality which established the housing authority has adopted the provisions of Title 11A of the New Jersey Statutes, the executive director shall be in the unclassified service of civil service, and all other employees shall be in the classified service of civil service, except as may be otherwise provided by that title. A housing authority may adopt the provisions of Title 11A of the New Jersey Statutes separately from the establishing county or municipality.

C.40A:12A-19 Management, operation of housing projects.

19. a. It is hereby declared to be the policy of this State that each municipality, county, or housing authority providing public housing pursuant to this act shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with providing decent, safe and sanitary dwelling accommodations; and that no municipality, county, or housing authority shall construct or operate any such project for profit or as a source of revenue to the municipality or county. To this end, a municipality, county, or housing authority shall fix the rentals

for dwellings in its projects at no higher rates than it shall find to be necessary in order to project revenues which, together with all other available moneys, revenues, income and receipts of the municipality, county, or housing authority, will be sufficient to:

(1) pay, as the same become due, the principal of and interest upon the bonds of the authority or the bonds of the municipality or county issued pursuant to section 29 or section 37 of P.L.1992, c.79 (C.40A:12A-29 or 40A:12A-37);

(2) meet the cost of, and provide for, maintaining and operating the projects, including the cost of any insurance, and the administrative expenses of the municipality, county or housing authority; and

(3) create during not less than six years immediately succeeding its issuance of any bonds, and thereafter maintain, a reserve sufficient to meet the largest principal and interest payments which will be due on those bonds in any one year thereafter.

b. In the operation or management of housing projects a municipality, county or housing authority shall at all times observe the following duties with respect to rentals and tenant selection:

(1) It may rent or lease the dwelling accommodations therein only to persons of low and moderate income and at rentals within the financial reach of such persons.

(2) It may rent or lease to a tenant dwelling accommodations consisting of a room or rooms of such size, location and dimensions as necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding, in accordance with the standards for use and occupancy of space as set forth in the State Housing Code adopted pursuant to P.L.1971, c.224 (C.2A:42-85 et seq.).

(3) It shall adopt income standards for selecting tenants which are consistent with applicable State or federal law.

c. Notwithstanding any provisions of this section, a municipality, county or housing authority may agree to conditions as to tenant eligibility or preference required by the federal government or State government pursuant to applicable federal or State law in any contract with the municipality, county, or housing authority for financial assistance.

C.40A:12A-20 Rules, regulations concerning admissions to housing project.

20. The municipality, county or housing authority shall establish rules and regulations concerning admissions to any housing project which shall provide priority categories for persons displaced or caused to be displaced by public action or by

redevelopment projects, highway programs or other public works; persons living in housing found to be "substandard" within the meaning of P.L.1966, c.168 (C.2A:42-74 et seq.) or P.L.1971, c.224 (C.2A:42-85 et seq.), or otherwise violative of minimum health and safety standards; persons and families who, by reason of family income, family size or disabilities have special needs; and elderly persons.

C.40A:12A-21 Municipal housing authority may act as redevelopment entity.

21. A municipality may authorize its municipal housing authority to act as a redevelopment entity under this act. An authorization made after the effective date of this act shall be subject to prior review and approval pursuant to the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.). In a municipality where a municipal housing authority has been authorized pursuant to section 4 of P.L.1949, c.300 (C.55:14A-34), repealed by this act, to function as a redevelopment agency, that housing authority shall, upon taking effect of this act, continue to exercise those functions, but shall exercise all powers, duties and functions relative to redevelopment projects in the manner provided for a redevelopment entity under this act. When acting in its capacity as a municipal redevelopment entity, a municipal housing authority shall, in acquiring property and undertaking and financing redevelopment projects, act as an instrumentality of the municipal government as provided for in this act.

C.40A:12A-22 Powers of municipality, county, redevelopment agency, housing authority.

22. A municipality, county, redevelopment agency, or housing authority is authorized to exercise all those public and essential governmental functions necessary or convenient to effectuate the purposes of this act, including the following powers which shall be in addition to those otherwise granted by this act or by other law:

a. To sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary and convenient to the exercise of the powers of the agency or authority; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this act, to carry into effect its powers and purposes.

b. Pursuant to an adopted cash management plan, invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, in property or securities in which governmental units may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be cancelled.

c. Borrow money and receive grants and loans from any source for the financing of a redevelopment project or housing project.

d. Invest in an obligee the right in the event of a default by the agency to foreclose and take possession of the project covered by the mortgage or apply for the appointment of a receiver.

e. Invest in a trustee or trustees or holders of bonds the right to enforce the payment of the bonds or any covenant securing or relating to the bonds, which may include the right, in the event of the default, to take possession and use, operate and manage any project or part thereof, and to collect the rents and revenues arising therefrom and to dispose of the moneys in accordance with the agreement of the authority with the trustee.

f. Provide for the refunding of any of its bonds, by the issuance of such obligations, in such manner and form, and upon such terms and conditions, as it shall deem in the best interests of the public.

g. Consent to the modification of any contract, bond indenture, mortgage or other instrument entered into by it.

h. Pay or compromise any claim arising on, or because of any agreement, bond indenture, mortgage or instrument.

i. Acquire or contract to acquire from any person, firm, or corporation, public or private, by contribution, gift, grant, bequest, devise, purchase, or otherwise, real or personal property or any interest therein, including such property as it may deem necessary or proper, although temporarily not required for such purposes, in a redevelopment area or in any area designated by the governing body as necessary for carrying out the relocation of the residents, industry and commerce displaced from a redevelopment area.

j. Subordinate, waive, sell, assign or release any right, title, claim, lien or demand however acquired, including any equity or right of redemption, foreclosure, sell or assign any mortgage held by it, or any interest in real or personal property; and purchase at any sale, upon such terms and at such prices as it determines to be reasonable, and to take title to the property, real, personal, or mixed, so acquired and similarly to sell, exchange, assign, convey or otherwise dispose of any property.

k. Complete, administer, operate, obtain and pay for insurance on, and maintain, renovate, repair, modernize, lease or otherwise deal with any property.

l. Employ or retain consulting and other attorneys, planners, engineers, architects, managers and financial experts and other employees and agents of a permanent or temporary nature as may be necessary, determine their qualifications, duties and compen-

sation, and delegate to one or more of its agents or employees such powers and duties as it deems proper. For such legal services as may be required, a redevelopment agency or housing authority may call upon the chief law officers of the municipality or county, as the case may be, or may employ its own counsel and legal staff.

m. Arrange or contract with a public agency, to the extent that it is within the scope of that agency's functions, to cause the services customarily provided by such other agency to be rendered for the benefit of the occupants of any redevelopment area or housing project, and have such other agency provide and maintain parks, recreation centers, schools, sewerage, transportation, water and other municipal facilities adjacent to or in connection with a redevelopment area or project.

n. Conduct examinations and investigations, hear testimony and take proof, under oath at public or private hearings of any material matter, compel witnesses and the production of books and papers and issue commissions for the examination of witnesses who are out of State, unable to attend, or excused from attendance; authorize a committee designated by it consisting of one or more members, or counsel, or any officer or employee to conduct the examination or investigation, in which case it may authorize in its name the committee, counsel, officer or employee to administer oaths, take affidavits and issue subpoenas or commissions.

o. Make and enter into all contracts and agreements necessary or incidental to the performance of the duties authorized in this act.

C.40A:12A-23 Agencies, authorities subject to existing laws.

23. Each redevelopment agency and housing authority shall be subject to the provisions of the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), and, except as specifically provided in this act, to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

C.40A:12A-24 Dissolution of redevelopment agency, housing authority.

24. A municipality or county may dissolve its redevelopment agency or housing authority by ordinance, or by resolution in the case of a county whose charter does not provide for the adoption of ordinances, and transfer all the agency's or authority's assets, liabilities and responsibilities to itself in accordance with the provisions of section 20 of the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-20).

C.40A:12A-25 Expenditures of agency, authority.

25. All expenditures by a redevelopment agency or housing authority, including its debt payments, shall be consistent with its

annual budget, which shall be transmitted to the governing body and chief executive officer of the municipality or county which created the redevelopment agency or housing authority.

C.40A:12A-26 Financial reports by redevelopment entity.

26. Each redevelopment entity shall:

a. As part of its annual budget, submit to the municipality an estimate of all income and expenses for each redevelopment project, which shall include all its indebtedness including payments necessary to meet interest and principal payments on bonds issued pursuant to this act.

b. File with the municipality a detailed report of all its transactions, including a statement of all revenues and expenditures, without exception, at monthly, quarterly, or annual intervals as the municipality may prescribe.

C.40A:12A-27 Oversight of governing body over redevelopment agency.

27. a. The governing body of any municipality which has established a redevelopment entity may order the redevelopment agency, or any officer or employee thereof, to do such acts as may be necessary to comply with the provisions of any redevelopment plan approved by the governing body or to refrain from doing any acts in violation thereof, and may require the redevelopment entity to file, at such time and in such manner as the governing body may prescribe, reports and answers to specific questions concerning projects.

b. The governing body of any county or municipality which has established a housing authority may require the authority to file, at such time and in such manner as the governing body may prescribe, reports and answers to specific questions concerning projects.

c. Nothing in this section shall limit the executive powers of the mayor regarding municipal agencies in municipalities governed by a mayor-council plan of government under the "Optional Municipal Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.), or of the county executive in counties governed by a county executive form of government under the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.).

C.40A:12A-28 No ordinance, resolution adopted by initiative, referendum.

28. No ordinance, amendment or revision of an ordinance, or resolution under this act shall be submitted to or adopted by initiative or referendum, notwithstanding any other law to the contrary.

C.40A:12A-29 Issuance of bonds, notes.

29. a. Bonds and notes issued by a redevelopment agency or housing authority pursuant to this act shall be authorized by resolution of the housing authority or redevelopment agency and may be issued in one or more series and shall be sold in any one of the following manners: (1) at public sale at not less than par after advertisement in a newspaper of general circulation in the municipality or county and in a financial paper published in the city of Philadelphia, Pennsylvania, or the city of New York, New York, one week prior to the sale; (2) at private sale without advertisement at not less than par to a municipality, county, the State or federal government; (3) at public sale to any willing buyer at less than par and at private sale to any willing buyer without advertisement at par or less than par, upon application to and prior approval of the Local Finance Board in the Department of Community Affairs.

b. Bonds issued pursuant to this act by a county or municipality shall be authorized by ordinance adopted in the manner prescribed by the "Local Bond Law" (N.J.S.40A:2-1 et seq.) except as provided in section 32 of P.L.1992, c.79 (C.40A:12A-32).

c. Bonds issued to finance redevelopment projects may be secured by the assets and revenues of such projects. A municipality or redevelopment entity financing redevelopment projects through the issuance of bonds may pledge the property and revenues of those projects, or any of them, for repayment of those bonds, and shall pay such rate of interest thereon as the municipal governing body may deem for the best interest of the municipality.

d. Bonds issued to finance housing projects may be secured by the assets and revenues of those housing projects or by contractual agreements with the federal government. A municipality, county, or housing authority financing housing projects through the issuance of bonds may pledge the property and revenues of those projects, or any of them, for the repayment of those bonds, and shall pay such rate of interest thereon as the county or municipal governing body, as the case may be, may deem for the best interest of the county or municipality.

e. Whenever a municipality or county shall, pursuant to this act, issue notes for a period not exceeding five years, the municipality or county may sell the notes at private sale without advertisement at not less than par.

C.40A:12A-30 Power of agency, authority to issue bonds, notes.

30. a. A redevelopment agency or housing authority shall have the power and is hereby authorized to issue, from time to time, its

bonds, bond anticipation notes and other notes and obligations in such principal amounts as in its opinion shall be necessary to provide sufficient funds for achieving any of its corporate purposes, including, but not limited to: the making of mortgage loans, the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, bond anticipation notes and other notes and obligations issued by it whether or not such have become due; the establishment or increase of reserves to secure or to pay such bonds, bond anticipation notes and other notes and obligations or interest thereon; and all costs or expenses incident to and necessary or convenient to carry out its corporate purposes and powers.

b. A redevelopment agency or housing authority may issue such bonds, bond anticipation notes or other notes or obligations as it may determine, including bonds, bond anticipation notes or other notes or obligations as to which the principal and interest are payable: (1) exclusively from the income and revenues of the redevelopment agency or housing authority resulting from projects financed with the proceeds of such bonds, bond anticipation notes or other notes or obligations; (2) exclusively from the income and revenues of the redevelopment agency or housing authority resulting from certain projects, whether or not such projects were financed in whole or in part from the proceeds of such bonds, bond anticipation notes or other notes or obligations; or, (3) from its revenues generally. Any bonds, bond anticipation notes or other notes or obligations may be additionally secured by a pledge of any grant, subsidy or contribution from the United States of America or an agency or instrumentality thereof or the State or any agency, instrumentality or political subdivision thereof, or any person, firm or corporation or a pledge of any income or revenues, funds or moneys of the redevelopment agency or housing authority from any source whatsoever.

c. Whether or not the bonds, bond anticipation notes and other notes and obligations issued pursuant to this act are of such form and character as to be negotiable instruments under the terms of Title 12A, Commercial Transactions, New Jersey Statutes, such bonds, bond anticipation notes and other notes and obligations and any coupon thereof are hereby made negotiable instruments within the meaning of and for all the purposes of Title 12A, subject only to the provisions of the bonds and notes for registration.

d. Bonds, bond anticipation notes and other notes and obligations of a redevelopment agency or housing authority issued under the provisions of this act shall not be in any way a debt or

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

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

C.40A:12A-31 Provisions of bond resolution.

31. Any bond resolution of a redevelopment agency or housing authority providing for or authorizing the issuance of any bonds may contain provisions, and such authority, in order to secure the payment of such bonds and in addition to its other powers, shall have power by provision in such bond resolution to covenant and agree with the several holders of such bonds, as to:

a. The custody, security, use, expenditure or application of the proceeds of the bonds;

b. The construction and completion, or replacement, of any project;

c. The use, regulation, operation, maintenance, insurance or disposition of any project, or restrictions on the exercise of the powers of the authority to dispose, or to limit or regulate the use, of any project;

d. Payment of the principal of or interest on the bonds, or any other obligations, and the sources and methods thereof, the rank or priority of bonds or obligations as to any lien or security, or the acceleration of the maturity of bonds or obligations;

e. The use and disposition of any moneys of the redevelopment agency or housing authority, including project revenues;

f. Pledging, setting aside, depositing or trusteeing all or any part of the revenues or other moneys of the redevelopment agency or housing authority to secure the payment of the principal of or interest on the bonds or any other obligations or the payment of expenses of operation or maintenance of any project, and the powers and duties of any trustee with regard thereto;

g. The setting aside out of the project revenues or other moneys of the redevelopment agency or housing authority of reserves and sinking funds, and the source, custody, security, regulation, application and disposition thereof;

h. Determination or definition of the project revenues or of the expenses of operation and maintenance of a project;

i. The rents, rates, fees, or other charges in connection with, or for the use of services of, or otherwise relating to any project, including any parts thereof theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired, and the fixing, establishment, collection and enforcement of the same, the amount or amounts of project revenues to be produced thereby, and the disposition and application of the amounts charged or collected;

j. The assumption or payment or discharge of any indebtedness, liens or other claims relating to any part of any project or any obligations having or which may have a lien on any part of the project revenues:

k. Limitations on the issuance of additional bonds or any other obligations or on the incurrence of indebtedness of the redevelopment agency or housing authority;

l. Limitations on the powers of the redevelopment agency or housing authority to construct, acquire or operate any structures, facilities or properties which may compete or tend to compete with any of its projects;

m. Vesting in a trustee or trustees within or without the State such property, rights, powers and duties in trust as the redevelopment agency or housing authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the holders of bonds pursuant to this act, and limit-

ing or abrogating the right of such holders to appoint a trustee pursuant to this act or limiting the rights, duties and powers of such trustee;

n. Payment of the costs or expenses incident to the enforcement of the bonds or of the provisions of the bond resolution or of any covenant or agreement of the redevelopment agency or housing authority with the holders of bonds;

o. The procedure, if any, by which the terms of any covenant or agreement with, or duty to, the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given or evidenced; or

p. Any other matter or course of conduct which, by recital in the bond resolution, is declared to further secure the payment of the principal of or interest on bonds and to be part of any covenant or agreement with the holders of bonds.

All provisions of the bond resolution and all covenants and agreements shall constitute valid and legally binding contracts between the redevelopment agency or housing authority and the several holders of the bonds, regardless of the time of issuance of such bonds, and shall be enforceable by any such holder or holders by appropriate action or proceeding in any court of competent jurisdiction, including a proceeding in lieu of prerogative writ.

C.40A:12A-32 Appointment of trustee for bondholders.

32. a. If the bond resolution of a redevelopment agency or housing authority authorizing or providing for the issuance of a series of its bonds shall provide in substance that the holders of the bonds of such series shall be entitled to the benefits of this section, then if there shall be a default in the payment of principal of or interest on any bonds of such series after the same shall become due, whether at maturity or upon call for redemption, and default shall continue for a period of 30 days, or if the redevelopment agency or housing authority shall fail or refuse to comply with any of the provisions of this act, or shall fail or refuse to carry out and perform the terms of any contract with the holders of the bonds, and failure or refusal shall continue for a period of 30 days after written notice to the redevelopment agency or housing authority of its existence and nature, the holders of 25% in aggregate principal amount of the bonds of such series then outstanding by instrument or instruments filed in the office of the Secretary of State and proved or acknowledged in the same manner as a deed to be

recorded, may appoint a trustee to represent the holders of the bonds of such series for the purposes provided in this section.

b. The trustee may, and upon written request of the holders of 25% in aggregate principal amount of the bonds of such series then outstanding shall, in his or its own name:

(1) By any action or proceeding, enforce all rights of the holders of such bonds, including the right to require the redevelopment agency or housing authority to charge and collect charges adequate to carry out any contract as to, or pledge of, project revenues, and to require the authority to carry out and perform the terms of any contract with the holders of such bonds or its duties under this act;

(2) Bring an action upon all or any part of such bonds or interest coupons or claims appurtenant thereto;

(3) By action, require the redevelopment agency or housing authority to account as if it were the trustee of an express trust for the holders of such bonds;

(4) By action, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; or

(5) Declare all such bonds due and payable, whether or not in advance of maturity, upon 30 days' prior notice in writing to the redevelopment agency or housing authority and, if all defaults shall be made good, then with the consent of the holders of 25% of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

c. The trustee shall, in addition to the foregoing, possess all of the powers necessary for the exercise of the functions specifically set forth herein or incident to the general representation of the holders of bonds of such series in the enforcement and protection of their rights.

d. In any action or proceeding by the trustee, reasonable fees, counsel fees and expenses of the trustee and of the receiver, if any, appointed pursuant to this act, shall, if allowed by the court, constitute taxable costs and disbursements, and all costs and disbursements, allowed by the court, shall be a first charge upon any charges and revenues of the redevelopment agency or housing authority pledged for the payment or security of bonds of such series.

C.40A:12A-33 Appointment of receiver.

33. If the bond resolution of a redevelopment agency or housing authority authorizing or providing for the issuance of a series of its bonds shall provide in substance that the holders of the bonds of

such series shall be entitled to the benefits of section 32 of P.L.1992, c.79 (C.40A:12A-32) and shall further provide in substance that a trustee appointed pursuant to that section or having the powers of such a trustee shall have the powers provided by this section, then the trustee, whether or not all of the bonds of such series shall have been declared due and payable, shall be entitled to the appointment of a receiver of the project or projects of the redevelopment agency or housing authority, and such receiver may enter upon and take possession of the project or projects and, subject to any pledge or contract with the holders of bonds of the redevelopment agency or housing authority, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance or reconstruction of the project or projects and proceed in a commercially feasible manner with such acquisition, construction, operation, maintenance or reconstruction which the redevelopment agency or housing authority is under any obligation to do, and operate, maintain and reconstruct the project or projects and fix, charge, collect, enforce and receive the charges and all revenues thereafter arising subject to any pledge thereof or contract with the holders of bonds relating thereto and perform the public duties and carry out the contracts and obligations of the redevelopment agency or housing authority in the same manner as the agency or authority itself might do and under the direction of the court.

C.40A:12A-34 Property exempt from levy, sale.

34. All property of a redevelopment agency or housing authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same, nor shall any judgment against a redevelopment agency or housing authority be a charge or lien upon its property; provided, that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any available remedy for the enforcement of any pledge or lien given by a redevelopment agency or housing authority.

C.40A:12A-35 Investment in bonds.

35. Notwithstanding any restriction contained in any other law, the State and all public officers, municipalities, counties, political subdivisions and public bodies, and agencies thereof, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all

insurance companies, insurance associations and other persons carrying on an insurance business and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, money or other funds belonging to them or within their control in any bonds issued pursuant to this act and such bonds shall be authorized security for any and all public deposits.

C.40A:12A-36 Projects, properties declared public property.

36. All projects and all other properties of a redevelopment agency or housing authority are hereby declared to be public property of a political subdivision of the State and devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any subdivision thereof. All bonds issued pursuant to this act are declared to be issued by a political subdivision of this State and for an essential public and governmental purpose and to be a public instrumentality and such bonds, and the interest thereon and the income therefrom, and all charges, funds, revenues and other moneys pledged or available to pay or secure the payment of such bonds, or interest thereon, shall at all times be exempt from taxation except for transfer, inheritance and estate taxes and taxes on transfers by or in contemplation of death.

C.40A:12A-37 Municipality, county may incur indebtedness to aid housing authority, redevelopment entity.

37. a. Any municipality or county may incur indebtedness, borrow, appropriate and expend money and issue its negotiable bonds or other obligations for the purpose of aiding any housing authority with respect to any housing project which is located within its jurisdiction and as to which the State or federal government shall have contracted to furnish financial assistance.

b. Any municipality or county may incur indebtedness, borrow, appropriate and expend money and issue its negotiable bonds or other obligations for the purpose of aiding any redevelopment entity with respect to any redevelopment project which is located within its jurisdiction.

c. The bonds or other obligations of any municipality or county issued pursuant to this section shall be authorized by ordinance adopted pursuant to the "Local Bond Law" (N.J.S.40A:2-1 et seq.), except that: (1) the ordinance may be adopted notwithstanding the provisions of N.J.S.40A:2-6 and, subject to the provisions of subsection e. of this section, bonds or other obligations may be authorized and issued notwithstanding any debt or

other limit prescribed by that law; (2) the ordinance may be adopted notwithstanding the provisions of N.J.S.40A:2-11 and no down payment will be required; (3) the bonds or other obligations shall mature in annual installments commencing not more than two and ending not more than 40 years from the date of issuance; and (4) the ordinance need set forth only a brief and general description of the location and designation of the housing or redevelopment project with respect to which the bonds or other obligations are authorized, the amount of the appropriation made thereby, the maximum amount of bonds or other obligations to be issued pursuant thereto, and the rate or maximum rate of interest the bonds or obligations shall bear. The bonds or other obligations may be subject to redemption prior to maturity, with or without premium, at such times and on such terms and conditions as may be provided by resolution of the governing body adopted prior to their issuance, and all matters relating to the bonds or obligations and those matters required to be stated in the ordinance may be performed or determined by resolution or resolutions of the governing body adopted prior to their issuance.

d. Any bonds or other obligations, issued or authorized pursuant to subsection b. of this section by a municipality or county for the purpose of providing cash to meet cash grant-in-aid requirements of a redevelopment entity or of a municipality exercising directly the powers conferred by this act with respect to a redevelopment project located within that municipality, and as to which the federal government shall have contracted to furnish financial assistance, shall be deductible from the gross debt of the municipality or county on any debt statement filed in accordance with the "Local Bond Law" (N.J.S.40A:2-1 et seq.). Any bonds or other obligations issued or authorized pursuant to subsection b. of this section by any municipality for the purpose of providing funds to enable any housing authority, redevelopment entity or municipality exercising directly the powers conferred by this act to extend credit or make loans to redevelopers pursuant to section 8 of P.L.1992, c.79 (C.40A:12A-8) shall be deductible from the gross debt of the municipality for a period from the date of adoption of the ordinance until one year after the completion of construction or rehabilitation of the project or until the end of the fifth fiscal year commencing subsequent to the date of adoption of the ordinance, whichever period is shorter. The municipality shall file with the Local Finance Board a certified copy of the ordinance as introduced, and a request that the board determine by resolution

on the basis of a project report whether the project will generate revenues annually for the municipality from rental payments, loan repayments, real property taxes, including payments in lieu of taxes, income from the investment or proceeds of obligations authorized by the ordinance and other sources, direct or indirect, including like revenues generated from related projects, that the Local Finance Board finds justifiable in its discretion, in an amount equal to or exceeding the annual debt service requirement for the obligations for that fiscal year, or in the subsequent fiscal year if the municipality is not required to make payments of principal of or interest on obligations issued for that purpose in a particular fiscal year. If the board determines affirmatively, it shall endorse its approval on the certified copy of the ordinance. If, within 60 days of the request and filing, the board determines negatively as to the matters described above, it shall disapprove the ordinance, endorse that disapproval on the certified copy and deliver to the municipality a statement of its reasons therefor.

e. If it appears from the supplemental debt statement filed pursuant to N.J.S.40A:2-10 with respect to an ordinance adopted pursuant to this act, which relates to a housing project, or a redevelopment project the bonds or other obligations for which are not deductible from the gross debt pursuant to subsection d. of this section, that the percentage of net debt as stated therein exceeds the limit prescribed by N.J.S.40A:2-6, the ordinance shall not take effect unless there shall be endorsed upon a certified copy thereof, as adopted, the approval of the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs. A certified copy of that ordinance shall, upon introduction, be filed with the Local Finance Board together with such statements and information with respect thereto and regarding the financial condition of the municipality as the board may prescribe. The board shall cause its approval to be endorsed upon the certified copy if it shall be satisfied, and shall record upon its minutes its estimates that: (1) the amounts to be expended by the municipality or county for such project are not unreasonable or exorbitant; (2) issuance of the bonds or obligations will not materially impair the credit of the municipality or county or substantially reduce its ability during the ensuing 10 years to pay punctually the principal and interest of its debts and supply essential public improvements and services; and, (3) taking into consideration trends in population and in values and uses of the property and in needs for essential public improvements, the

percentage of net debt of the municipality or county, computed as provided in the "Local Bond Law" (N.J.S.40A:2-1 et seq.), will at some date within 10 years be either less than the debt limit prescribed by that law or less than the percentage appearing from the supplemental debt statement. If the Local Finance Board within 60 days after the filing of the certified copy shall not be satisfied as to the matters described above, it shall disapprove the ordinance, endorse that disapproval on the certified copy and deliver to the municipality or county a statement of its reasons therefor.

f. Any municipality or county may issue its negotiable notes, at public or private sale, in anticipation of the issuance of bonds authorized by it pursuant to this section after the ordinance has taken effect and may, from time to time, renew those notes in accordance with the provisions of the "Local Bond Law" (N.J.S.40:2-1 et seq.).

g. All bonds and notes issued pursuant to this section shall be direct obligations of the municipality or county issuing them and, unless payment is otherwise made or provided for, a tax sufficient in an amount to pay the principal and interest on such bonds and notes shall be levied and collected by the municipality or county in the year in which the same shall become due and payable. The bonds and notes may contain a recital that they are issued pursuant to this act in the manner or mode of procedure prescribed by law, and those recitals shall be conclusive evidence of their validity and of the regularity of their issuance.

h. The powers conferred by this section shall be in addition to the powers conferred by any other law, and bonds or other obligations may be issued hereunder for the purposes herein provided, notwithstanding that other law may provide for the issuance of bonds or obligations for like purposes.

i. The Local Finance Board shall, by regulation, provide for the budgetary treatment of moneys borrowed by a county or municipality on behalf of a redevelopment entity or housing authority, stating those provisions of chapter 4 of Title 40A of the New Jersey Statutes which are or are not to apply.

C.40A:12A-38 Cooperation with other public body.

38. Any municipality or county may cooperate with any other public body, as authorized in the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.), in the planning, undertaking and carrying out of redevelopment or housing projects.

C.40A:12A-39 Powers of public body in aiding, cooperating with projects.

39. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing or redevelopment projects located within the area in which it is authorized to act, any public body may, upon such terms, with or without consideration, as it may determine:

a. Dedicate, sell, convey or lease any of its property to a municipality or county, housing authority, redevelopment entity or the federal government;

b. Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing or redevelopment projects;

c. Furnish, dedicate, close, pave, install, grade, plan or replan streets, roads, roadways, alleys, sidewalks, or other places which it is otherwise empowered to undertake;

d. Plan or replan, zone or rezone any land within the jurisdiction of that public body, make exceptions from development regulations and ordinances, and change its map;

e. Enter into agreements, which may extend over any period, notwithstanding any provision or rule of law to the contrary, with a housing authority or redevelopment entity or the federal government respecting action to be taken by such public body pursuant to any of the powers granted by this act. If at any time title to, or possession of, any project is held by any public body or governmental agency authorized by law to engage in the development or administration of public housing or redevelopment projects, including the federal government, the provisions of the agreements shall inure to the benefit of and may be enforced by that public body or governmental agency;

f. Do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of housing or redevelopment projects;

g. Cause services to be furnished to a housing authority or redevelopment entity of the character which the public body is otherwise empowered to furnish;

h. Enter into agreements with a housing authority or redevelopment entity respecting the exercise by such public body of its powers, relating to the repair, elimination or closing of unsafe, insanitary, or unfit dwellings;

i. Purchase or legally invest in any of the bonds of a housing authority or redevelopment entity and exercise all of the rights of any holder of such bonds;

j. Incur the entire expense of any public improvements made by the public body in exercising the powers herein granted.

k. Grant, sell, convey or lease any of its property, including real property already devoted to a public use, whether held in a proprietary or governmental capacity, to a housing authority or redevelopment entity; provided, that the public body making the grant or lease determines that the premises are no longer required for the public purposes to which the property is devoted, and that it is in the public interest so to grant, sell, convey, or lease the property.

Notwithstanding any other law to the contrary, any grant, sale, conveyance, lease or agreement provided for in this section may be made by a public body without appraisal, public notice, advertisement or bidding.

C.40A:12A-40 Payment in lieu of taxes.

40. In connection with any housing project located wholly or partly within the area in which it is authorized to act, a public body may agree with a housing authority, redevelopment agency, redevelopment entity or the federal government that a certain sum, in no event to exceed the amount equal to 10% of the amount received by that authority, agency, entity or government in the form of shelter rents, or that no sum, shall be paid by that authority, agency, entity or government in lieu of taxes for any year or period of years.

C.40A:12A-41 Donations, capital grants.

41. Any municipality or county located in whole or in part within the area of operation of a housing authority or a redevelopment entity shall have the power from time to time to lend or donate money or make capital grants or periodic subsidies to the authority or entity, or to agree to take such action. The housing authority or redevelopment entity, when it has the money available therefor, shall make reimbursements for all loans made to it.

C.40A:12A-42 Creation of advisory council.

42. A municipality or county may create an advisory council to advise it regarding housing or redevelopment matters.

C.40A:12A-43 Submission of annual report.

43. Any municipality, county, redevelopment entity or housing authority utilizing the powers authorized herein shall submit an annual report to the Commissioner of Community Affairs indicating the name, location and size of all projects under its management.

C.40A:12A-44 Duties, authority of commissioner.

44. The Commissioner of Community Affairs shall be the chief advocate of the State in working with the federal Department of Housing and Urban Development to promote the redevelopment and housing purposes of this act.

The Commissioner of Community Affairs is authorized to hold an annual Redevelopment and Housing Congress to review current developments in redevelopment and housing occurring throughout the State.

C.40A:12A-45 Standards for course of study for executive directors.

45. The Commissioner of Community Affairs shall prescribe and enforce standards for the curriculum and administration of a course of study as he deems appropriate, the object of which shall be to assist members and executive directors of local housing authorities and municipal redevelopment agencies to acquire the knowledge and skills necessary to oversee and administer the operations of such authorities or agencies in accordance with current law and in the best interests of the citizens served by such authorities. The commissioner shall adopt the standards by administrative rule, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

The course shall consist of instruction in the principles of housing and redevelopment, which may include, but not be limited to, construction management and code compliance, financial management and public administration, and such other topics as the commissioner may deem appropriate. The commissioner shall, to the greatest extent possible, cooperate with organizations of housing authority representatives and redevelopment agency representatives, and shall consult with Rutgers, The State University, and other educational institutions in establishing the standards for the curriculum and administration of the course of study, as provided above.

C.40A:12A-46 Completion of course of study by incumbent members, executive directors.

46. a. Any person serving as a member of a housing authority or a redevelopment agency on or after the effective date of the

rules adopted pursuant to section 45 of P.L.1992, c.79 (C.40A:12A-45) shall satisfactorily complete the course of study prescribed by the commissioner within one year following the date of appointment or the effective date of the rules, whichever is later, or shall be deemed to have resigned his position effective at the end of that period of time.

Notwithstanding the provisions of this section, a person serving as a member of a housing authority or redevelopment agency on the effective date of the rules adopted pursuant to section 45 of this act may continue to serve to the end of his appointed term even if the remaining period in that term exceeds one year and the member does not satisfactorily complete the prescribed course of study within that time. However, such a member shall not be eligible for reappointment to membership on the housing authority or redevelopment agency.

b. Any person serving as the executive director of a housing authority or redevelopment agency on or after the effective date of the rules adopted pursuant to section 45 of P.L.1992, c.79 (C.40A:12A-45) shall satisfactorily complete the course of study prescribed by the commissioner within two years after the effective date of the rules or the effective date of his appointment, whichever is later, or shall be deemed to have resigned his position effective at the end of that period of time.

C.40A:12A-47 Completion by executive directors of course of study.

47. Commencing one year after the effective date of P.L.1992, c.79 (C.40A:12A-1 et al.), a person appointed as executive director of a housing authority or redevelopment agency shall satisfactorily complete the course of study prescribed by the commissioner within two years of the date of appointment, and at least one half of the requisite courses shall be satisfactorily completed within one year of appointment. A person who fails to meet these requirements shall be deemed to have resigned the position effective at the end of the first year or second year of appointment, as appropriate.

C.40A:12A-48 Waiving of course requirements.

48. The commissioner may waive the course requirements set forth in sections 46 and 47 of P.L.1992, c.79 (C.40A:12A-46 and 40A:12A-47) for any person whom the commissioner determines to be qualified to serve as a member or executive director of a housing authority or redevelopment agency by reason of adequate and equivalent training or professional experience, or a combina-

tion thereof. The commissioner may extend credit toward completion of the course requirements for equivalent or nearly equivalent courses completed by an individual under the sponsorship of a professional organization.

C.40A:12A-49 Rules, regulations.

49. The Commissioner of Community Affairs shall promulgate rules and regulations to effectuate the provisions of this act. The Local Finance Board shall adopt rules and regulations to effectuate the fiscal and financial controls set forth in the act.

50. Section 76 of P.L.1975, c.291 (C.40:55D-89) is amended to read as follows:

C.40:55D-89 Periodic examination.

76. Periodic examination. The governing body shall, at least every six years, provide for a general reexamination of its master plan and development regulations by the planning board, which shall prepare and adopt by resolution a report on the findings of such reexamination, a copy of which report and resolution shall be sent to the county planning board and the municipal clerk of each adjoining municipality. The first such reexamination shall have been completed by August 1, 1982. The next reexamination shall be completed by August 1, 1988. Thereafter, a reexamination shall be completed at least once every six years from the previous reexamination.

The reexamination report shall state:

a. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.

b. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.

c. The extent to which there have been significant changes in the assumptions, policies, and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition, and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.

d. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.

e. The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.) into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.

51. Section 13 of P.L.1971, c.199 (C.40A:12-13) is amended to read as follows:

C.40A:12-13 Sales of real property, capital improvements or personal property; exceptions; procedure.

13. Sales of real property, capital improvements or personal property; exceptions; procedure. Any county or municipality may sell any real property, capital improvement or personal property, or interests therein, not needed for public use, as set forth in the resolution or ordinance authorizing the sale, other than county or municipal lands, real property otherwise dedicated or restricted pursuant to law, and, except as otherwise provided by law, all such sales shall be made by one of the following methods:

(a) By open public sale at auction to the highest bidder after advertisement thereof in a newspaper circulating in the municipality or municipalities in which the lands are situated, by two insertions at least once a week during two consecutive weeks, the last publication to be not earlier than seven days prior to such sale. In the case of public sales, the governing body may by resolution fix a minimum price or prices, with or without the reservation of the right to reject all bids where the highest bid is not accepted. Notice of such reservation shall be included in the advertisement of the sale and public notice thereof shall be given at the time of sale. Such resolution may provide, without fixing a minimum price, that upon the completion of the bidding, the highest bid may be accepted or all the bids may be rejected. The invitation to bid may also impose restrictions on the use to be made of such real property, capital improvement or personal property, and any conditions of sale as to buildings or structures, or as to the type, size, or other specifications of buildings or structures to be constructed thereon, or as to demolition, repair, or reconstruction of buildings or structures, and the time within which such conditions shall be operative, or any other conditions of sale, in like manner and to the same extent as by any other ven-

dor. Such conditions shall be included in the advertisement, as well as the nature of the interest retained by the county or municipality. Such restrictions or conditions shall be related to a lawful public purpose and encourage and promote fair and competitive bidding of the county or municipality and shall not, in the case of a municipality, be inconsistent with or impose a special or higher standard than any zoning ordinance or building, plumbing, electrical, or similar code or ordinance then in effect in the municipality.

In any case in which a county or municipality intends to retain an estate or interest in any real property, capital improvement or personal property, in the nature of an easement, contingent or reversionary, the invitation to bid and the advertisement required herein shall require each bidder to submit one bid under each Option A and Option B below.

(1) Option A shall be for the real property, capital improvement or personal property subject to the conditions or restrictions imposed, or interest or estate retained, which the county or municipality proposes to retain or impose.

(2) Option B shall be for the real property, capital improvement or personal property to be sold free of all such restrictions, conditions, interests or estates on the part of the county or municipality.

The county or the municipality may elect or reject either or both options and the highest bid for each. Such acceptance or rejection shall be made not later than at the second regular meeting of the governing body following the sale, and, if the governing body shall not so accept such highest bid, or reject all bids, said bids shall be deemed to have been rejected. Any such sale may be adjourned at the time advertised for not more than one week without readvertising.

(b) At private sale, when authorized by resolution, in the case of a county, or by ordinance, in the case of a municipality, in the following cases:

(1) A sale to any political subdivision, agency, department, commission, board or body corporate and politic of the State of New Jersey or to an interstate agency or body of which the State of New Jersey is a member or to the United States of America or any department or agency thereof.

(2) A sale to a person submitting a bid pursuant to subsection (a) of this section, where all bids have been rejected, provided that the terms and price agreed to shall in no event be less than the highest bid rejected, and provided further that the terms and conditions of sale shall remain identical.

(3) A sale by any county or municipality, when it has or shall have conveyed its right, title and interest in any real property, capital improvement or personal property not needed for public use, and it was assumed and intended that there should be conveyed a good and sufficient title in fee simple to said real property, capital improvement or personal property, free of all encumbrances and the full consideration has been paid therefor, and it shall thereafter appear that the title conveyed was insufficient or that said county or municipality at the time of said conveyance was not the owner of some estate or interest in said real property, capital improvement or personal property or of some encumbrances thereon, and the county or municipality shall thereafter acquire a good and sufficient title in fee simple, free of all encumbrances of said real property, capital improvement or personal property or shall acquire such outstanding estate or interest therein or outstanding encumbrance thereon and said county or municipality, by resolution of the governing body and without the payment of any additional consideration, has deemed to convey or otherwise transfer to said purchaser, his heirs or assigns, such after-acquired title, or estate or interest in, or encumbrance upon, such real property, capital improvement or personal property to perfect the title or interest previously conveyed.

(4) A sale of an easement upon any real property previously conveyed by any county or municipality may be made when the governing body of any county, by resolution, or any municipality, by ordinance, has elected to release the public rights in the nature of easements, in, on, over or under any real property within the county or the municipality, as the case may be, upon such terms as shall be agreed upon with the owner of such lands, if the use of such rights is no longer desirable, necessary or required for public purposes.

(5) A sale to the owner of the real property contiguous to the real property being sold; provided that the property being sold is less than the minimum size required for development under the municipal zoning ordinance and is without any capital improvement thereon; except that when there is more than one owner with real property contiguous thereto, said property shall be sold to the highest bidder from among all such owners. Any such sale shall be for not less than the fair market value of said real property.

In the case of any sale of real property hereafter made pursuant to subsection (b) of this section, in no event shall the price agreed upon with the owner be less than the difference between the highest bid accepted for the real property subject to easements (Option A) and the highest bid rejected for the real property not

subject to easements (Option B). After the adoption of the resolution or ordinance, and compliance by the owner of said real property with the terms thereof, said real property shall be free, and entirely discharged of and from such rights of the public and of the county or municipality, as the case may be, but no such release shall affect the right of lawful occupancy or use of any such real property by any municipal or private utility to occupy or use any such real property lawfully occupied or used by it.

A list of the property so authorized to be sold, pursuant to subsection (b) of this section, together with the minimum prices, respectively, as determined by the governing body, shall be included in the resolution or ordinance authorizing the sale, and said list shall be posted on the bulletin board or other conspicuous space in the building which the governing body usually holds its regular meetings, and advertisement thereof made in a newspaper circulating in the municipality or municipalities in which the real property, capital improvement or personal property is situated, within five days following enactment of said resolution or ordinance. Offers for any or all properties so listed may thereafter be made to the governing body or its designee for a period of 20 days following the advertisement herein required, at not less than said minimum prices, by any prospective purchaser, real estate broker, or other authorized representative. In any such case, the governing body may reconsider its resolution or ordinance, not later than 30 days after its enactment, and advertise the real property, capital improvement, or personal property in question for public sale pursuant to subsection (a) of this section.

Any county or municipality selling any real property, capital improvement or personal property pursuant to subsection (b) of this section shall file with the Director of the Division of Local Government Services in the Department of Community Affairs, sworn affidavits verifying the publication of advertisements as required by this subsection.

(c) By private sale of a municipality in the following case: A sale to a private developer by a municipality, when acting in accordance with the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.).

All sales, either public or private, may be made for cash or upon credit. A deposit not exceeding 10% of the minimum price or value of the property to be sold may be required of all bidders. When made upon credit, the county or municipality may accept a purchase-money mortgage, upon terms and conditions which shall

be fixed by the resolution of the governing body; provided, however, that such mortgage shall be fully payable within five years from the date of the sale and shall bear interest at a rate equal to that authorized under Title 31 of the Revised Statutes, as amended and supplemented, and the regulations issued pursuant thereto, or the rate last paid by the county or municipality upon any issue of notes pursuant to the "Local Bond Law" (N.J.S.40A:2-1 et seq.), whichever is higher. The governing body may, by resolution, fix the time for closing of title and payment of the consideration.

In all sales made pursuant to this section, the governing body of any county or municipality may provide for the payment of a commission to any real estate broker, or authorized representative other than the purchaser actually consummating such sale; provided, however, that no commission shall be paid unless notice of the governing body's intention to pay such a commission shall have been included in the advertisement of sale and the recipient thereof shall have filed an affidavit with the governing body stating that said recipient is not the purchaser. Said commissions shall not exceed, in the aggregate, 5% of the sale price, and be paid, where there has been a public sale, only in the event that the sum of the commission and the highest bid price does not exceed the next highest bid price (exclusive of any real estate broker's commission). As used in this section, "purchaser" shall mean and include any person, corporation, company, association, society, firm, partnership, or other business entity owning or controlling, directly or indirectly, more than 10% of the purchasing entity.

52. Section 3 of P.L.1983, c.313 (C.40A:5A-3) is amended to read as follows:

C.40A:5A-3 Definitions.

3. As used in this act:

a. "Authority" means a body, public and corporate, created by one or more municipalities or counties pursuant to any law authorizing that creation, which law provides that the public body so created has at least the following powers:

(1) To adopt and use a corporate seal;

(2) To sue and be sued;

(3) To acquire and hold real or personal property for its purposes; and

(4) To provide for and secure the payment of its bonds or other obligations, or to provide for the assessment of a tax on real prop-

erty within its district, or to impose charges for the use of its facilities or any combination thereof.

b. "Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

c. "Service contract" means an agreement of a local unit or units intended to provide security for an issue of obligations of an authority, including, but not limited to, a contract providing for payments by a local unit or units with respect to a project, facility, or public improvement of an authority or payments for debt service therefor.

d. "Local Finance Board" means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs.

e. "Local unit or units" means a county or municipality which created or joined in the creation of an authority, or which proposes to create or join in the creation thereof, or which proposes to enter into a service contract with an authority.

f. "Project financing" means the financing by an authority of a public facility for the benefit of the inhabitants of a local unit or units and for which the financing costs will be paid, directly or indirectly, by those inhabitants and includes payment for the design and plan for the public facility.

g. "Bond resolution" means a bond resolution of an authority, or a trust indenture to be executed by an authority, or other similar proceeding or document.

53. Section 2 of P.L.1991, c.431 (C.40A:20-2) is amended to read as follows:

C.40A:20-2 Findings, declarations.

2. The Legislature finds that in the past a number of laws have been enacted to provide for the clearance, replanning, development, and redevelopment of blighted areas pursuant to Article VIII, Section III, paragraph 1 of the New Jersey Constitution. These laws had as their public purpose the restoration of deteriorated or neglected properties to a use resulting in the elimination of the blighted condition, and sought to encourage private capital and participation by private enterprise to contribute toward this purpose through the use of special financial arrangements, including the granting of property tax exemptions.

The Legislature finds that these laws, separately enacted, contain redundant and unnecessary provisions, or provisions which have outlived their usefulness, and that it is necessary to revise, consolidate

and clarify the law in this area in order to preserve and improve the usefulness of the law in promoting the original public purpose.

The Legislature declares that the provisions of this act are one means of accomplishing the redevelopment and rehabilitation purposes of the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.) through the use of private entities and financial arrangements pertaining thereto, and that this act should be construed in conjunction with that act.

54. Section 3 of P.L.1991, c.431 (C.40A:20-3) is amended to read as follows:

C.40A:20-3 Definitions.

3. As used in this act:

a. "Gross revenue" means annual gross revenue or gross shelter rent or annual gross rents, as appropriate, and other income, for each urban renewal entity designated pursuant to this act. The financial agreement shall establish the method of computing gross revenue for the entity, and the method of determining insurance, operating and maintenance expenses paid by a tenant which are ordinarily paid by a landlord, which shall be included in the gross revenue.

b. "Limited-dividend entity" means an urban renewal entity incorporated pursuant to Title 14A of the New Jersey Statutes, or established pursuant to Title 42 of the Revised Statutes, for which the profits and the entity are limited as follows. The allowable net profits of the entity shall be determined by applying the allowable profit rate to each total project unit cost, if the project is undertaken in units, or the total project cost, if the project is not undertaken in units, for the period commencing on the date on which the construction of the unit or project is completed, and terminating at the close of the fiscal year of the entity preceding the date on which the computation is made, where:

"Allowable profit rate" means the percentage per annum arrived at by adding 1 1/4% to the annual interest percentage rate payable on the entity's initial permanent mortgage financing. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge, if payable on a per annum basis, shall be considered as interest for this purpose. If there is no permanent mortgage financing the allowable profit rate shall be arrived at by adding 1 1/4% per annum to the interest rate per annum which the municipality determines to

be the prevailing rate on mortgage financing on comparable improvements in the county.

c. "Net profit" means the gross revenues of the urban renewal entity less all operating and non-operating expenses of the entity, all determined in accordance with generally accepted accounting principles, but:

(1) there shall be included in expenses: (a) all annual service charges paid pursuant to section 12 of P.L.1991, c.431 (C.40A:20-12); (b) all payments to the municipality of excess profits pursuant to section 15 or 16 of P.L.1991, c.431 (C.40A:20-15 or 40A:20-16); (c) an annual amount sufficient to amortize the total project cost over the life of the improvements, as set forth in the financial agreement, which shall not be less than the terms of the financial agreement; and (d) all reasonable annual operating expenses of the urban renewal entity, including the cost of all management fees, brokerage commissions, insurance premiums, all taxes or service charges paid, legal, accounting, or other professional service fees, utilities, building maintenance costs, building and office supplies, and payments into repair or maintenance reserve accounts;

(2) there shall not be included in expenses either depreciation or obsolescence, interest on debt, income taxes, or salaries, bonuses or other compensation paid, directly or indirectly to directors, officers and stockholders of the entity, or officers, partners or other persons holding any proprietary ownership interest in the entity.

The urban renewal entity shall provide to the municipality an annual audited statement which clearly identifies the calculation of net profit for the urban renewal entity during the previous year. The annual audited statement shall be prepared by a certified public accountant and shall be submitted to the municipality within 90 days of the close of the fiscal year.

d. "Nonprofit entity" means an urban renewal entity incorporated pursuant to Title 15A of the New Jersey Statutes for which no part of its net profits inures to the benefit of its members.

e. "Project" means any work or undertaking pursuant to a redevelopment plan adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), which has as its purpose the redevelopment of all or any part of a redevelopment area including any industrial, commercial, residential or other use, and may include any buildings, land, including demolition, clearance or removal of buildings from land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such

as, but not limited to, streets, sewers, utilities, parks, site preparation, landscaping, and administrative, community, health, recreational, educational and welfare facilities.

f. "Redevelopment area" means an area determined to be in need of redevelopment and for which a redevelopment plan has been adopted by a municipality pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.).

g. "Urban renewal entity" means a limited-dividend entity or a nonprofit entity which enters into a financial agreement pursuant to this act with a municipality to undertake a project pursuant to a redevelopment plan for the redevelopment of all or any part of a redevelopment area, or a project necessary, useful, or convenient for the relocation of residents displaced or to be displaced by the redevelopment of all or any part of one or more redevelopment areas, or a low and moderate income housing project.

h. "Total project unit cost" or "total project cost" means the aggregate of the following items as related to a unit of a project, if the project is undertaken in units, or to the total project, if the project is not undertaken in units, all of which as limited by, and approved as part of the financial agreement: (1) cost of the land and improvements to the entity, whether acquired from a private or a public owner, with cost in the case of leasehold interests to be computed by capitalizing the aggregate rental at a rate provided in the financial agreement; (2) architect, engineer and attorney fees, paid or payable by the entity in connection with the planning, construction and financing of the project; (3) surveying and testing charges in connection therewith; (4) actual construction costs which the entity shall cause to be certified and verified to the municipality and the municipal governing body by an independent and qualified architect, including the cost of any preparation of the site undertaken at the entity's expense; (5) insurance, interest and finance costs during construction; (6) costs of obtaining initial permanent financing; (7) commissions and other expenses paid or payable in connection with initial leasing; (8) real estate taxes and assessments during the construction period; (9) a developer's overhead based on a percentage of actual construction costs, to be computed at not more than the following schedule:

$500,000 or less	- 10%
$500,000 through $1,000,000	- $50,000 plus 8% on excess above $500,000

$1,000,001 through $2,000,000	- $90,000 plus 7% on excess above $1,000,000
$2,000,001 through $3,500,000	- $160,000 plus 5.6667% on excess above $2,000,000
$3,500,001 through $5,500,000	- $245,000 plus 4.25% on excess above $3,500,000
$5,500,001 through $10,000,000	- $330,000 plus 3.7778% on excess above $5,500,000
over $10,000,000	- 5%

If the financial agreement so provides, there shall be excluded from the total project cost actual costs incurred by the entity and certified to the municipality by an independent and qualified architect or engineer which are associated with site remediation and cleanup of environmentally hazardous materials or contaminants in accordance with State or federal law.

i. "Housing project" means any work or undertaking to provide decent, safe, and sanitary dwellings for families in need of housing; the undertaking may include any buildings, land (including demolition, clearance or removal of buildings from land), equipment, facilities, or other real or personal properties or interests therein which are necessary, convenient or desirable appurtenances of the undertaking, such as, but not limited to, streets, sewers, water, utilities, parks; site preparation; landscaping, and administrative, community, health, recreational, educational, welfare, commercial, or other facilities, or to provide any part or combination of the foregoing.

j. "Redevelopment relocation housing project" means a housing project which is necessary, useful or convenient for the relocation of residents displaced by redevelopment of all or any part of one or more redevelopment areas.

k. "Low and moderate income housing project" means a housing project which is occupied, or is to be occupied, exclusively by households whose incomes do not exceed income limitations established pursuant to any State or federal housing program.

55. Section 4 of P.L.1991, c.431 (C.40A:20-4) is amended to read as follows:

C.40A:20-4 Municipal agreements for projects under a redevelopment plan.

4. The governing body of a municipality which has adopted a redevelopment plan pursuant to the "Local Redevelopment and

Housing Law," P.L.1992, c.79 (C.40A:12A-11 et al.) may enter into a financial agreement with an urban renewal entity for the undertaking of a project set forth in a redevelopment plan adopted by the governing body pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.) or a project necessary, useful, or convenient for the relocation of residents displaced or to be displaced by the redevelopment of all or any part of one or more redevelopment areas, or a low and moderate income housing project. The financial agreement shall include, but not be limited to, those provisions set forth in sections 8, 9, 10 and 11 of P.L.1991, c.431 (C.40A:20-8 through 40A:20-11), and shall be subject to review and approval as required by section 8 of P.L.1991, c.431 (C.40A:20-8) prior to execution. The municipality which enters into the agreement shall retain all necessary authority and control for the redevelopment of the redevelopment area set forth in the plan, and the undertaking of a project by an urban renewal entity pursuant to that plan and P.L.1991, c.431 (C.40A:20-1 et seq.) shall be deemed a delegation of the powers of the municipality to undertake the project, which delegation shall be limited by the terms of the agreement and the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.).

An urban renewal entity pursuant to an agreement may undertake a project, and when so authorized by the financial agreement, acquire by purchase or lease for not less than the term of the tax exemption, plan, develop, construct, alter, maintain or operate housing, senior citizen housing, business, industrial, commercial, administrative, community, health, recreational, educational, cultural, or welfare projects, or any combination of two or more of these types of improvement in a single project. The conditions of use, ownership, management and control of the improvements in a project shall be regulated by this act and the terms of the financial agreement.

56. Section 20 of P.L.1991, c.431 is amended to read as follows:

Repealer.

20. a. The following are repealed:

P.L.1961, c.40 (C.40:55C-40 et al.)

P.L.1983, c.139 (C.40:55C-41.1)

P.L.1986, c.86 (C.40:55C-41.2 et al.)

P.L.1967, c.114 (C.40:55C-44.1 et al.)

P.L.1978, c.93 (C.40:55C-46.1 et al.)

P.L.1981, c.506 (C.40:55C-52.1)

P.L.1985, c.138 (C.40:55C-58.2)
P.L.1965, c.95 (C.40:55C-77 et al.)
P.L.1944, c.169 (C.55:14D-1 et al.)
P.L.1950, c.107 (C.55:14D-6.1)
P.L.1946, c.52 (C.55:14E-1 et al.)
P.L.1950, c.111 (C.55:14E-7.1)
P.L.1949, c.185 (C.55:14E-20 et al.)
P.L.1965, c.92 (C.55:14I-1 et al.)
P.L.1949, c.184 (C.55:16-1 et al.)
P.L.1950, c.21 (C.55:16-5.1)
P.L.1950, c.112 (C.55:16-8.1)
P.L.1967, c.112 (C.55:16-9.1 et al.)
P.L.1962, c.249 (C.55:16-18.1)
P.L.1950, c.69 (C.55:16-22).

b. An urban renewal entity organized and operating under a law repealed by P.L.1991, c.431 (C.40A:20-1 et seq.) shall not be affected by that repeal. Any financial agreement entered into and any tax exemption granted or extended, shall remain binding upon the urban renewal entity and the municipality, subject to modification by mutual written consent, as if the law under which it was entered into, or granted or extended, had not been repealed by P.L.1991, c.431 (C.40A:20-1 et seq.). The provisions of section 18 of P.L.1991, c.431 (C.40A:20-18) shall apply, however, to the urban renewal entity during the period of the financial agreement, or tax exemption, remaining on and after the effective date of P.L.1991, c.431 (C.40A:20-1 et seq.). Any redevelopment project undertaken by an urban renewal entity, or financial agreement or tax exemption entered into by an urban renewal entity with a municipality, on or after the effective date of P.L.1991, c.431 (C.40A:20-1 et seq.) shall be pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.).

57. Section 3 of P.L.1991, c.441 (C.40A:21-3) is amended to read as follows:

C.40A:21-3 Definitions.

3. As used in this act:

a. "Abatement" means that portion of the assessed value of a property as it existed prior to construction, improvement or conversion of a building or structure thereon, which is exempted from taxation pursuant to this act.

b. "Area in need of rehabilitation" means a portion or all of a municipality which has been determined to be an area in need of

rehabilitation or redevelopment pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), a "blighted area" as determined pursuant to the "Blighted Areas Act," P.L.1949, c.187 (C.40:55-21.1 et seq.), or which has been determined to be in need of rehabilitation pursuant to P.L.1975, c.104 (C.54:4-3.72 et seq.), P.L.1977, c.12 (C.54:4-3.95 et seq.), or P.L.1979, c.233 (C.54:4-3.121 et seq.).

c. "Assessor" means the officer of a taxing district charged with the duty of assessing real property for the purpose of general taxation.

d. "Commercial or industrial structure" means a structure or part thereof used for the manufacturing, processing or assembling of material or manufactured products, or for research, office, industrial, commercial, retail, recreational, hotel or motel facilities, or warehousing purposes, or for any combination thereof, which the governing body determines will tend to maintain or provide gainful employment within the municipality, assist in the economic development of the municipality, maintain or increase the tax base of the municipality and maintain or diversify and expand commerce within the municipality. It shall not include any structure or part thereof used or to be used by any business relocated from another qualifying municipality.

e. "Completion" means substantially ready for the intended use for which a building or structure is constructed, improved or converted.

f. "Condominium" means a property created or recorded as a condominium pursuant to the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).

g. "Construction" means the provision of a new dwelling, multiple dwelling or commercial or industrial structure, or the enlargement of the volume of an existing multiple dwelling or commercial or industrial structure by more than 30%, but shall not mean the conversion of an existing building or structure to another use.

h. "Conversion" or "conversion alteration" means the alteration or renovation of a nonresidential building or structure, or hotel, motel, motor hotel or guesthouse, in such manner as to convert the building or structure from its previous use to use as a dwelling or multiple dwelling.

i. "Cooperative" means a housing corporation or association, wherein the holder of a share or membership interest thereof is entitled to possess and occupy for dwelling purposes a house, apartment, or other unit of housing owned by the corporation or association, or to purchase a unit of housing owned by the corporation or association.

j. "Cost" means, when used with respect to abatements for dwellings or multiple dwellings, only the cost or fair market value of direct labor and materials used in improving a multiple dwelling, or of converting another building or structure to a multiple dwelling, or of constructing a dwelling, or of converting another building or structure to a dwelling, including any architectural, engineering, and contractor's fees associated therewith, as the owner of the property shall cause to be certified to the governing body by an independent and qualified architect, following the completion of the project.

k. "Dwelling" means a building or part of a building used, to be used or held for use as a home or residence, including accessory buildings located on the same premises, together with the land upon which such building or buildings are erected and which may be necessary for the fair enjoyment thereof, but shall not mean any building or part of a building, defined as a "multiple dwelling" pursuant to the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.). A dwelling shall include, as they are separately conveyed to individual owners, individual residences within a cooperative, if purchased separately by the occupants thereof, and individual residences within a horizontal property regime or a condominium, but shall not include "general common elements" or "common elements" of such horizontal property regime or condominium as defined pursuant to the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.), or the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.), or of a cooperative, if the residential units are owned separately.

l. "Exemption" means that portion of the assessor's full and true value of any improvement, conversion alteration, or construction not regarded as increasing the taxable value of a property pursuant to this act.

m. "Horizontal property regime" means a property submitted to a horizontal property regime pursuant to the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.).

n. "Improvement" means a modernization, rehabilitation, renovation, alteration or repair which produces a physical change in an existing building or structure that improves the safety, sanitation, decency or attractiveness of the building or structure as a place for human habitation or work, and which does not change its permitted use. In the case of a multiple dwelling, it includes only improvements which affect common areas or elements, or three or more dwelling units within the multiple dwelling. In the

case of a multiple dwelling or commercial or industrial structure, it shall not include ordinary painting, repairs and replacement of maintenance items, or an enlargement of the volume of an existing structure by more than 30%. In no case shall it include the repair of fire or other damage to a property for which payment of a claim was received by any person from an insurance company at any time during the three year period immediately preceding the filing of an application pursuant to this act.

o. "Multiple dwelling" means a building or structure meeting the definition of "multiple dwelling" set forth in the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), and means for the purpose of improvement or construction the "general common elements" and "common elements" of a condominium, a cooperative, or a horizontal property regime.

58. Section 4 of P.L.1991, c.441 (C.40A:21-4) is amended to read as follows:

C.40A:21-4 Municipal ordinance granting exemptions or abatements.

4. The governing body of a municipality may determine to utilize the authority granted under Article VIII, Section I, paragraph 6 of the New Jersey Constitution, and adopt an ordinance setting forth the eligibility or noneligibility of dwellings, multiple dwellings, or commercial and industrial structures, or all of these, for exemptions or abatements, or both, from taxation in areas in need of rehabilitation. The ordinance may differentiate among these types of structures as to whether the property shall be eligible for exemptions or abatements, or both, within the limitations set forth in P.L.1991, c.441 (C.40A:21-1 et seq.). With respect to a type of structure, the ordinance shall specify the eligibility of improvements, conversions, or construction, or all of these, for each type of structure. The ordinance may differentiate for the purposes of determining eligibility pursuant to this section among the various neighborhoods, zones, areas or portions of the designated area in need of rehabilitation.

An ordinance adopted pursuant to this section may be amended from time to time. An amendment to an ordinance shall not affect any exemption, abatement, or tax agreement previously granted and in force prior to the amendment.

Application for exemptions and abatements from taxation may be filed pursuant to an ordinance so adopted to take initial effect for the first full tax year commencing after the tax year in which

the ordinance is adopted, and for tax years thereafter as set forth in P.L.1991, c.441 (C.40A:21-1 et seq.), but no application for exemptions or abatements shall be filed for exemptions or abatements to take initial effect for the eleventh full tax year or any tax year occurring thereafter, unless the ordinance is readopted by the governing body pursuant to this section.

Repealer.

59. a. The following are repealed:

P.L.1977, c.93 (C.40:32A-1 and 40:32A-2)

Sections 36, 37, 38 and 39 of P.L.1979, c.275 (C.40:37A-56.1 through 40:37A-56.4)

P.L.1949, c.187 (C.40:55-21.1 to 40:55-21.14)

P.L.1949, c.306 (C.40:55C-1 through 40:55C-29)

P.L.1956, c.212 (C.40:55C-30 through 40:55C-39)

P.L.1938, c.19 (R.S.55:14A-1 through 55:14A-26)

P.L.1941, c.98 (C.55:14A-3.1 et al.)

P.L.1943, c.64 (C.55:14A-6.1)

P.L.1945, c.147 (C.55:14A-6.2)

P.L.1953, c.390 (C.55:14A-6.3)

Sections 1, 2 and 4 of P.L.1942, c.135 (C.55:14A-26.1 through 55:14A-26.3)

P.L.1947, c.374 (C.55:14A-27 through 55:14A-30)

P.L.1949, c.300 (C.55:14A-31 through 55:14A-48)

Section 4 of P.L.1950, c.262 (C.55:14A-44.1)

P.L.1956, c.83 (C.55:14A-44.2 and 55:14A-44.3)

P.L.1956, c.211 (C.55:14A-49 through 55:14A-58)

R.S.55:14B-1 through R.S.55:14B-8

Section 5 of P.L.1950, c.298 (C.55:14B-4.1)

Section 4 of P.L.1979, c.345 (C.55:14B-4.2)

P.L.1950, c.110 (C.55:14B-5.1)

P.L.1956, c.210 (C.55:14B-9 through 55:14B-13)

P.L.1941, c.213 (C.55:14C-1 through 55:14C-10)

P.L.1946, c.79 (C.55:14F-1 through 55:14F-9)

P.L.1946, c.323 (C.55:14G-1 through 55:14G-26)

R.S.55:15-1 through 55:15-31.

b. A redevelopment agency or housing authority previously established under the statutes here repealed is continued, and all acts previously taken by a redevelopment agency or housing authority pursuant to those statutes are validated and continued as if they had been taken pursuant to this act. A redevelopment agency or housing authority so continued shall conform from the

effective date of this act to the provisions of this act, and shall be reconstituted as necessary to conform to this act.

60. This act shall take effect immediately, and shall be retroactive to January 18, 1992; and any regulations that are required by this act to be issued, or that are necessary or expedient to its effective implementation, shall take effect immediately upon their adoption and promulgation in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

Approved August 5, 1992.

CHAPTER 80

AN ACT to validate certain proceedings for the issuance of bonds of school districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

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

1. All proceedings heretofore had or taken by any school district or at any school election for the authorization or issuance of bonds of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that the notices to persons desiring Military Service and Civilian Absentee Ballots were not published in accordance with N.J.S.18A:14-25; and notwithstanding that the proposal was not adopted by the board of education in the form required pursuant to N.J.S.18A:24-12; and notwithstanding that the notice of the election which was published pursuant to the provisions of N.J.S.18A:14-19 did not set forth the full text of the proposal; provided however, that no action, suit or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 15 days after the effective date of this act.

2. This act shall take effect immediately.

Approved August 6, 1992.

CHAPTER 81

AN ACT concerning the inclusion of child care centers in nonresidential developments and supplementing P.L.1975, c.291 (C.40:55D-1 et seq.).

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

C.40:55D-66.7 Child care center excluded in calculation of density of building.

1. In considering an application for development approval for a nonresidential development that is to include a child care center that is located on the business premises, is owned or operated by employers or landlords for the benefit of their employees, their tenants' employees, or employees in the area surrounding the development, and is required to be licensed by the Department of Human Services pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.), an approving authority may exclude the floor area to be occupied in any building or structure by the child care center in calculating the density of that building or structure for the purposes of determining whether or not the density is allowable under any applicable municipal zoning ordinance.

2. This act shall take effect immediately.

Approved August 6, 1992.

CHAPTER 82

AN ACT concerning the extension of State and local permits affecting the physical development of property located within the State of New Jersey, superseding all statutory and regulatory requirements to the contrary, and supplementing Title 40 of the Revised Statutes.

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

C.40:55D-130 Short title.

1. This act shall be known and may be cited as the "Permit Extension Act."

C.40:55D-131 Findings, determinations.

2. The Legislature finds and determines that:

a. There exists a state of economic emergency in the State of New Jersey, which began on January 1, 1989, and is anticipated to extend at least through December 31, 1994, which has drastically affected various segments of the New Jersey economy, but none as severely as the State's banking, real estate and construction sectors.

b. The process of obtaining planning and zoning board of adjustment approvals for subdivisions, site plans and variances is difficult, time consuming and expensive, both for private applicants and government bodies.

c. The process of obtaining the myriad other government approvals, such as wetlands permits, sewer extension permits, on-site wastewater disposal permits, stream encroachment permits, highway access permits, and numerous waivers and variances, is also difficult and expensive; further, changes in the law can render these approvals, if expired or lapsed, impossible to renew or to re-obtain.

d. The current economic crisis has wreaked devastation on the building industry, and many landowners and developers are seeing their life's work destroyed by the lack of credit and dearth of buyers and tenants, due to uncertainty over the state of the economy and high levels of unemployment.

e. The construction industry and related trades are sustaining severe economic losses, and the lapsing of government development approvals is exacerbating those losses.

f. Due to the current inability of builders to obtain construction financing, under existing economic conditions, more and more once-approved permits are expiring or lapsing and, as these approvals lapse, lenders must re-appraise and thereafter substantially lower real estate valuations established in conjunction with approved projects, thereby requiring the reclassification of numerous loans which, in turn, affects the stability of the banking system and reduces the funds available for future lending, thus creating more severe restrictions on credit and leading to a vicious cycle of default.

g. As a result of the continued downturn of the economy, and the continued expiration of approvals which were granted by State and local governments, it is possible that thousands of government actions will be undone by the passage of time.

h. Obtaining an extension of an approval pursuant to existing statutory or regulatory provisions is both costly in terms of time and financial resources, and insufficient to cope with the extent of

the present financial emergency; moreover, the costs imposed fall on the public as well as the private sector.

i. Obtaining extensions of approvals granted by State government is frequently impossible, always difficult, and always expensive and no policy reason is served by the expiration of these permits, which were usually approved only after exhaustive review of the application.

j. It is the purpose of this act to prevent the wholesale abandonment of approvals due to the present unfavorable economic conditions, by tolling the expiration of these approvals until such time as the economy improves, thereby preventing a waste of public and private resources.

C.40:55D-132 Definitions.

3. As used in this act:

"Approval" means any approval of a soil erosion and sediment control plan granted by a local soil conservation district under the authority conferred by R.S.4:24-22 et seq., waterfront development permit issued pursuant to R.S.12:5-1 et seq., permit issued pursuant to "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-10 et seq.), permit issued pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), approval of an application for development granted by the Delaware and Raritan Canal Commission pursuant to the "Delaware and Raritan Canal State Park Law of 1974," P.L.1974, c.118 (C.13:13A-1 et seq.), permit issued by the Hackensack Meadowlands Development Commission pursuant to the "Hackensack Meadowlands Reclamation and Development Act," P.L.1968, c.404 (C.13:17-1 et seq.), approval of an application for development granted by the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), permit issued pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), septic approval granted pursuant to Title 26 of the Revised Statutes, permit granted pursuant to R.S.27:7-1 et seq. or any supplement thereto, permit granted by the Department of Transportation pursuant to Title 27 of the Revised Statutes or under the general authority conferred by State law, approval granted by a sewerage authority pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), approval granted by a municipal authority pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), approval issued by a county planning board

pursuant to Chapter 27 of Title 40 of the Revised Statutes, preliminary and final approval granted in connection with an application for development pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), permit granted pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) permit or certification issued pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), permit granted authorizing the drilling of a well pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.), certification or permit granted, or exemption from a sewerage connection ban granted, pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), certification granted pursuant to "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), certification or approval granted pursuant to P.L.1971, c.386 (C.58:11-25.1 et al.), certification issued pursuant to the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), approval granted pursuant to the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), stream encroachment permit issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), any municipal or county approval or permit granted under the general authority conferred by State law, or any other government authorization of any development application or any permit related thereto whether that authorization is in the form of a permit, approval, license, certification, waiver, letter of interpretation, agreement or any other executive or administrative decision which allows a development to proceed.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or facility, or of any grading, soil removal or relocation, excavation or landfill or any use or change in the use of any building or other structure or land or extension of the use of land.

"Economic emergency" means the period beginning January 1, 1989 and continuing through to December 31, 1994.

"Government" means any municipal, county, regional or State government, or any agency, department, commission or other instrumentality thereof.

C.40:55D-133 Extension of approval.

4. a. For any government approval which expired or is scheduled to expire during the economic emergency, that approval is automatically extended until December 31, 1994, except as other-

wise provided hereunder. Nothing in this act shall prohibit the granting of such additional extensions as are provided by law when the extensions granted by this act shall expire.

b. Nothing in this act shall be deemed to extend or purport to extend any permit issued by the government of the United States or any agency or instrumentality thereof, or to any permit by whatever authority issued of which the duration of effect or the date or terms of its expiration are specified or determined by or pursuant to law or regulation of the federal government or any of its agencies or instrumentalities.

c. Nothing in this act shall be deemed to extend any permit or approval issued pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.) if the extension would result in a violation of federal law, or any State rule or regulation requiring approval by the Secretary of the Interior pursuant to Pub.L.95-625 (16 U.S.C. § 471 (i)).

d. This act shall not affect any administrative consent order issued by the Department of Environmental Protection in effect or issued during the period of the economic emergency, nor shall it be construed to extend any approval in connection with a resource recovery facility as defined in section 2 of P.L.1985, c.38 (C.13:1E-137).

e. In the event that any permit extended pursuant to the "Permit Extension Act," P.L.1992, c.82 (C.40:55D-130 et seq.) was based upon the connection to a sanitary sewer system, the permit's extension shall be contingent upon the availability of sufficient capacity, on the part of the treatment facility, to accommodate the development whose approval has been extended. If sufficient capacity is not available, those permit holders whose permits have been extended shall have priority with regard to the further allocation of gallonage over those permit holders who have not received approval of a hookup prior to the enactment of the "Permit Extension Act." Priority regarding the distribution of further gallonage to any permit holder who has received the extension of a permit pursuant to the "Permit Extension Act" shall be allocated in order of the granting of the original approval of the connection.

f. This act shall not extend any approval issued under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) in connection with an application for development involving a residential use where, subsequent to the expiration of the permit but prior to January 1, 1992, an amendment has been adopted to the master plan and the zoning ordinance to rezone the property to industrial or commercial use when the permit was issued for residential use.

C.40:55D-134 Extension of project exemption.

5. a. (1) Except as otherwise provided in this section, nothing in this act shall have the effect of extending any project exemption granted pursuant to subsection d. of section 4 of the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-4).

(2) This act shall automatically extend any project exemption granted pursuant to subsection d. of section 4 of P.L.1987, c.156 (C.13:9B-4) from the requirements of section 16 of P.L.1987, c.156 to maintain a transition area adjacent to freshwater wetlands, if the freshwater wetlands which would be affected by the project are not freshwater wetlands of exceptional resource value.

b. Any person who may be eligible for an automatic extension pursuant to the provisions of subsection a. of this section may submit an application to the Department of Environmental Protection and Energy for a determination of whether the freshwater wetlands affected by the project are freshwater wetlands of exceptional resource value as defined by the Department of Environmental Protection and Energy pursuant to P.L.1987, c.156 and any rules and regulations adopted pursuant thereto. This application shall be limited to a description of the location of the project by lot and block number and a delineation of the wetlands affected by the project. If the Department of Environmental Protection and Energy does not make a determination requested pursuant to this subsection within 90 days of receipt of the application therefor, the freshwater wetlands shall be deemed to not be of exceptional resource value. The Office of Administrative Law shall provide for expedited appeal by the applicant of any determination that the freshwater wetlands affected by a project potentially eligible for an automatic extension pursuant to the provisions of subsection a. of this section are classified as freshwater wetlands of exceptional resource value.

c. In the event the Department of Environmental Protection and Energy obtains additional information clearly and convincingly demonstrating that a freshwater wetlands previously determined by the Department of Environmental Protection and Energy or otherwise deemed to not be of exceptional resource value are actually freshwater wetlands of exceptional resource value, the Department of Environmental Protection and Energy may, within one year after the date of its original determination or the date on which the freshwater wetlands were deemed not to be of exceptional resource value, reclassify the freshwater wetlands as a freshwater wetlands of exceptional resource value, and require compliance with the requirements of section 16 of

P.L.1987, c.156 to maintain a transition area adjacent to freshwater wetlands. This subsection shall not apply to any project the actual construction of which has commenced at the time the Department of Environmental Protection and Energy provides notice to the applicant that the previous wetlands resource classification may be modified.

C.40:55D-135 Notice.

6. State agencies shall, within 30 days after the effective date of this act, place a notice in the New Jersey Register extending all approvals in conformance with this act.

C.40:55D-136 Liberal construction.

7. The provisions of this act shall be liberally construed to effectuate the purposes of this act.

8. This act shall take effect immediately.

Approved August 7, 1992.

CHAPTER 83

AN ACT concerning rebates for prescription drugs under the "Pharmaceutical Assistance to the Aged and Disabled" program and supplementing P.L.1975, c.194 (C.30:4D-20 et seq.).

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

C.30:4D-35.1 Short title.

1. This act shall be known and may be cited as the "Pharmaceutical Rebate Act."

C.30:4D-35.2 Coverage limited to manufacturers providing rebates.

2. a. The "Pharmaceutical Assistance to the Aged and Disabled" program established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.) shall limit the coverage of pharmaceutical products to manufacturers who agree to provide rebates to the State.

b. Except for those manufacturers whose pharmaceutical products are not covered under the program pursuant to this section, the program shall not restrict access to manufacturers' pharmaceutical products by means of prior authorization requirements or any other restricting mechanism.

c. The Commissioner of Human Services shall contract with manufacturers of pharmaceutical products to provide rebates for pharmaceutical products covered under the "Pharmaceutical Assistance to the Aged and Disabled" program on the same basis as is required pursuant to section 1927 of the federal Social Security Act (42 U.S.C.§1396r-8).

d. The rebate agreements entered into pursuant to this act shall take effect on July 1, 1992 and shall be retroactive to that date if entered into after July 1, 1992.

(1) A manufacturer of pharmaceutical products who is participating in the "Pharmaceutical Assistance to the Aged and Disabled" program on the effective date of this act shall enter into a rebate agreement with the Commissioner of Human Services within 60 days of the effective date of this act to continue its participation in the program pursuant to the provisions of this act. A participating manufacturer who does not enter into a rebate agreement shall not be eligible to participate in the "Pharmaceutical Assistance to the Aged and Disabled" program after the 90th day after the effective date of this act.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, if a manufacturer of pharmaceutical products who was participating in the "Pharmaceutical Assistance to the Aged and Disabled" program on the effective date of this act enters into a rebate agreement with the commissioner after the 60th day after the effective date of this act and prior to July 1, 1993, the manufacturer shall be required to pay the rebate for any pharmaceutical products purchased by the program on or after July 1, 1992 through the 90-day period that the manufacturer had been a participant in the program. The rebate agreement shall take effect on either January 1 or July 1 of the year in which the rebate agreement is entered into.

(3) A manufacturer of pharmaceutical products who was not participating in the "Pharmaceutical Assistance to the Aged and Disabled" program on the effective date of this act may enter into a rebate agreement with the commissioner and become a participating manufacturer. The rebate agreement shall take effect on either January 1 or July 1 of the year in which the rebate agreement is entered into.

e. A manufacturer of pharmaceutical products which participates in the "Pharmaceutical Assistance to the Aged and Disabled" program pursuant to this act shall provide to the Commissioner of Human Services such information as he may request to carry out the purposes of this act.

f. Any rebate agreement entered into between the Department of Human Services and a manufacturer of pharmaceutical products prior to the effective date of this act shall remain in effect and be considered a rebate agreement in compliance with this act until the date of expiration of the agreement or March 31, 1993, whichever date occurs sooner, or until either party terminates the agreement.

C.30:4D-35.3 "Pharmaceutical Assistance to the Aged and Disabled Rebate Fund" established.

3. There is established in the Department of Human Services a nonlapsing revolving fund to be known as the "Pharmaceutical Assistance to the Aged and Disabled Rebate Fund." All monies collected from rebate agreements pursuant to this act shall be deposited into this fund and shall be used by the department to offset the cost of benefits provided by the "Pharmaceutical Assistance to the Aged and Disabled" program which are funded by the Casino Revenue Fund.

C.30:4D-35.4 Rules, regulations.

4. Pursuant 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 necessary to carry out the purposes of this act and to ensure that the rebate amounts for pharmaceutical products covered under this program do not have the effect of establishing a new federal "best price," as that term is defined pursuant to section 1927 of the federal Social Security Act (42 U.S.C.§1396r-8).

C.30:4D-35.5 Report to Governor, Legislature.

5. On or before January 1, 1993 and June 30, 1993, the Commissioner of Human Services shall report to the Governor and the Legislature on the effects of, and recommendations for improvements to, the rebate program.

6. This act shall take effect immediately and shall expire on June 30, 1993.

Approved August 11, 1992.

CHAPTER 84

AN ACT concerning the University of Medicine and Dentistry of New Jersey, amending various parts of the statutory law, supplementing chapter 64G of Title 18A of the New Jersey Statutes, and repealing section 4 of P.L.1981, c.325.

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

C.18A:64G-3.8 Short title.

1. This act shall be known and may be cited as "The University of Medicine and Dentistry of New Jersey Flexibility Act of 1992."

2. Section 2 of P.L.1970, c.102 (C.18A:64G-2) is amended to read as follows:

C.18A:64G-2 Findings.

2. The Legislature and Governor of the State of New Jersey hereby find that the establishment and operation of programs of medical, dental, nursing, health related professions and health sciences education is in the best interest of the State to provide greater numbers of trained medical personnel to assist in the staffing of the hospitals and public institutions and agencies of the State and to prepare greater numbers of students for the general practice of medicine, dentistry, nursing and the health related professions, and find, declare and affirm, as a matter of public policy of the State, that it is the responsibility of the State to provide funds necessary to establish and operate such programs of education, in the most economical and efficient manner, and that, in furtherance of such policy, the school of medicine heretofore established by Rutgers, The State University, (hereinafter called the "Rutgers Medical School") and the New Jersey College of Medicine and Dentistry shall be combined into a single entity to be known as the University of Medicine and Dentistry of New Jersey.

The university shall be comprised of the Graduate School of Biomedical Sciences, the School of Health Related Professions, the New Jersey Dental School, the School of Osteopathic Medicine, the New Jersey Medical School and the Robert Wood Johnson Medical School, and all other departments or schools established by the university in accordance with the review and approval procedures of the State Board of Higher Education.

The Legislature and Governor further find and declare that the continuing development of the university as a premier academic health center, able to provide state of the art education, research and patient care services and able to fully participate in today's health-care environment, is in the best interest of the State. Because of the importance of each element of the health-care delivery system, it is the university's obligation to monitor, to identify and to coordinate with the appropriate State agencies and

boards to meet the health-care manpower needs of New Jersey as they arise. A key element necessary to the achievement of many of these goals is the structural flexibility to form productive and varied relationships with other health-care organizations, research institutions and private individuals, firms and corporations.

The Legislature and Governor further find that such public-private relationships should be encouraged since these cooperative efforts will enable the university to supplement the resources available from the State and thereby provide the university with an economic and efficient means to develop and offer an appropriate range of health-care services.

3. Section 3 of P.L.1970, c.102 (C.18A:64G-3) is amended to read as follows:

C.18A:64G-3 "University of Medicine and Dentistry of New Jersey" established.

3. There is hereby established in the Department of Higher Education a body corporate and politic to be known as the "University of Medicine and Dentistry of New Jersey." The exercise by the university of the powers conferred by this act in the presentation and operation of programs of medical, dental, nursing and health related professions and health sciences education shall be deemed to be public and essential governmental functions necessary for the welfare of the State and the people of New Jersey.

4. Section 4 of P.L.1970, c.102 (C.18A:64G-4) is amended to read as follows:

C.18A:64G-4 Board of trustees; membership, appointment, terms, vacancies, oath, removal, meetings, officers, committees.

4. a. The government, control, conduct, management and administration of the university shall be vested in the board of trustees of the university. The membership of the board of trustees shall consist of the Chancellor of the Department of Higher Education and the Commissioner of Health, who shall serve ex officio, without vote, and 11 voting members, each of whom shall be appointed by the Governor, with the advice and consent of the Senate, for a term of five years and shall serve until his successor is appointed and has qualified. Any vacancies in the voting membership of the board occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. Each voting member of the board of trustees before entering upon his duties shall take and subscribe

an oath to perform the duties of his office faithfully, impartially and justly to the best of his ability. A record of such oath shall be filed in the office of the Secretary of State. Each voting member of the board may be removed from office by the Governor, for cause, after a public hearing.

b. The members of the board of trustees shall meet at the call of the Governor for purposes of organizing. The board shall thereafter meet at such times and places as it shall designate.

c. The Governor shall designate one of the voting members as chairman of the board. The board shall select such other officers from among its members as shall be deemed necessary.

d. The board shall have the power to appoint and regulate the duties, functions, powers and procedures of committees, standing or special, from its members and such advisory committees or bodies, as it may deem necessary or conducive to the efficient management and operation of the university, consistent with this act and other applicable statutes.

5. Section 6 of P.L.1970, c.102 (C.18A:64G-6) is amended to read as follows:

C.18A:64G-6 Powers and duties of board.

6. The board of trustees of the university, within the general policies and guidelines set by the Board of Higher Education, shall have the general supervision over and be vested with the conduct of the university, including its health care facilities regardless of the source of funding. It shall have the power and duty to:

(a) Adopt and use a corporate seal;

(b) Determine the educational curriculum and program of the university;

(c) Determine policies for the organization, administration, and development of the university;

(d) Study the educational and financial needs of the university, annually acquaint the Governor and Legislature with the condition of the university, and prepare and submit an annual request for appropriation to the State Board of Higher Education in accordance with law;

(e) Disburse all moneys appropriated to the university by the Legislature and all moneys received from tuition, fees, auxiliary services and other sources;

(f) Direct and control expenditures and transfers of funds appropriated to the university in accordance with the provisions

of the State budget and appropriation acts of the Legislature, and, as to funds received from other sources, direct and control expenditures and transfers in accordance with the terms of any applicable trusts, gifts, bequests, or other special provisions, reporting changes and additions thereto and transfers thereof to the Director of the Division of Budget and Accounting in the Department of the Treasury and to the Chancellor of Higher Education. All accounts of the university shall be subject to audit by the State at any time;

(g) In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint and fix the compensation and term of office of a president of the university who shall be the executive officer of the university;

(h) In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint, upon nomination of the president, such deans and other members of the academic, administrative and teaching staffs as shall be required and fix their compensation and terms of employment;

(i) In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint, remove, promote and transfer such other officers, agents, or employees as may be required to carry out the provisions of this act and assign their duties, determine their salaries, and prescribe qualifications for all positions and in accordance with the salary schedules of the Civil Service Commission wherever possible;

(j) Fix and determine, after consultation with the Board of Higher Education, tuition rates, and other fees to be paid by students;

(k) Grant diplomas, certificates or degrees;

(l) Enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department or other agency of the State or the United States or with any individual, form or corporation which are deemed necessary or advisable by the board for carrying out the provisions of this act. A contract or agreement pursuant to this subsection may require a municipality to undertake obligations and duties to be performed subsequent to the expiration of the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, and the obligations and duties so incurred by such municipality shall be binding and of full force and effect, notwithstanding that the term of office of the elected governing body

of such municipality which initially entered into or approved said contract or agreement, shall have expired;

(m) Accept from any government or governmental department, agency or other public or private body or from any other source grants or contributions of money or property which the board may use for or in aid of any of its purposes;

(n) (1) Acquire (by gift, purchase, condemnation or otherwise), own, lease, dispose of, use and operate property, whether real, personal or mixed, or any interest therein, which is necessary or desirable for university purposes;

(2) Adopt standing operating rules and procedures for the purchase of all equipment, materials, supplies and services; however, no contract on behalf of the university shall be entered into for the purchase of services, materials, equipment and supplies, for doing of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds $12,500.00 or the amount determined by the Governor as provided herein, unless the university shall first publicly advertise for bids and shall award the contract to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the university, price and other factors considered. Such advertising shall not be required in those exceptions created by the board of trustees of the university, which shall be in substance those exceptions contained in sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and 10) or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities of this State and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the said board. Commencing January 1, 1985 and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in this paragraph in direct proportion to the rise or fall of the consumer price index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall notify the university of the adjustment. The adjustment shall become effective on July 1 of the year in which it is reported.

This subsection shall not prevent the university from having any work done by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires or the

exigency of the university's service will not admit of such advertisement. In such case, the university shall, by resolution passed by the affirmative vote of its board of trustees, declare the exigency or emergency to exist, and set forth in the resolution the nature and approximate amount to be expended; shall maintain appropriate records as to the reason for such awards; and shall report regularly to its board of trustees on all such purchases, the amounts and the reasons therefor;

(3) Employ architects to plan buildings; secure bids for the construction of buildings and for the equipment thereof; make contracts for the construction of buildings and for equipment; and supervise the construction of buildings. All capital expenditures in excess of $2,000,000 shall be subject to the approval of the Board of Higher Education except that commencing January 1, 1993 and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in this paragraph in direct proportion to the rise or fall of the consumer price index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall notify the university of the adjustment. The adjustment shall become effective on July 1 of the year in which it is reported;

(4) Manage and maintain, and provide for the payment of all charges on and expenses in respect of, all properties utilized by the university; and

(5) Invest certain monies in such obligations, securities and other investments as the board shall deem prudent, as follows:

In not for profit corporations utilizing income realized from the sale or licensing of intellectual property, as well as the reinvestment of earnings on intellectual property; income realized from the operation of faculty practice plans of the university; and income from overhead grant fund recovery as permitted by federal law;

In for profit corporations utilizing income realized from the sale or licensing of intellectual property, as well as the reinvestment of earnings on intellectual property.

(o) Borrow money and to secure the same by a mortgage on its property or any part thereof, and to enter into any credit agreement for the needs of the university, as deemed requisite by the board, in such amounts and for such time and upon such terms as may be determined by the board, provided that no such borrowing shall be deemed or construed to create or constitute a debt, liability, or a

loan or pledge of the credit or be payable out of property or funds, other than moneys appropriated for that purpose, of the State;

(p) Exercise the right of eminent domain, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), to acquire any property or interest therein;

(q) Adopt bylaws and make and promulgate such rules, regulations and orders, not inconsistent with the provisions of this act as are necessary and proper for the administration and operation of the university and to implement the provisions of this act;

(r) Authorize any new program, educational department or school which will require, at the time of establishment or thereafter, an additional expenditure of money, if the establishment thereof is approved by the Board of Higher Education and provision is made therefor by law;

(s) Function as a public employer under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) and conduct all labor negotiations, and with the participation of the Chancellor's Office and the Governor's Office of Employee Relations act as the chief spokesperson with respect to all matters under negotiation;

(t) Sue and be sued in its own name;

(u) Notwithstanding the provisions of section 7 of P.L.1970, c.102 (C.18A:64G-7), retain independent counsel to represent a joint venture, subsidiary corporation, partnership or such other jural entity entered into or owned wholly or in part by the university when the enterprise involves development, manufacture, or marketing of products, technology, or scientific information, and retain independent counsel to represent any separate corporation created by the university pursuant to paragraph (1) of subsection (v) of section 6 of P.L.1970, c.102 (C.18A:64G-6); however, the Attorney General shall represent the university as a venturer, partner, or in the case of a corporation, in its shareholder capacity during the incorporation phase and thereafter;

(v) (1) Participate as the general partner or as a limited partner, either directly or through a subsidiary corporation created by the university, in limited partnerships, general partnerships, or joint ventures engaged in the development, manufacture, or marketing of products, technology, scientific information or health care services and create or form for profit or not for profit corporations to engage in such activities; provided that any such participation shall be consistent with the mission of the university and the board shall have determined that such participation is pru-

dent. Nothing herein shall be construed to authorize any change in the legal status of University Hospital;

(2) The decision to participate in any activity described in paragraph (1) of subsection (v) of section 6 of P.L.1970, c.102 (C.18A:64G-6), including the creation or formation of for profit or not for profit corporations, shall be articulated in the minutes of the Board of Trustees meeting in which the action was approved. A true copy of the minutes shall be delivered to the Governor. No such action shall have affect until 30 days, Saturdays, Sundays and public holidays excepted, after the copy of the minutes shall have been delivered to the Governor. If, within the 30 day period, the Governor returns the minutes of the meeting with a veto of the action taken by the board, the action taken by the board shall be null and void and of no effect;

(3) The provisions of P.L.1971, c.182 (C.52:13D-12 et seq.) shall continue to apply to the university, its employees and officers;

(4) Nothing herein shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit or be payable out of property or funds of the State;

(5) Funds directly appropriated to the university from the State or derived from the university's academic programs or derived from payment for coverage provided by the self insurance fund for claims accruing prior to the effective date of this act shall not be utilized in the development, manufacture or marketing of products, technology or scientific information;

(6) Employees of any joint venture, subsidiary corporation, partnership or other jural entity entered into or owned wholly or in part by the university shall not be deemed public employees;

(7) A joint venture, subsidiary corporation, partnership or other jural entity entered into or owned wholly or in part by the university shall not be deemed an instrumentality of the State of New Jersey;

(8) Income realized by the university as a result of participation in the development, manufacture or marketing of products, technology, or scientific information may be invested or reinvested pursuant to paragraph (5) of subsection (n) of section 6 of P.L.1970, c.102 (C.18A:64G-6) or retained by the board for use in furtherance of any of the purposes of this act;

(9) The board shall annually report to the Chancellor of Higher Education and the State Treasurer on the operation of all joint ventures, subsidiary corporations, partnerships or such other jural entities entered into or owned wholly or in part by the university;

(w) (1) Procure and enter into contracts for any type of insurance and indemnify against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employees' liability, against any act of any member, officer, employee or servant of the university, whether part-time, full-time, compensated or non-compensated in the performance of the duties of his office or employment or any other insurable risk. In addition, the university shall carry its own liability insurance or maintain an actuarially sound program of self insurance. Any joint venture, subsidiary corporation, or partnership or such other jural entity entered into or owned wholly or in part by the university shall carry insurance or maintain reserves in such amounts as are determined by an actuary to be sufficient to meet its actual or accrued claims;

(2) Monies in the fund known as the Self-Insurance Trust Fund administered by the State Treasurer shall continue to be available to the university solely to indemnify and defend claims against the university and its employees, officers and servants but only to the extent that such entity or individuals would have been entitled to defense and indemnification pursuant to the "New Jersey Tort Claims Act" (N.J.S.59:1-1 et seq.) as a State entity or State employee but for the provision of subsection (t) of section 6 of P.L.1970, c.102 (C.18A:64G-6). Any expenditure of such funds shall be made only in accordance with the provisions of the "New Jersey Tort Claims Act" (N.J.S.59:1-1 et seq.) including but not limited to the provisions of chapters 10, 10A and 11 of Title 59 of the New Jersey Statutes. Nothing herein shall be construed to authorize the use of the Self-Insurance Trust Fund to indemnify or insure in any way, directly or indirectly the activities of any joint venture, partnership or corporation entered into or created by the university pursuant to paragraphs (1) and (2) of subsection (v) of section 6 of P.L.1970, c.102 (C.18A:64G-6); and

(x) Create auxiliary organizations subject to the provisions of P.L.1982, c.16 (C.18A:64-26 et seq.).

6. Section 8 of P.L.1970, c.102 (C.18A:64G-8) is amended to read as follows:

C.18A:64G-8 Investment of funds; finance committee of board.

8. All functions, powers and duties relating to the investment or reinvestment of funds other than those funds specified in paragraph (5) of subsection (n) of section 6 of P.L.1970, c.102

(C.18A:64G-6) within the jurisdiction of the board of trustees including the purchase, sale or exchange of any investments or securities shall be exercised and performed by the Director of the Division of Investment in accordance with the provisions of chapter 270 of the laws of 1950 (C.52:18A-79 et seq.). Before any such investment, reinvestment, purchase, sale or exchange shall be made by the director for or on behalf of the board of trustees, the Director of the Division of Investment shall submit the details thereof to the board, which shall, itself or by its finance committee, within 48 hours, exclusive of Sundays and public holidays, after such submission to it, file with the director its written acceptance or rejection of such proposed investment, reinvestment, purchase, sale or exchange; and the director shall have authority to make such investment, reinvestment, purchase, sale or exchange for or on behalf of the board, unless there shall have been filed with him a written rejection thereof by the board or its finance committee as herein provided. The board of trustees shall determine from time to time the cash requirements of the various funds and accounts established by it and the amount available for investment, all of which shall be certified to the State Treasurer and the Director of the Division of Investment.

The finance committee of the board of trustees shall consist of three members of the board who shall be appointed in the same manner and for the same term as other committees of the board are appointed.

C.18A:64G-3.9 Awarding of degrees.

7. a. Except in the case of existing university programs, the university shall award associate degrees only in new programs jointly proposed and implemented with institutions fully authorized and accredited to award degrees at that level.

b. For the awarding of the baccalaureate degree, the university shall develop and maintain joint degree programs for health related professions and new nursing education programs with fully authorized and accredited institutions and shall be limited to offering upper division courses. Exceptions may be made in accordance with duly adopted regulations of the Board of Higher Education, except as provided in this act. In instances where the university has been authorized to offer a baccalaureate degree program jointly with another institution, it may independently award a second baccalaureate degree for that program for students who enter the program already possessing a baccalaureate degree from a regionally accredited college or university.

C.18A:64G-3.10 Contract claims, suits governed by "New Jersey Contractual Liability Act."

8. Notwithstanding any of the provisions of the "New Jersey Contractual Liability Act" (N.J.S.59:13-1 et seq.) to the contrary, contract claims and suits against the university shall be governed by that act.

Repealer.

9. Section 4 of P.L.1981, c.325 (C.18A:64G-3.2) is repealed.

10. This act shall take effect 120 days after enactment.

Approved August 12, 1992.

CHAPTER 85

AN ACT concerning research in the treatment of 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 16 of P.L.1976, c.141 (C.58:10-23.11o) is amended to read as follows:

C.58:10-23.11o Disbursement of moneys from fund; purposes.

16. a. Moneys in the New Jersey Spill Compensation Fund shall be disbursed by the administrator for the following purposes and no others:

(1) Costs incurred under section 7 of P.L.1976, c.141 (C.58:10-23.11f);

(2) Damages as defined in section 8 of P.L.1976, c.141 (C.58:10-23.11g);

(3) Such sums as may be necessary for research on the prevention and the effects of discharges of hazardous substances on the environment and public health, on methods of pollution prevention and recycling of hazardous substances, and on the development of improved cleanup, removal, and disposal operations as may be appropriated by the Legislature; provided, however, that such sums, together with sums appropriated pursuant to paragraph (5) of this subsection, shall not exceed , in any fiscal year, an amount equal to the amount of interest credited to the fund during the most recent State fiscal year for which the total amount of such interest income is known;

(4) Such sums as may be necessary for the boards, general administration of the fund, equipment and personnel costs of the department and any other State agency related to the enforcement of P.L.1976, c.141, including any costs incurred by the department pursuant to P.L.1990, c.78 or pursuant to any other law designed to prevent the discharge of a hazardous substance, as may be appropriated by the Legislature;

(5) Such sums as may be appropriated by the Legislature for research and demonstration programs concerning the causes and abatement of ocean pollution; provided, however, that such sums, together with sums appropriated pursuant to paragraph (3) of this subsection, shall not exceed, in any fiscal year, an amount equal to the amount of interest credited to the fund during the most recent State fiscal year for which the total amount of such interest income is known;

(6) Such sums as may be requested by the commissioner, up to a limit of $400,000 per year, to cover the costs associated with the administration of the "Environmental Cleanup Responsibility Act," P.L.1983, c.330 (C.13:1K-6 et seq.);

(7) Costs attributable to the State's obligation to defend and indemnify a contractor pursuant to sections 1 through 11 of P.L.1991, c.373 (C.58:10-23.11f8 et seq.);

(8) Administrative costs incurred by the department to implement the provisions of P.L.1977, c.74 (C.58:10A-1.et seq.), as amended and supplemented by P.L.1990, c.28, on a timely basis, except that the amounts used for this purpose shall not exceed $2,000,000. Any moneys disbursed by the department from the fund for this purpose shall be repaid to the fund in equal amounts from the penalties collected by the department pursuant to P.L.1977, c.74 and P.L. 1990, c.28, in annual installments beginning July 1, 1991 and annually thereafter until the full amount is repaid according to a schedule of repayments determined by the State Treasurer; and

(9) Such sums as may be necessary to reimburse a local unit for costs incurred in an emergency response action taken to prevent, contain, mitigate, clean up or remove a discharge of a hazardous substance.

b. The Treasurer may invest and reinvest any moneys in said fund in legal obligations of the United States, this State or any of its political subdivisions. Any income or interest derived from such investment shall be included in the fund.

2. This act shall take effect immediately.

Approved August 13, 1992.

CHAPTER 86

AN ACT transferring the Council on Armed Forces and Veterans' Affairs to the Department of Military and Veterans' Affairs, supplementing chapter 3 of Title 38A of the New Jersey Statutes and repealing P.L.1983, c.61.

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

1. The Legislature finds that:

a. The existing military and naval installations in the State make a major contribution to the total defense posture of the nation.

b. The continued operation of these installations is highly desirable because of the available employment opportunities which they provide, as well as for other economic benefits accruing to the areas in which these facilities are located.

c. There has been an alarming tendency in recent years to close many military and naval installations located in this State, and to transfer major units from this State to other states.

d. The Permanent Council on Armed Forces Liaison was established in the Department of Labor and Industry in 1977 and reconstituted as the Council on Armed Forces and Veterans' Affairs within the Department of Commerce and Economic Development by P.L.1983, c.61, approved on February 7, 1983. The Legislature now determines that the work of the council would be more effective and efficient if the council were transferred to and established in the Department of Military and Veterans' Affairs and the Adjutant General of that department added to its membership.

C.38A:3-16 Transfer of Council on Armed Forces and Veterans' Affairs to Department of Military and Veterans' Affairs.

2. The Council on Armed Forces and Veterans' Affairs established in the Department of Commerce and Economic Development pursuant to P.L.1983, c.61 (C.52:27H-45 et seq.) is hereby transferred to and established in the Department of Military and Veterans' Affairs. The council shall consist of 10 members: two to be appointed by the President of the Senate from the members thereof, no more than one of whom shall be from the same political party; two to be appointed by the Speaker of the General Assembly from the members thereof, no more than one of whom shall be from the same political party; the Adjutant General of the Department of Military and Veterans' Affairs, the

Commissioner of Commerce, Energy and Economic Development, and the Commissioner of Labor, or their designees; and three public members to be appointed by the Governor, with the advice and consent of the Senate. Members of the Legislature shall serve on the commission for the two-year legislative term during which they are appointed. Each public member shall serve for a term of three years from the date of the member's appointment and until the member's successor is appointed and qualified. Vacancies resulting from causes other than by expiration of term shall be filled for the unexpired term only and shall be filled in the same manner as the original appointments were made.

C.38A:3-17 Council members entitled to reimbursement.

3. All members of the council shall serve without compensation, but they shall be entitled to be reimbursed for all necessary expenses incurred in the performance of their duties.

C.38A:3-18 Selection of chairman, secretary.

4. The council shall select from among its members a chairman and also shall select a secretary, who need not be a member of the council.

C.38A:3-19 Purpose of council.

5. The council shall be a structural liaison and public relations body on behalf of this State in all matters relating to federal military and naval installations located within this State or proposed to be located herein. The council shall communicate and cooperate with the President of the United States and with all other federal officials and employees and private persons for the effectuation of the purposes of this act.

C.38A:3-20 Report to Governor, Legislature.

6. The council shall report its findings and recommendations to the Governor and the Legislature annually on the second Tuesday in January and at any other time as it deems necessary or desirable.

C.38A:3-21 Powers of council.

7. The council may hold hearings in any part of the State and by its subpena may compel the attendance of witnesses and the production of books, papers and records. It shall be entitled to the assistance and services of any State, county, municipal and school district employees as may be required, and the council may employ competent counsel, expert advisers and any other assistants as may be required for the proper accomplishment of the purposes of this act, provided that the compensation to be

paid to the counsel, advisers and assistants shall be within the limits of the appropriation made therefor.

C.38A:3-22 Present members not affected.

8. This act shall not affect the membership or the terms of office of those persons who are members of the council on the effective date of this act.

Repealer.

9. P.L.1983, c.61 (C.52:27H-45 et seq.) is repealed.

10. This act shall take effect immediately.

Approved August 13, 1992.

CHAPTER 87

AN ACT concerning the New Jersey Emergency Medical Service Helicopter Response Program, supplementing chapter 3 of Title 39 of the Revised Statutes and P.L.1986, c.106.

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

C.39:3-8.2 Additional fee.

1. In addition to the motor vehicle registration fees imposed pursuant to the provisions of chapter 3 of Title 39 of the Revised Statutes, the director shall impose and collect an additional fee of $1 to be deposited in the New Jersey Emergency Medical Service Helicopter Response Program Fund created pursuant to section 2 of P.L.1992, c.87 (C.26:2K-36.1).

C.26:2K-36.1 New Jersey Emergency Medical Service Helicopter Response Program Fund established.

2. a. There is established in the General Fund a special dedicated fund to be known as the New Jersey Emergency Medical Service Helicopter Response Program Fund which shall be administered by the State Treasurer. The Treasurer shall credit to the fund all moneys received pursuant to section 1 of P.L.1992, c.87 (C.39:3-8.2). Any interest earned on moneys in the fund shall be credited to the fund.

b. From the moneys in the fund there shall be annually appropriated an amount necessary to pay the reasonable and necessary expenses of the operation of the New Jersey Emergency Medical

Service Helicopter Response Program created pursuant to P.L.1986, c.106 (C.26:2K-35 et al.). Moneys remaining in the fund, and any unexpended balance of appropriations from the fund, at the end of each fiscal year, shall be reappropriated and deposited in a special capital maintenance reserve account within the fund. Moneys in the special capital maintenance reserve account shall be used exclusively for capital replacement and major maintenance of helicopter equipment.

c. Six months after the effective date of this section and every six months thereafter, the Commissioner of Health shall report to the Joint Budget Oversight Committee, or its successor, the Senate Health and Human Services Committee and the Assembly Health and Human Services Committee. The report shall contain, but not be limited to, cost analyses concerning the response program activities including the number of flights, types of accidents, hours spent waiting at accident sites, and fuel and maintenance expenses.

3. This act shall take effect on the first day of the third month after enactment.

Approved August 20, 1992.

CHAPTER 88

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 $345,000,000 to provide moneys for acquisition and development of lands for public recreation and conservation purposes, for farmland development easement and fee simple absolute acquisitions, for soil and water conservation projects, for historic preservation projects, for dam restoration projects and projects to restore inland waters, and for wastewater treatment system projects; establishing certain funds for those purposes; authorizing the issuance of refunding bonds; providing the ways and means to pay and discharge the principal and interest on the bonds and refunding bonds; providing for the submission of this act to the people at a general election; and making an appropriation.

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

1. This act shall be known and may be cited as the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992."

2. The Legislature finds and declares that the provision of lands for public recreation and the conservation of natural resources promotes the public health, prosperity, and general welfare and is a proper responsibility of State government; that lands now dedicated to these purposes will not be adequate to meet the needs of an expanding population in years to come; that such lands as are available and appropriate for these purposes will gradually disappear as their cost correspondingly increases; that it is necessary and desirable to provide assistance in the form of grants and loans to local government units and matching grants to qualifying tax exempt nonprofit organizations to acquire lands that have significant recreation and conservation attributes; and that it is also necessary and desirable to provide funds to assure that lands that have been or may hereafter be acquired for recreation and conservation purposes are developed to provide public recreation, preserve historic resources, and provide conservation opportunities and to implement the New Jersey Statewide Comprehensive Outdoor Recreation Plan.

The Legislature further finds and declares that agriculture plays an integral role in the prosperity and well-being of the State as well as providing a fresh and abundant supply of food and fiber for its citizens; that agricultural land resources face an imminent threat of permanent conversion to non-farm uses; that the retention and development of an economically viable agricultural industry is of high public priority for New Jersey; and that the issuance of bonds is necessary and desirable to provide funds to (1) purchase fee simple absolute titles to farmland for the purpose of offering the farmland for resale with agricultural deed restrictions, (2) acquire, in cooperation with counties and municipalities, development easements on farmland, and (3) assist, through cost-sharing with landowners, the long-term conservation and management of farmland and the State's natural resources through soil and water conservation projects and programs.

The Legislature further finds and declares that throughout the State there are properties, structures, facilities, and sites of historic character and importance that are owned or leased on a long-

term basis by the State, county or municipal governments, or tax exempt nonprofit organizations and that are in need of restoration and preservation; that unless this need is met, an important element of our historic heritage will be lost; that a significant number of these historic properties, structures, facilities, and sites are located in urban centers, where their restoration and preservation can play an important part in the overall strategy of the State and of local government to encourage urban revitalization; and that the issuance of bonds is necessary and desirable to provide funds for such historic preservation purposes.

The Legislature further finds and declares that the restoration of existing dams, especially those that are classified as high-hazard, will help assure a continuous water supply source, provide flood control benefits, provide recreational opportunities, and protect the citizens of the State from loss of life or property.

The Legislature further finds and declares that the State's inland waters are a precious natural resource threatened by nonpoint source pollution, soil erosion, eutrophication, flood damage, illegal solid waste disposal and littering, and uncontrolled vegetative growth; that this resource is critical to the health and welfare of the citizens of New Jersey, both as a source of drinking water and for recreational use; and that in order to protect this resource it is necessary for the State, local government, and private lake associations or similar organizations in conjunction with local government to undertake projects for pollution control, flood control, and recreation and conservation purposes, including projects to abate nonpoint sources of pollution, prevent soil erosion in watershed areas, remove undesirable vegetation, and dredge sediments that reduce the value of inland waters.

The Legislature further finds and declares that protecting the ground and surface water of the State from pollution is vital to the health and general welfare of the citizens of New Jersey; that the upgrading, improvement, and construction of modern and efficient wastewater treatment systems is essential to protecting and improving water quality; and that in addition to protecting and improving water quality by upgrading facilities operating below the standards set forth in their permits, adequate wastewater treatment systems are essential in areas in this State where large numbers of septic systems have malfunctioned or become obsolete, or in areas where it is necessary to connect customers of an obsolete or malfunctioning wastewater treatment system to an existing system.

3. As used in this act:

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

"Commission" means the New Jersey Commission on Capital Budgeting and Planning;

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

"Cost" means the expenses incurred in connection with: all things deemed necessary or useful and convenient in connection with the acquisition and development of lands by or with the assistance of the State, for recreation and conservation purposes, the purchase and monitoring of development easements or fee simple absolute titles to farmland, the monitoring of development easements or fee simple absolute titles to farmland purchased with funds made available pursuant to P.L.1989, c.183 or P.L.1981, c.276, the funding of soil and water conservation projects, or the funding of wastewater treatment system projects; the interest or discount on bonds; the issuance of bonds; the procurement or provision of engineering, inspection, relocation, legal, financial, planning, geological, hydrological and other professional services, estimates and advice; the services of a bond registrar or an authenticating agent; organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act; and reimbursement of any fund of the State of moneys which may have been transferred or advanced therefrom to any applicable fund created by this act, or of any moneys heretofore expended for, or in connection with, an acquisition or a development or project;

"Dam restoration project" means the repair, restoration, construction, reconstruction, or demolition of dams, bulkheads, retention or detention basins, or other structures that impound water for water supply purposes, flood control, or recreation;

"Dam restoration project cost" means the expenses incurred in connection with: all things deemed necessary or useful and convenient in connection with a dam restoration project; the execution of any agreements and franchises deemed by the commissioner to be useful and convenient in connection with any dam restoration project authorized by this act; the interest or discount on bonds; the issuance of bonds; the procurement or provision of engineering, inspection, relocation, legal, financial, planning, geological, hydrological and other professional services, estimates and advice; the services of a bond registrar or an

authenticating agent; organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act; and reimbursement of any fund of the State of moneys which may have been transferred or advanced therefrom to any applicable fund created by this act, or of any moneys heretofore expended for, or in connection with, a dam restoration project;

"Development" means any improvement to land or water areas designed to expand and enhance their utilization for recreation and conservation purposes, including, but not limited to, site preparation, landscaping, and structures or facilities which are substantially consistent with the natural setting and topographical conditions. These structures and facilities may include, but are not limited to, access roads, interpretative facilities, parking areas, utilities, comfort facilities, and any ramps, structures, or facilities that would provide access to the land or water area for handicapped or disabled persons. "Development" also means any work relating to the stabilization, repair, rehabilitation, renovation, restoration, improvement, protection, or preservation of any historic property, structure, facility, or site acquired for recreation and conservation purposes;

"Development easement" means an interest in land, less than fee simple absolute title thereto, which interest represents the right to develop such lands for all nonagricultural purposes and which interest may be transferred under laws authorizing the transfer of development potential; and shall include limited term development easements authorized pursuant to law;

"Farmland" means land identified as prime, unique or of Statewide importance according to criteria adopted by the New Jersey State Soil Conservation Committee, and land of local importance as identified by local agricultural preservation agencies established by law in cooperation with local soil conservation districts, and which qualifies for lower property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.) and any other land on the farm which is necessary to accommodate farm practices as determined by the State Agriculture Development Committee;

"Farmland preservation program" means any program authorized by law which shall have as its principal purpose the long-term preservation of significant masses of reasonably contiguous agricultural land and the maintenance and support of increased agricultural production as the first priority use of that land;

"Government securities" means any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency, to the extent those obligations are unconditionally guaranteed by the United States of America, and any certificates or any other evidences of an ownership interest in those obligations of, or unconditionally guaranteed by, the United States of America or in specified portions which may consist of the principal of, or the interest on, those obligations;

"Historic" means, as applied to any property, structure, facility, or site, and except as used in this act in connection with the definition of "recreation and conservation purposes" as set forth in this act, any area, site, structure, or object approved for inclusion, or which meets the criteria for inclusion, in the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.);

"Historic preservation project" means any work relating to the stabilization, repair, rehabilitation, renovation, restoration, improvement, protection, or preservation of any historic property, structure, facility, or site, and shall include any work related to providing access thereto for handicapped or disabled persons;

"Historic preservation project cost" means the expenses incurred in connection with: all things deemed necessary or useful and convenient in connection with historic preservation projects; the execution of any agreements or franchises deemed by the Trustees of the New Jersey Historic Trust to be necessary or useful and convenient in connection with any historic preservation project; the interest or discount on bonds; the issuance of bonds; the procurement or provision of engineering, architectural, design, inspection, relocation, legal, financial, planning, archaeological, historic research, geological, hydrological and other professional services, estimates, studies, reports, and advice; feasibility studies; the services of a bond registrar or an authenticating agent; organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act; and reimbursement of any fund of the State of moneys which may have been transferred or advanced therefrom to any applicable fund created by this act, or of any moneys heretofore expended for, or in connection with, a historic preservation project;

"Inland waters" means any lake, river, pond, stream, marsh, or freshwater wetland; any floodway, flood fringe area, or flood hazard area as defined in section 2 of P.L.1962, c.19 (C.58:16A-51)

or as delineated by the Department of Environmental Protection pursuant to section 3 of P.L.1962, c.19 (C.58:16A-52); and any area delineated by or for the federal government, which, if appropriately regulated by a local government unit, qualifies the residents therein for federal flood insurance;

"Inland waters project" means any work related to pollution control, flood control, or recreation and conservation purposes associated with inland waters, including, but not limited to, work concerned with abating pollution caused by stormwater runoff, soil erosion, or other nonpoint sources of pollution, and the dredging of sediments or the removal of stumps, vegetation, or rocks to improve the overall quality of inland waters, parks, natural areas, fishing, boating, and swimming areas, water reservoirs, wildlife preserves and hunting areas, or flood control facilities or structures;

"Inland waters project cost" means the expenses incurred in connection with: all things deemed necessary or useful and convenient in connection with an inland waters project; the execution of any agreements and franchises deemed by the commissioner to be useful and convenient in connection with any inland waters project authorized by this act; the interest or discount on bonds; the issuance of bonds; the procurement or provision of engineering, inspection, relocation, legal, financial, planning, geological, hydrological and other professional services, estimates and advice; the services of a bond registrar or an authenticating agent; organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act; and reimbursement of any fund of the State of moneys which may have been transferred or advanced therefrom to any applicable fund created by this act, or of any moneys heretofore expended for, or in connection with, an inland waters project;

"Land" or "lands" means real property, including improvements thereof or thereon, rights-of-way, water, lakes, riparian and other rights, easements, privileges and all other rights or interests of any kind or description in, relating to or connected with real property;

"Local government unit" means: (1) a county, municipality or other political subdivision of this State authorized to administer, protect, develop and maintain lands for recreation and conservation purposes, or any agency thereof, the primary purpose of which is to administer, protect, develop and maintain lands for recreation and conservation purposes; (2) with respect to historic preservation projects, a county, municipality or other political subdivision, or any agency thereof, that owns or leases on a long-

term basis a historic property, structure, facility, or site; (3) with respect to dam restoration projects or inland waters projects, a county or a municipality, or any agency, authority, board, commission, or other instrumentality thereof, any two or more counties or municipalities operating jointly through a joint meeting or interlocal services agreement permitted by law, or any agency, authority, board, commission, or other instrumentality thereof, and any other local or regional entity created by the Legislature as a political subdivision of the State, or any agency, authority, board, commission, or other instrumentality thereof; or (4) with respect to wastewater treatment system projects, a county, municipality, municipal or county sewerage or utility authority, municipal sewerage district, joint meeting, improvement authority, or any other political subdivision authorized to construct, operate and maintain wastewater treatment systems;

"Qualifying tax exempt nonprofit organization" means a tax exempt nonprofit organization that qualifies for a matching grant pursuant to subsection d. of section 7 of this act or, in the case of historic preservation projects, a matching grant pursuant to section 10 of this act;

"Recreation and conservation purposes" means the use of lands for parks, natural areas, ecological and biological study, historic areas, historic buildings or structures, forests, camping, fishing, water reserves, wildlife preserves, hunting, boating, winter sports and similar uses for either public outdoor recreation or conservation of natural resources, or both;

"Secretary" means the Secretary of Agriculture;

"Soil and water conservation project" means any project designed for the control and prevention of soil erosion and sediment damages, the control of nonpoint source pollution on agricultural lands, the impoundment, storage and management of water for agricultural purposes, or the improved management of land and soil to achieve maximum agricultural productivity;

"Trust" means the New Jersey Wastewater Treatment Trust established pursuant to the "New Jersey Wastewater Treatment Trust Act," P.L.1985, c.334 (C.58:11B-1 et seq.);

"Wastewater" means residential, commercial, industrial, or agricultural liquid waste, sewage, 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 for the storage, collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge, or for the separate collection or treatment, or both, of stormwater runoff and sewage, 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 project" means any work related to the design, engineering, pre-construction demolition or site preparation, building, rebuilding, installation, remodelling, upgrading, reinforcement, restoration, construction, reconstruction, improvement, rehabilitation, relocation, demolition, renewal, repair, replacement, betterment, extension, expansion, or consolidation, or any combination thereof, of any wastewater treatment system structure, building, or facility authorized by this act;

"Wastewater treatment system project cost" means the expenses incurred in connection with all things necessary or useful or convenient in connection with a wastewater treatment system project authorized by this act, including but not limited to: the acquisition by purchase, lease, or otherwise, the development, and the construction of any wastewater treatment system project authorized by this act; the acquisition by purchase, lease, or otherwise, and the development of any real or personal property for use in connection with any wastewater treatment system project authorized by this act, including any rights or interests therein; the execution of any agreements and franchises deemed by the commissioner to be useful and convenient in connection with any wastewater treatment system project authorized by this act; the procurement of engineering, inspection, planning, geological, hydrological, research, legal, financial, or other professional services, estimates, or advice; the services of a bond registrar or an authenticating agent; the issuance of bonds, or any interest or discount thereon; the administrative, organizational, operating, or other expenses, including salaries, material, and equipment, necessary to administer the applicable provisions of this act; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses and for the payment of security of principal or interest on bonds, as the Director of the Division of Budget and Accounting in the Department of

the Treasury may determine; and reimbursement to any fund of the State of moneys which may have been transferred or advanced therefrom to any fund created by this act, or of any moneys which may have been expended therefrom for, or in connection with, any wastewater treatment system project authorized by this act; provided, however that when financial assistance for a wastewater treatment system project is obtained from a federal agency or another State program or agency, the costs of the wastewater treatment system project shall be computed after deducting the federal or other State assistance.

4. The commissioner and the secretary shall review and consider the findings and recommendations of the commission in the administration of the provisions of this act.

5. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $200,000,000 for the purposes of: providing moneys to meet the cost of public acquisition and development of lands by the State for recreation and conservation purposes; providing State grants and loans to assist local government units to meet the cost of acquiring and developing lands for recreation and conservation purposes; and providing State matching grants to assist qualifying tax exempt nonprofit organizations to meet the cost of acquiring lands for recreation and conservation purposes, to be allocated as follows:

a. $80,000,000 for the acquisition and development of lands by the State for recreation and conservation purposes, of which amount not more than $20,000,000 shall be for the development of such lands, and a minimum of $1,000,000 of those moneys allocated for development pursuant to this subsection shall be for the development of lands for recreation and conservation purposes in keeping with the requirements, standards, and policies of State and federal law concerning handicapped or disabled persons, including, but not limited to, the provisions of the "Americans with Disabilities Act of 1990" (42 U.S.C. §12101 et al.);

b. $100,000,000 for State grants and loans to assist local government units to acquire and develop lands for recreation and conservation purposes, of which amount, $15,000,000 shall be for grants for up to 50% of the cost of acquisition or development of lands by local government units eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), and a minimum of $1,250,000 of the moneys allocated for development pursuant to this

subsection shall be for grants and loans to assist local government units to develop lands for recreation and conservation purposes in keeping with the requirements, standards, and policies of State and federal law concerning handicapped or disabled persons, including, but not limited to, the provisions of the "Americans with Disabilities Act of 1990" (42 U.S.C. §12101 et al.); and

c. $20,000,000 for State grants, on an up to 50% matching basis, to qualifying tax exempt nonprofit organizations to acquire lands for recreation and conservation purposes.

To the end that municipalities may not suffer a loss of taxes by reason of the acquisition and ownership by the State of New Jersey of property under the provisions of this section, the State shall pay annually on October 1 to each municipality in which property is so acquired, for a period of 13 years following an acquisition the following amounts: in the first year a sum of money equal to the tax last assessed and last paid by the taxpayer upon this land and the improvements thereon for the taxable year immediately prior to the time of its acquisition and thereafter the following percentages of the amount paid in the first year: second year, 92%; third year, 84%; fourth year, 76%; fifth year, 68%; sixth year, 60%; seventh year, 52%; eighth year, 44%; ninth year, 36%; 10th year, 28%; 11th year, 20%; 12th year, 12%; 13th year, 4%. In the event that land acquired by the State pursuant to this act was assessed at an agricultural and horticultural use valuation in accordance with provisions of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), at the time of its acquisition by the State, no rollback tax pursuant to section 8 of P.L.1964, c.48 (C.54:4-23.8) shall be imposed as to this land nor shall this rollback tax be applicable in determining the annual payments to be made by the State to the municipality in which this land is located.

All sums of money received by the respective municipalities as compensation for loss of tax revenue pursuant to this section shall be applied to the same purposes as is the tax revenue from the assessment and collection of taxes on real property of these municipalities, and to accomplish this end the sums shall be apportioned in the same manner as the general tax rate of the municipality for the tax year preceding the year of receipt.

6. a. Moneys provided to the State for lands to be acquired or developed by the State for recreation and conservation purposes using the proceeds of bonds issued by the State under this act

shall include 100% of the costs of acquisition or development of these lands, as the case may be.

b. The commissioner shall take into consideration the requirements, standards, and policies of State and federal law concerning handicapped or disabled persons, including, but not limited to, the provisions of the "Americans with Disabilities Act of 1990" (42 U.S.C. §12101 et al.), when expending moneys for the development of lands by the State for recreation and conservation purposes using the proceeds of bonds issued by the State under this act.

c. In making decisions concerning the acquisition or development of lands by the State for recreation and conservation purposes using the proceeds of bonds issued by the State under this act, the commissioner shall give special consideration to increasing public access to waterfront areas and to protecting stream corridors, water supplies, and water recharge areas.

d. Of the amount authorized pursuant to subsection a. of section 5 of this act, not more than 8% shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

7. a. Except for those grants to local government units eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) as provided for in subsection b. of section 5 of this act, a grant by the State for lands acquired or developed by a local government unit for recreation and conservation purposes shall include up to 25% of the cost of acquisition or development of these lands by a local government unit; provided, however, that at such times as the balance of the "1992 New Jersey Green Trust Fund" established pursuant to section 22 of this act in combination with the balance of the "Green Trust Fund" established pursuant to P.L.1983, c.354 and P.L.1987, c.265 and the "1989 New Jersey Green Trust Fund" established pursuant to P.L.1989, c.183, exclusive of the moneys for grants to local government units eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), exceeds $100,000,000, the commissioner, in consultation with the State Treasurer, may increase the State's share of the cost of acquisition to a maximum of 50%.

b. A loan by the State for lands to be acquired or developed by a local government unit shall include up to 100% of the cost of acquisition or development of these lands by a local government unit.

c. Loans made to local government units from the "1992 New Jersey Green Trust Fund" established pursuant to section 22 of this act shall bear interest of not more than 2% per year, and shall be for a term of not more than 20 years.

d. A grant by the State for lands to be acquired by a qualifying tax exempt nonprofit organization for recreation and conservation purposes shall include up to 50% of the cost of acquisition of these lands by a qualifying tax exempt nonprofit organization. To qualify to receive a matching grant, the board of directors or governing body of the applying tax exempt nonprofit organization shall:

(1) demonstrate to the commissioner that it qualifies as a charitable conservancy for the purposes of P.L.1979, c.378 (C.13:8B-1 et seq.);

(2) demonstrate that it has the resources to match the grant requested;

(3) agree to make and keep the lands accessible to the public, unless the commissioner determines that public accessibility would be detrimental to the lands or any natural resources associated therewith;

(4) agree not to sell, lease, exchange, or donate the lands except to the federal government, the State, a local government unit, or another qualifying tax exempt nonprofit organization for recreation and conservation purposes; and

(5) agree to execute and donate to the State at no charge a conservation restriction or historic preservation restriction, as the case may be, pursuant to P.L.1979, c.378 (C.13:8B-1 et seq.), on the lands to be acquired utilizing the matching grant.

e. The local government unit or qualifying tax exempt nonprofit organization share of the cost of an acquisition of lands, if any, may be reduced (1) by the fair market value, as determined by the commissioner, of any portion of the lands to be acquired which have been donated to, or otherwise received without cost by, any of the local government units or qualifying tax exempt nonprofit organizations concerned; or (2) in the case of a conveyance of the lands, or any portion thereof, to any of the local government units or qualifying tax exempt nonprofit organizations concerned at less than fair market value, by the difference between fair market value thereof at the time of the conveyance and the conveyance price thereof to the local government unit or units or to the qualifying tax exempt nonprofit organization or organizations.

f. The commissioner shall take into consideration the requirements, standards, and policies of State and federal law concerning handicapped or disabled persons, including, but not limited to, the provisions of the "Americans with Disabilities Act of 1990" (42 U.S.C. §12101 et al.), when awarding grants or loans to local

government units for the development of lands for recreation and conservation purposes using the proceeds of bonds issued by the State under this act.

g. (1) In making decisions concerning the awarding of grants or loans to assist local government units to meet the cost of acquisition or development of lands for recreation and conservation purposes, and concerning the awarding of grants to assist qualifying tax exempt nonprofit organizations to meet the cost of acquisition of lands for recreation and conservation purposes, using the proceeds of bonds issued by the State under this act, the commissioner shall give special consideration to increasing public access to waterfront areas and to protecting stream corridors, water supplies, and water recharge areas.

(2) In making decisions concerning the awarding of grants or loans to assist local government units to meet the cost of acquisition or development of lands for recreation and conservation purposes using the proceeds of bonds issued by the State under this act, the commissioner shall give special consideration to applications submitted by local government units that have previously acquired or developed lands for recreation and conservation purposes without any financial assistance from the State.

h. Of the amount authorized pursuant to subsections b. and c. of section 5 of this act, not more than 8% shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

8. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $50,000,000 for the purpose of the preservation of farmland for agricultural use and production. The proceeds from the sale of the bonds shall be for appropriation to the State Agriculture Development Committee established pursuant to section 4 of P.L.1983, c.31 (C.4:1C-4):

a. to provide grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland, provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements;

b. for up to 100% of the cost of acquisition of development easements, under such emergency conditions as the State Agriculture Development Committee determines;

c. for the cost of acquisition of fee simple absolute titles to farmland which shall be offered for resale with agricultural deed restrictions; and

d. to provide grants to landowners for up to 50% of the cost of soil and water conservation projects.

All acquisitions or grants made pursuant to this section shall be with respect to land devoted to farmland preservation under programs established by law.

Of the amount authorized pursuant to this section, not more than $5,000,000 may be utilized for the purposes of subsection c. of this section, and not more than $1,500,000 may be utilized for the purposes of subsection d. of this section.

Of the amount authorized pursuant to this section, not more than 8% shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

9. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $25,000,000 for the purpose of providing State matching grants to assist State agencies or entities, local government units, and qualifying tax exempt nonprofit organizations to meet the historic preservation project cost of historic preservation projects for historic properties, structures, facilities, or sites owned or leased on a long-term basis by those agencies, entities, units, or organizations.

Of the amount authorized pursuant to this section, not more than 8% shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

10. a. Historic preservation project matching grants shall be awarded by the Trustees of the New Jersey Historic Trust in the Department of Environmental Protection on a competitive basis based upon the following criteria:

(1) Submission of specific plans for the preservation of the architectural and historical integrity of the structure;

(2) Demonstration by the applicant of administrative capabilities to carry out the preservation plans required pursuant to paragraph (1) of this subsection;

(3) Evidence of ability to meet the eligibility standards for historic preservation project matching grants set forth in subsection b. of this section;

(4) Submission of financial plans for the continued preservation of the historic property, structure, facility, or site after the expenditure of the grant moneys; and

(5) Evidence that the historic property, structure, facility, or site is and shall remain accessible to the public, or if it is not accessible to the public at the time of application, that it shall be made, and shall remain, accessible to the public.

b. To be eligible for a historic preservation project matching grant, the head official of an applying State agency or entity, the governing body of an applying local government unit, or the board of directors or governing body of an applying tax exempt nonprofit organization, as the case may be, shall:

(1) Certify that the property, structure, facility, or site is approved for, or meets the criteria for, inclusion in the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.); and

(2) Demonstrate the ability to match the grant applied for.

c. Moneys raised within two years prior to the enactment of this act for ongoing historic preservation projects may be utilized by an applicant to meet the matching requirements of this section, but moneys raised prior thereto may not be utilized for that purpose.

d. (1) Not more than 25% of the moneys made available for historic preservation projects pursuant to this act shall be awarded to State agencies or entities.

(2) Of the amount authorized pursuant to section 9 of this act, up to 10% may be awarded by the New Jersey Historic Trust to be utilized for historic preservation projects or programs that aid designated districts, municipalities, or geographic areas, including, but not limited to, certified local governments pursuant to 16 U.S.C. §470a et seq. and Main Street New Jersey communities. The New Jersey Historic Trust shall administer all such awards authorized pursuant to this paragraph.

e. No historic preservation project may receive a matching grant pursuant to this act that exceeds $1,250,000.

f. Recipients of historic preservation project matching grants awarded pursuant to this act shall reflect the racial, ethnic and geographic diversity of the State.

g. The New Jersey Historic Trust shall establish an advisory committee composed of individuals with the requisite professional expertise to evaluate the historic preservation project matching grant applications submitted pursuant to this section and to advise the trustees on the merits of each application received.

h. The New Jersey Historic Trust shall require as a condition of any historic preservation project matching grant awarded to a qualifying tax exempt nonprofit organization that the historic property, structure, facility, or site for which the grant was received shall not be sold, leased, or otherwise conveyed to an individual or organization that does not have tax exempt non-profit or governmental status.

i. Any work on a historic preservation project funded with a historic preservation project matching grant awarded pursuant to this act shall commence within two years of the effective date of the appropriation by law of the funds for the grant, or the grant for that historic preservation project shall lapse into the "1992 Historic Preservation Fund" established pursuant to section 25 of this act.

11. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $20,000,000 for the purposes of financing the dam restoration project cost and the inland waters project cost of dam restoration projects and inland waters projects in accordance with this section.

a. Of the amount authorized pursuant to this section:

(1) $5,000,000 is allocated to meet the dam restoration project cost and the inland waters project cost of State high-hazard dam restoration projects and State inland waters projects; and

(2) $15,000,000 is allocated for State loans to assist local government units, and private lake associations or similar organizations or owners of private dams, as co-applicants with local government units, to meet the dam restoration project cost or inland waters project cost of dam restoration projects or inland waters projects undertaken by local government units or by private lake associations or similar organizations or owners of private dams, in conjunction with local government units, for purposes in the public interest.

b. Any loan authorized under this section shall include up to 100% of the dam restoration project cost or inland waters project cost.

c. Loans made to local government units, or to private lake associations or similar organizations or owners of private dams as co-applicants with local government units, from the "1992 Dam Restoration and Clean Water Trust Fund" established pursuant to section 26 of this act shall bear interest of not more than 2% per year, and shall be for a term of not more than 20 years.

d. Any loan authorized under this section shall be provided under terms and conditions set forth in a written agreement

between the Department of Environmental Protection and the person or entity receiving the loan.

e. The cost of payment of the principal and interest on any loan made to a private lake association or similar organization or owner of a private dam, as a co-applicant with a local government unit, shall be assessed against the real estate benefited thereby in proportion to and not in excess of the benefits conferred, and such assessments shall bear interest and penalties from the same time and at the same rate as assessments for local improvements in the municipality where they are imposed, and from the date of confirmation shall be a first and paramount lien upon the real estate assessed to the same extent, and be enforced and collected in the same manner, as assessments for local improvements.

f. The Department of Environmental Protection shall administer the loan program authorized pursuant to this section. The department shall notify every local government unit and private lake association or similar organization of the availability of, and the criteria for qualifying and obtaining, loans under the program.

12. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $50,000,000 for the purpose of financing wastewater treatment system project costs.

b. Of the total amount of bonds authorized pursuant to this section, $45,000,000 is allocated to the department for the purpose of making zero interest loans to local government units to meet the wastewater treatment system project cost of wastewater treatment system projects, in order to bring such systems into full compliance with permits issued pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), to provide adequate wastewater treatment in areas where large numbers of septic systems have malfunctioned or become obsolete, or to connect an obsolete or malfunctioning wastewater treatment system to another wastewater treatment system.

c. Of the total amount of bonds authorized pursuant to this section, $5,000,000 is allocated for payment to and use by the New Jersey Wastewater Treatment Trust pursuant to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) as reserve and guarantee funding to secure debt issued by the trust or by local government units to meet the wastewater treatment system project cost of wastewater treatment system projects, in order to bring such systems into full compliance with permits issued pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et

seq.), to provide adequate wastewater treatment in areas where large numbers of septic systems have malfunctioned or become obsolete, or to connect an obsolete or malfunctioning wastewater treatment system to another wastewater treatment system.

d. The proceeds from the sale of bonds authorized pursuant to subsection a. of this section may not be used for the construction of a new or the expansion of an existing sludge incineration facility. The proceeds from the sale of bonds authorized pursuant to subsection a. of this section may not be used for the construction of a new wastewater treatment system, or for the expansion or extension of an existing wastewater treatment system, in order to connect any residential, commercial, or industrial development to the system which development was not in existence as of the enactment of this act. The limitations enumerated in this subsection shall not apply to a wastewater treatment system project that is needed in order to implement or facilitate a development transfer ordinance pursuant to P.L.1989, c.86 (C.40:55D-113 et seq.).

13. The bonds authorized under this act shall be serial bonds, term bonds, or a combination thereof, and shall be known as "1992 New Jersey Green Acres, Clean Water, Farmland and Historic Preservation 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.

14. 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.

15. Bonds issued in accordance with the provisions of this act are 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 are exempt from taxation by the State or by any county, municipality or other taxing district of the State.

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

17. a. The bonds shall recite that they are issued for the purposes set forth in section 5, 8, 9, 11, or 12 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, 1992, 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.

18. 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.

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

20. 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.

21. The State Treasurer shall establish a fund, to be known as the "1992 New Jersey Green Acres Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of the bonds issued by the State under this act for State acquisitions and developments as set forth in subsection a. of section 5 of this act. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in subsection a. of section 5 of this act. Such grants, contributions, donations, and reimbursements from federal aid programs as may be lawfully used for the purposes set forth in subsection a. of section 5 of this act shall also be held in the "1992 New Jersey Green Acres Fund." Moneys in the fund shall not be expended except in accordance with appropriations from

the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature has not adopted an act making a specific appropriation of any of the moneys. Any act appropriating moneys from the "1992 New Jersey Green Acres Fund" shall identify the particular project or projects to be funded with such moneys.

22. The State Treasurer shall establish a revolving, nonlapsing fund to be known as the "1992 New Jersey Green Trust Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of the bonds issued by the State under this act for grants and loans as set forth in subsections b. and c. of section 5 of this act. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in subsections b. and c. of section 5 of this act. Moneys derived from the payment of interest and principal on the loans to local government units authorized in subsection b. of section 5 of this act, and such grants, contributions, donations, and reimbursements from federal aid programs as may lawfully be used for the purposes of making grants and loans to local government units or qualifying tax exempt nonprofit organizations for recreation and conservation purposes, shall also be held in the "1992 New Jersey Green Trust Fund." Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature has not adopted an act making a specific appropriation of any of the moneys. Any act appropriating moneys from the "1992 New Jersey Green Trust Fund" shall identify the particular project or projects to be funded with such moneys.

23. Notwithstanding any law, rule, or regulation to the contrary:

a. any proceeds from the sale or conveyance of lands acquired or developed by the State for recreation and conservation purposes with funds made available pursuant to P.L.1961, c.46; P.L.1971, c.165; P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1989, c.183; or this act, shall be deposited in the "1992 New Jersey Green Acres Fund," or in any similar fund established in any subsequent bond act enacted for similar purposes;

b. any proceeds returned to the State from the sale or conveyance of lands acquired or developed by a local government unit or a qualifying tax exempt nonprofit organization for recreation and conservation purposes with funds made available pursuant to

P.L.1961, c.46; P.L.1971, c.165; P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987, c.265; P.L.1989, c.183; or this act, shall be deposited in the "1992 New Jersey Green Trust Fund," or in any similar fund established in any subsequent bond act enacted for similar purposes.

24. a. The State Treasurer shall establish a fund to be known as the "1992 Farmland Preservation Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of bonds issued by the State under this act for the acquisition of development easements or fee simple absolute titles on farmland and for soil and water conservation projects, all as set forth in section 8 of this act. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in section 8 of this act. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature has not adopted an act making a specific appropriation of any of the moneys.

b. Any act appropriating moneys from the "1992 Farmland Preservation Fund" shall identify the particular project or projects to be funded with such moneys, except the provisions of this subsection shall not apply to any appropriation of moneys from the fund for the cost of acquisition of fee simple absolute titles to farmland or for the cost of providing grants to landowners for up to 50% of the cost of soil and water conservation projects.

25. The State Treasurer shall establish a fund to be known as the "1992 Historic Preservation Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of bonds issued by the State under this act for the funding of historic preservation projects as set forth in section 9 of this act. The moneys in the fund are specifically dedicated and shall be applied to the historic preservation project cost of the purposes set forth in section 9 of this act. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature has not adopted an act making a specific appropriation of any of the moneys. Any act appropriating

moneys from the "1992 Historic Preservation Fund" shall identify the particular project or projects to be funded with such moneys.

26. The State Treasurer shall establish a revolving, nonlapsing fund to be known as the "1992 Dam Restoration and Clean Water Trust Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of the bonds issued by the State under this act for the purposes of financing dam restoration projects and inland waters projects as set forth in section 11 of this act. The moneys in the fund are specifically dedicated and shall be applied to the dam restoration project cost and the inland waters project cost of the purposes set forth in section 11 of this act. Moneys derived from the payment of interest and principal on the loans to local government units, and to private lake associations or similar organizations or owners of private dams as co-applicants with local government units, as authorized in section 11 of this act, and such grants, contributions, donations, and reimbursements from federal aid programs as may lawfully be used for the purposes of making grants and loans to local government units, or to private lake associations or similar organizations or owners of private dams as co-applicants with local government units, for the purposes set forth in section 11 of this act, shall also be held in the "1992 Dam Restoration and Clean Water Trust Fund." Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature has not adopted an act making a specific appropriation of any of the moneys. Any act appropriating moneys from the "1992 Dam Restoration and Clean Water Trust Fund" shall identify the particular dam restoration or inland waters project or projects to be funded with such moneys.

27. a. The proceeds from the sale of the bonds authorized pursuant to subsection a. of section 12 of this act and allocated pursuant to subsection b. of section 12 of this act shall be paid to the State Treasurer to be held by the State Treasurer in a separate fund, which shall be known as the "1992 Wastewater Treatment Fund." The proceeds of this fund shall be deposited in those depositories as may be selected by the State Treasurer to the credit of the fund.

b. The proceeds from the sale of bonds authorized pursuant to subsection a. of section 12 of this act and allocated pursuant to

subsection c. of section 12 of this act shall be paid to the State Treasurer to be held by the State Treasurer in a separate fund, which shall be known as the "1992 Wastewater Treatment Trust Fund." The proceeds of this fund shall be deposited in those depositories as may be selected by the State Treasurer to the credit of the fund.

28. a. The moneys in the "1992 Wastewater Treatment Fund" are specifically dedicated and shall be applied to the purposes set forth in subsection b. of section 12 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.

Any act appropriating moneys from the "1992 Wastewater Treatment Fund" shall identify the wastewater treatment system project or projects to be funded by the moneys and the terms and conditions of any loan made from the "1992 Wastewater Treatment Fund." Payments of principal and interest on loans made from the "1992 Wastewater Treatment Fund" shall be returned to the "1992 Wastewater Treatment Fund," subject to temporary use of such moneys by the trust, with the concurrence of the department under terms and conditions established therefor by the commissioner and the trust, and approved by the State Treasurer.

The trust shall repay any such sums to the department for deposit into the "1992 Wastewater Treatment Fund." Such payments of principal and interest and such repayments shall be available for use consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), and the provisions of subsection b. of section 12 of this act.

b. Any federal or State funds which may be made available to the State for loans to local government units for financing wastewater treatment system project costs may be deposited in the "1992 Wastewater Treatment Fund."

c. Moneys in the "1992 Wastewater Treatment Fund" may be appropriated by law to the trust.

d. The moneys in the "1992 Wastewater Treatment Trust Fund" shall be promptly paid by the State Treasurer to the trust for use by the trust pursuant to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.).

29. a. At any time prior to the issuance and sale of bonds authorized to be issued under this act, the State Treasurer is

authorized to transfer from available moneys in any fund of the treasury of the State to the credit of the "1992 New Jersey Green Acres Fund," the "1992 New Jersey Green Trust Fund," the "1992 Farmland Preservation Fund," the "1992 Historic Preservation Fund," the "1992 Dam Restoration and Clean Water Trust Fund," the "1992 Wastewater Treatment Fund," or the "1992 Wastewater Treatment Trust Fund," such sums as the State Treasurer may deem necessary. The sums so transferred shall be returned to the same fund of the treasury by the State Treasurer from the proceeds of the sale of the first issue of those bonds.

b. Pending their application to the purposes provided in the applicable provisions of this act, moneys in the "1992 New Jersey Green Acres Fund," the "1992 New Jersey Green Trust Fund," the "1992 Farmland Preservation Fund," the "1992 Historic Preservation Fund," the "1992 Dam Restoration and Clean Water Trust Fund," the "1992 Wastewater Treatment Fund," and the "1992 Wastewater Treatment Trust Fund," may be invested and reinvested as are other trust funds in the custody of the State Treasurer, in the manner provided by law. Net earnings received from the investment or deposit of moneys in these funds shall be redeposited and become part of the respective funds.

30. If any coupon bond, coupon or registered bond is lost, mutilated or destroyed, a new bond or coupon shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bond or coupon, upon the owner furnishing to the issuing officials evidence satisfactory to them of the loss, mutilation or destruction of the bond or coupon, the ownership thereof, and security, indemnity and reimbursement for expenses connected therewith, as the issuing officials may require.

31. The accrued interest, if any, received upon the sale of the bonds shall be applied to the discharge of a like amount of interest upon the bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, authenticating, registering, legal or other services necessary to carry out the duties imposed upon them by the provisions of this act shall be paid from the proceeds of the sale of the bonds by the State Treasurer, upon the warrant of the Director of the Division of Budget and Accounting in the Department of the Treasury, in the same manner as other obligations of the State are paid.

32. Bonds of each series issued hereunder shall mature, including any sinking fund redemptions, not later than the 35th year from the date of issue of that series, and in amounts as shall be determined by the issuing officials. The issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem any of the bonds prior to maturity at the price or prices and upon the terms and conditions as may be provided in the bonds.

33. The issuing officials may issue refunding bonds in an amount not to exceed the amount necessary to effectuate the refinancing of any bonds issued pursuant to this act, at any time and from time to time, for the purpose of refinancing any bond or bonds issued pursuant to this act, subject to the following provisions:

a. Refunding bonds may be issued at any time prior to the maturity or redemption of the bonds to be refinanced thereby as the issuing officials shall determine.

b. Each series of refunding bonds may be issued in a sufficient amount to pay or to provide for the payment of the principal of the bonds to be refinanced thereby, together with any redemption premium thereon, any interest accrued or to accrue on the bonds to be refinanced to the date of payment of the outstanding bonds, the expense of issuing the refunding bonds and the expenses, if any, of paying the bonds to be refinanced.

c. No refunding bonds shall be issued unless the issuing officials shall first determine that the present value of the aggregate principal amount of and interest on the refunding bonds is less than the present value of the aggregate principal amount of and interest on the bonds to be refinanced thereby; provided, for the purposes of this limitation, present value shall be computed using a discount rate equal to the yield of those refunding bonds, and yield shall be computed using an actuarial method based upon a 360-day year with semiannual compounding and upon the price or prices paid to the State by the initial purchasers of those refunding bonds.

d. Any refinancing authorized hereunder may be effected by the sale of the refunding bonds and the application of the proceeds thereof to the immediate payment of the principal of the bonds to be refinanced thereby, together with any redemption premium thereon, any interest accrued or to accrue on those bonds to be refinanced to the date of payment of those bonds, the expenses of issuing the refunding bonds and the expenses, if any, of paying those bonds to be refinanced, or, to the extent not required for that immediate payment, shall be deposited, together with any

other moneys legally available therefor, in trust with one or more trustees or escrow agents, which trustees or escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, to be applied solely to the payment when due of the principal of, redemption premium, if any, and interest due and to become due on the bonds to be refinanced on or prior to the redemption date or maturity date thereof, as the case may be. The proceeds or moneys so held by the trustees or escrow agents may be invested in 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; provided those government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. Except as otherwise provided in this subsection, neither government securities nor moneys so deposited with the trustees or escrow agents shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest on the bonds to be refinanced thereby; provided that any cash received from the principal or interest payments on those 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 trustees or escrow agents, 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 to be refinanced, on and prior to the redemption date or maturity date thereof, as the case may be, and interest earned from those reinvestments, to the extent not required for the payment of bonds, shall be paid over to the State, as received by the trustees or escrow agents. Notwithstanding anything to the contrary contained herein: (1) 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 (a) the purchase of bonds which were refinanced by the deposit with the trustees or escrow agents of the moneys and government securities and immediately thereafter cancel all outstanding bonds so purchased or (b) the purchase of different government securi-

ties; provided however, that the moneys and government securities on deposit with the trustees or escrow agents after the purchase and cancellation of the outstanding 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 (2) in the event that on any date, as a result of any purchases and cancellations of the outstanding bonds or any purchases of different government securities as provided in this subsection, 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 such deposit was made in order to pay when due the principal of, redemption premium, if any, and interest on those remaining bonds, the trustees or escrow agents shall, if so directed by the issuing officials, pay the amount of that excess to the State. Any amounts held by the State Treasurer in a separate fund or funds for the payment of the principal of, redemption premium, if any, and interest on bonds to be refinanced, as provided herein, shall, if so directed by the issuing officials, be transferred by the State Treasurer for deposit with one or more trustees or escrow agents, as provided herein, to be applied to the payment when due of the principal of, redemption premium, if any, and interest to become due on those bonds to be refinanced, as provided in this section, or be applied by the State Treasurer to the payment when due of the principal of, redemption premium, if any, and interest on refunding bonds issued hereunder to refinance those bonds. The State Treasurer is authorized to enter into contracts with one or more trust companies or national or state banks, as provided herein, to act as trustees or escrow agents, as provided herein, subject to the approval of the issuing officials.

e. Notwithstanding the provisions of section 19 of this act, any series of refunding bonds issued pursuant to this section shall mature at any time or times not later than five years following the latest scheduled final maturity date, determined without regard to any redemptions prior thereto, of any of the bonds to be refunded thereby, and in no event later than 35 years following the date of issuance of that series of refunding bonds, and those refunding bonds may be sold at public or private sale at prices and under terms, conditions and regulations as the issuing officials may pre-

scribe. Refunding bonds shall be entitled to all the benefits of this act and subject to all its limitations, except as to sale provisions and to the extent therein otherwise expressly provided.

f. Upon the decision by the issuing officials to issue refunding bonds pursuant to this section, and prior to the sale of those bonds, the issuing officials shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the issuing officials relied when making the decision to issue refunding bonds. The report also shall disclose the intent of the issuing officials to issue and sell the refunding bonds at public or private sale and the reasons therefor.

g. The Joint Budget Oversight Committee, or its successor, shall have authority to approve or disapprove the sale of refunding bonds as included in each report submitted in accordance with subsection f. of this section. The committee, or its successor, shall notify the issuing officials in writing of the approval or disapproval as expeditiously as possible.

h. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee, or its successor, as set forth in subsection g. of this section.

i. Within 30 days after the sale of the refunding bonds, the issuing officials shall notify the Joint Budget Oversight Committee, or its successor, of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, the actual amount of debt service savings to be realized as a result of the sale of refunding bonds, and the intended use of the proceeds from the sale of those bonds.

j. The Joint Budget Oversight Committee, or its successor, shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations and recommendations to the issuing officials, or to the Legislature, or both, as it deems appropriate.

34. Any bond or bonds issued hereunder 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.

35. Refunding bonds issued pursuant to section 33 of this act may be consolidated with bonds issued pursuant to section 13 of this act or with bonds issued pursuant to any other act for purposes of sale.

36. 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 meet 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.

37. 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.

38. For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people at the general election to be held in the month of November, 1992. 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 in at least 10 newspapers published in the State and to notify the clerk of each county of this State of the passage of this act; and the clerks respectively, in accordance with the instructions of the Secretary of State, shall have printed on each of the ballots the following:

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

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

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

	Yes.	GREEN ACRES, CLEAN WATER, FARMLAND AND HISTORIC PRESERVATION BOND ISSUE Shall the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," which authorizes the State to issue bonds in the amount of $345,000,000 to provide moneys to meet the cost of public acquisition and development of lands for recreation and conservation purposes, to provide moneys for farmland development easement and fee

		simple absolute acquisitions, to provide grants for soil and water conservation projects, to provide grants and low-interest loans to local government units and matching grants to qualifying tax exempt nonprofit organizations to help meet the cost of acquisition or development, as the case may be, of lands for public recreation and conservation purposes, to provide matching grants to State agencies or entities, local government units, and qualifying tax exempt nonprofit organizations for historic preservation projects, to provide moneys for State high-hazard dam restoration projects and State projects to restore inland waters, to provide low-interest loans to local government units, qualifying private lake associations, and qualifying owners of private dams for dam restoration projects and for projects to restore inland waters, and to provide moneys for loans to local government units for wastewater treatment system projects; and in a principal amount sufficient to refinance any of the bonds if the same will result in a present value savings; and providing the ways and means to pay and discharge the principal and interest thereof, be approved?
	No.	INTERPRETIVE STATEMENT Approval of this act would authorize the sale of $345,000,000 in State general obligation bonds to be used for acquiring and developing lands for recreation and conservation purposes, purchasing farmland or development easements thereon, and funding farmland soil and water conservation projects, historic preservation projects, dam restoration projects, projects to restore inland waters, and wastewater treatment system projects. The revenue raised for public recreation and conservation purposes from the bonds would be used for State projects, for grants and low-interest loans to

		local governments for local projects, and for matching grants to qualifying tax exempt non-profit organizations. The revenue raised for farmland preservation purposes from the bonds would be used for State and local government efforts to purchase farmland development easements, for State projects to purchase farmland, and for grants to qualifying landowners for soil and water conservation projects. The revenue raised for historic preservation purposes from the bonds would be used for matching grants to State agencies or entities, local governments, and qualifying tax exempt nonprofit organizations. The revenue raised for dam restoration purposes from the bonds would be used for State high-hazard dam restoration projects and for low-interest loans to local government units and to qualifying private lake associations and qualifying owners of private dams, as co-applicants with local government units, for dam restoration projects. The revenue raised for the purposes of inland waters restoration would be used for State projects and for low-interest loans to local government units and to qualifying private lake associations and qualifying owners of private dams, as co-applicants with local government units, for projects to restore inland waters. The revenue raised for wastewater treatment system projects would be used for loans to local governments for the purpose of constructing or upgrading wastewater treatment systems. The act also authorizes the issuance of bonds in a sufficient amount to refinance any of these bonds if the same will result in a present value savings.

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.

39. 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 38 of this act.

40. a. The commissioner shall adopt, pursuant to law, rules and regulations necessary to implement the provisions of this act, including rules and regulations governing the awarding and use of grants and loans including, but not limited to, eligibility requirements, procedures for the submission of applications, standards for the evaluation of applications, requirements for the reporting by the recipients of the expenditure of funds, and any limitations, restrictions or requirements concerning the use of a grant or loan as the commissioner may prescribe.

b. The secretary shall adopt, pursuant to law, rules and regulations necessary to implement the provisions of this act.

41. The commissioner and the secretary, as appropriate, shall submit to the State Treasurer and the commission with the respective department's annual budget request a plan for the expenditure of funds from the "1992 New Jersey Green Acres Fund," the "1992 New Jersey Green Trust Fund," the "1992 Farmland Preservation Fund," the "1992 Historic Preservation Fund," the "1992 Dam Restoration and Clean Water Trust Fund," and the "1992 Wastewater Treatment Fund" for the upcoming fiscal year. Each plan shall include the following information: a performance evaluation of the expenditures made from the partic-

ular fund to date; a description of programs planned during the upcoming fiscal year; a copy of the rules and regulations in force governing the operation of programs that are financed, in part or in whole, by moneys from the particular fund; and an estimate of expenditures for the upcoming fiscal year.

42. Immediately following the submission to the Legislature of the Governor's annual budget message, the commissioner and the secretary shall submit to the Senate Budget and Appropriations Committee, the Assembly Appropriations Committee, the Senate Environment Committee, and the Assembly Environment Committee, or their successors, and to the Joint Budget Oversight Committee, or its successor, a copy of each plan called for under section 41 of this act, together with such changes therein as may have been required by the Governor's budget message.

43. Not less than 30 days prior to entering into any contract, lease, obligation, or agreement to effectuate the purposes of this act, the commissioner or the secretary, as appropriate, shall report to and consult with the Joint Budget Oversight Committee, or its successor.

44. Except as otherwise provided pursuant to this act, all appropriations from the bond funds established by this act shall be by specific allocation for each project, and any transfer of any funds so appropriated shall require the approval of the Joint Budget Oversight Committee or its successor.

45. This section and sections 38 and 39 of this act shall take effect immediately and the remainder of this act shall take effect as provided in section 38.

Approved August 20, 1992.

CHAPTER 89

AN ACT concerning the demolition of buildings by municipalities and amending and supplementing P.L.1942, c.112 and amending P.L.1976, c.68.

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

1. Section 2 of P.L.1942, c.112 (C.40:48-2.4) is amended to read as follows:

C.40:48-2.4 Terms defined.

2. The following terms whenever used or referred to in this act shall have the following respective meanings for the purposes of this act, unless a different meaning clearly appears from the context:

(a) "Governing body" shall mean the council, board of commissioners, trustees, committee, or other legislative body, charged with governing a municipality; provided, that in cities of the second class having a board of fire and police commissioners, the governing body shall mean such board of fire and police commissioners.

(b) "Public officer" shall mean the officer, officers, board or body who is or are authorized by ordinances adopted hereunder to exercise the powers prescribed by such ordinances and by this act.

(c) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the municipality, county or State relating to health, fire, building regulations, or to other activities concerning buildings in the municipality.

(d) "Owner" shall mean the holder or holders of the title in fee simple.

(e) "Parties in interest" shall mean all individuals, associations and corporations who have interests of record in a building and any who are in actual possession thereof.

(f) "Building" shall mean any building, or structure, or part thereof, whether used for human habitation or otherwise, and includes any outhouses, and appurtenances belonging thereto or usually enjoyed therewith.

(g) "Authority" shall mean the Casino Reinvestment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153).

(h) "Casino licensee" shall mean any casino licensed pursuant to the provisions of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.).

2. Section 4 of P.L.1942, c.112 (C.40:48-2.6) is amended to read as follows:

C.40:48-2.6 Standards.

4. An ordinance adopted by a municipality under this act shall provide that the public officer may determine that a building is unfit for human habitation or occupancy or use if he finds that con-

ditions exist in such building which are dangerous or injurious to the health or safety of the occupants of such building, the occupants of neighboring buildings or other residents or such municipality; such conditions shall be deemed to include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair, structural defects; uncleanliness; failure to comply with the requirements of the building code or the certificate of occupancy; such ordinance may provide additional standards to guide the public officer, or his agents, in determining the fitness of a building for human habitation or occupancy or use.

3. Section 7 of P.L.1942, c.112 (C.40:48-2.9) is amended to read as follows:

C.40:48-2.9 Additional powers of public officer.

7. An ordinance adopted by the governing body of the municipality may authorize the public officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers in addition to others herein granted: (a) to investigate the building conditions in the municipality in order to determine which buildings therein are unfit for human habitation or occupancy or use; (b) to administer oaths, affirmations, examine witnesses and receive evidence; (c) to enter upon premises for the purpose of making examinations; provided, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; (d) to appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of the ordinances; and (e) to delegate any of his functions and powers under the ordinance to such officers and agents as he may designate.

Any action taken using revenues derived from the local property tax shall be taken only after advertisement for, and receipt of, bids therefor, pursuant to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), unless the action is necessary to prevent imminent danger to life, limb or property.

C.40:48-2.5a Building deemed unfit for human habitation, occupancy, use; repairing, demolition.

4. Any building or buildings, or parts thereof, which have come into a state of disrepair through neglect, lack of mainte-

nance or use, fire, accident or other calamities, or through any other act rendering the building or buildings, or parts thereof, in a state of disrepair, to the extent that the building is unfit for human habitation or occupancy or use, shall be deemed inimical to the welfare of the residents of the municipality wherein it is located, and a public officer appointed pursuant to the provisions of P.L.1942, c.112 (C.40:48-2.3 et seq.) may exercise his powers to repair, demolish, or cause the repairing or demolition of the building or buildings, or parts thereof, pursuant to the provisions of section 5 of P.L.1992, c.89 (C.40:48-2.5b).

C.40:48-2.5b Designation of "Emergency Demolition Fund," acceptance, use of funds therefor.

5. a. Notwithstanding any law to the contrary, in any municipality where the governing body has appointed a public officer pursuant to the provisions of P.L.1942, c.112 (C.40:48-2.3 et seq.), the public officer, to finance the costs of accomplishing the purpose of this act, shall have the power to accept gifts or grants from private or public agencies, or to accept donations from or enter into loan agreements with any casino licensee or the authority under any legal terms and conditions, including agreements which obligate such municipality to repay any such loan over a period in excess of one year, which the public officer determines will be beneficial to the purposes of P.L.1942, c.112 (C.40:48-2.3 et seq.). In the event that the public officer accepts or borrows any funds from any casino licensee or the authority for which funds the casino licensee seeks authorization for an investment tax credit in accordance with section 3 of P.L.1984, c.218 (C.5:12-144.1), the authority is authorized to approve an investment tax credit in accordance with the provisions of section 3 of P.L.1984, c.218 (C.5:12-144.1), and the authority's rules.

b. All funds received pursuant to subsection a. of this section shall be placed in a separate municipal fund designated as the "Emergency Demolition Fund" to be used solely for demolition related activities. The public officer shall have the sole discretion in determining which funds will be accepted and the time and manner of all expenditures necessary to carry out the purposes of this act; except that, the public officer shall not accept or use any funds provided by a casino licensee or the authority for the purpose of demolishing any structure owned by a casino licensee. All payments made pursuant to this section shall be made under the direction of the public officer.

6. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to read as follows:

C.40A:4-45.3 Municipalities; exceptions to limitation.

3. In the preparation of its budget a municipality shall limit any increase in said budget to 5% or the index rate, whichever is less, over the previous year's final appropriations subject to the following exceptions:

a. (Deleted by amendment, P.L.1990, c.89.)

b. Capital expenditures, including appropriations for current capital expenditures, whether in the capital improvement fund or as a component of a line item elsewhere in the budget, provided that any such current capital expenditure would be otherwise bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;

c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the municipality, and over which the governing body had no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.

(2) (Deleted by amendment, P.L.1990, c.89.)

The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or j. below;

d. All debt service, including that of a Type I school district;

e. Upon the approval of the Local Finance Board in the Division of Local Government Services, amounts required for funding a preceding year's deficit;

f. Amounts reserved for uncollected taxes;

g. (Deleted by amendment, P.L.1990, c.89.)

h. Expenditure of amounts derived from new or increased construction, housing, health or fire safety inspection or other service fees imposed by State law, rule or regulation or by local ordinance;

i. Any amount approved by any referendum;

j. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for water, sewerage, parking, senior citizen housing or any similar purpose, or payments on account of debt

service therefor, between a municipality and any other municipality, county, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent municipality to the intermunicipal account; (3) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part; and (4) any repayments under a loan agreement entered into in accordance with the provisions of section 5 of P.L.1992, c.89.

k. (Deleted by amendment, P.L.1987, c.74.)

l. Appropriations of federal, county, independent authority or State funds, or by grants from private parties or nonprofit organizations for a specific purpose, and amounts received or to be received from such sources in reimbursement for local expenditures. If a municipality provides matching funds in order to receive the federal, county, independent authority or State funds, or the grants from private parties or nonprofit organizations for a specific purpose, the amount of the match which is required by law or agreement to be provided by the municipality shall be excepted;

m. (Deleted by amendment, P.L.1987, c.74.)

n. (Deleted by amendment, P.L.1987, c.74.)

o. (Deleted by amendment, P.L.1990, c.89.)

p. (Deleted by amendment, P.L.1987, c.74.)

q. (Deleted by amendment, P.L.1990, c.89.)

r. Amounts expended to fund a free public library established pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;

s. (Deleted by amendment, P.L.1990, c.89.)

t. Amounts expended in preparing and implementing a housing element and fair share plan pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301 et al.) and any amounts received by a municipality under a regional contribution agreement pursuant to section 12 of that act;

u. Amounts expended to meet the standards established pursuant to the "New Jersey Public Employees' Occupational Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

v. (Deleted by amendment, P.L.1990, c.89.)

w. Amounts appropriated for expenditures resulting from the impact of a hazardous waste facility as described in subsection c. of section 32 of P.L.1981, c.279 (C.13:1E-80);

x. Amounts expended to aid privately owned libraries and reading rooms, pursuant to R.S.40:54-35;

y. (Deleted by amendment, P.L.1990, c.89.)

z. (Deleted by amendment, P.L.1990, c.89.)

aa. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

bb. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;

cc. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;

dd. Expenditures of amounts actually realized in the local budget year from the sale of municipal assets if appropriated for nonrecurring purposes or otherwise approved by the director;

ee. Any local unit which is determined to be experiencing fiscal distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-118.26), and which has available surplus pursuant to the spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may appropriate and expend an amount of that surplus approved by the director and the Local Finance Board as an exception to the spending limitation. Any determination approving the appropriation and expenditure of surplus as an exception to the spending limitations shall be based upon:

1) the local unit's revenue needs for the current local budget year and its revenue raising capacity;

2) the intended actions of the governing body of the local unit to meet the local unit's revenue needs;

3) the intended actions of the governing body of the local unit to expand its revenue generating capacity for subsequent local budget years;

4) the local unit's ability to demonstrate the source and existence of sufficient surplus as would be prudent to appropriate as an exception to the spending limitations to meet the operating expenses for the local unit's current budget year; and

5) the impact of utilization of surplus upon succeeding budgets of the local unit;

ff. Amounts expended for the staffing and operation of the municipal court.

7. This act shall take effect immediately.

Approved August 24, 1992.

CHAPTER 90

AN ACT appropriating $2,850,000 from the "Jobs, Education and Competitiveness Bond Act of 1988" for the purpose of establishing and constructing research facilities for advanced technology centers.

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

1. There is appropriated to the New Jersey Commission on Science and Technology, established pursuant to P.L.1985, c.102 (C.52:9X-1 et seq.), from the "Jobs, Education and Competitiveness Fund" created pursuant to the "Jobs, Education and Competitiveness Bond Act of 1988," P.L.1988, c.78, the sum of $2,850,000, for establishing, constructing and equipping a satellite field testing facility of the Center for Agricultural Molecular Biology, to be located at the Upper Deerfield site of the New Jersey Agricultural Experiment Station in Cumberland County.

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1988, c.78.

3. In addition to any other reporting requirement imposed pursuant to the "Jobs, Education and Competitiveness Bond Act of 1988," P.L.1988, c.78, the State Treasurer shall, through the Administrator of the General Services Administration in the Department of the Treasury, prepare and submit to the Joint Budget Oversight Committee, or its successor, periodic progress reports, based on project site inspections and other inquiries, describing the status of advanced technology center projects at public and private institutions of higher education, financed in whole or in part with moneys appropriated in this act. Each

progress report shall indicate the total project cost, the funding sources allocated to the project, the status of construction or development of the project, estimated project completion date and whether there are any potential scheduling or financial difficulties or circumstances warranting special attention or review by the Joint Budget Oversight Committee. The first such report shall be submitted not later than June 1, 1992 and each subsequent report shall be submitted at nine month intervals thereafter. The final report pursuant to this section shall be submitted within 30 days following the completion of all projects financed with moneys appropriated in this act, notwithstanding that such report is submitted less than nine months after the submission of the immediately preceding report.

4. This act shall take effect immediately.

Approved August 28, 1992.

CHAPTER 91

AN ACT prohibiting the use of photo radar to enforce motor vehicle speeding laws 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.39:4-103.1 Photo radar defined, usage prohibited.

1. a. Notwithstanding any law, rule or regulation to the contrary, a law enforcement officer or agency shall not use photo radar to enforce the provisions of chapter 4 of Title 39 of the Revised Statutes.

b. As used in this act, "photo radar" means a device used primarily for highway speed limit enforcement substantially consisting of a radar unit linked to a camera, which automatically produces a photograph of a vehicle traveling at a speed in excess of the legal limit.

2. This act shall take effect immediately.

Approved September 4, 1992.

CHAPTER 92

AN ACT requiring certain equipment for school buses and supplementing chapter 3B of Title 39 of the Revised Statutes.

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

C.39:3B-10 School bus seats, seat belts, child restraint systems, regulations.

1. In addition to the requirements in Federal Motor Vehicle Safety Standard No. 222 (49 CFR §571.222) concerning school bus passenger seating and crash protection, each school bus as defined in R.S.39:1-1 shall be equipped with seats of a minimum seat back height of 28 inches, or 24 inches as measured from the seating reference point, and seat belts of the lap belt type for each seating position on the bus or other child restraint systems that are in conformity with applicable federal standards. The design and installation of seat belts or other child restraint systems that are in conformity with applicable federal standards shall conform to the regulations promulgated by the State Board of Education, in consultation with the Director of the Division of Motor Vehicles in the Department of Law and Public Safety. The State board shall promulgate regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), for the design and installation of seat belts or other child restraint systems that are in conformity with applicable federal standards.

As used in this section, "seating reference point" shall be defined as the term is defined in 49 CFR §571.3.

C.39:3B-11 Seat belts, child restraint systems, use required, liability.

2. Beginning on September 1 of the second year next following the year of enactment of P.L.1992, c.92 (C.39:3B-10 et seq.), each passenger on a school bus which is equipped with seat belts shall wear a properly adjusted and fastened seat belt or other child restraint system that is in conformity with applicable federal standards at all times while the bus is in operation. Nothing in this section shall make the owner or operator of a school bus liable for failure to properly adjust and fasten a seat belt or other child restraint system that is in conformity with applicable federal standards for a passenger who sustains injury as a direct result of the passenger's failure to comply with the requirement established by this section.

3. This act shall take effect immediately, but section 1 shall apply only to school buses and equipment for which, on or after the effective date of this act, a bid is submitted or an order for purchase placed.

Approved September 8, 1992.

CHAPTER 93

AN ACT concerning school bus safety standards and supplementing Title 39 of the Revised Statute.

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

C.39:3B-12 School bus emergency exits.

1. A type I school bus when used to transport children to and from school, or to and from school-related activities, shall be equipped with emergency exits to conform with emergency evacuation standards to be prescribed by rule or regulation of the State Board of Education. The emergency exits shall at a minimum consist of a rear emergency door and two roof hatches.

2. This act shall take effect immediately and be applicable to type I buses manufactured on or after July 1, next following enactment.

Approved September 8, 1992.

CHAPTER 94

AN ACT concerning possession of weapons in educational institutions and amending N.J.S.2C:39-5 and N.J.S.2C:39-6.

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

1. N.J.S.2C:39-5 is amended to read as follows:

Unlawful possession of weapons.

2C:39-5. Unlawful Possession of Weapons.

a. Machine guns. Any person who knowingly has in his possession a machine gun or any instrument or device adaptable for

use as a machine gun, without being licensed to do so as provided in N.J.S.2C:58-5, is guilty of a crime of the third degree.

b. Handguns. Any person who knowingly has in his possession any handgun, including any antique handgun without first having obtained a permit to carry the same as provided in N.J.S.2C:58-4, is guilty of a crime of the third degree.

c. Rifles and shotguns. (1) Any person who knowingly has in his possession any rifle or shotgun without having first obtained a firearms purchaser identification card in accordance with the provisions of N.J.S.2C:58-3, is guilty of a crime of the third degree.

(2) Unless otherwise permitted by law, any person who knowingly has in his possession any loaded rifle or shotgun is guilty of a crime of the third degree.

d. Other weapons. Any person who knowingly has in his possession any other weapon under circumstances not manifestly appropriate for such lawful uses as it may have is guilty of a crime of the fourth degree.

e. Firearms or other weapons in educational institutions.

(1) Any person who knowingly has in his possession any firearm in or upon any part of the buildings or grounds of any school, college, university or other educational institution, without the written authorization of the governing officer of the institution, is guilty of a crime of the third degree, irrespective of whether he possesses a valid permit to carry the firearm or a valid firearms purchaser identification card.

(2) Any person who knowingly possesses any weapon enumerated in paragraphs (3) and (4) of subsection r. of N.J.S.2C:39-1 or any components which can readily be assembled into a firearm or other weapon enumerated in subsection r. of N.J.S.2C:39-1 or any other weapon under circumstances not manifestly appropriate for such lawful use as it may have, while in or upon any part of the buildings or grounds of any school, college, university or other educational institution without the written authorization of the governing officer of the institution is guilty of a crime of the fourth degree.

f. Assault firearms. Any person who knowingly has in his possession an assault firearm is guilty of a crime of the third degree except if the assault firearm is licensed pursuant to N.J.S.2C:58-5; registered pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) or rendered inoperable pursuant to section 12 of P.L.1990, c.32 (C.2C:58-13).

g. The temporary possession of a handgun, rifle or shotgun by a person receiving, possessing, carrying or using the handgun,

rifle, or shotgun under the provisions of section 1 of P.L.1992, c.74 (C.2C:58-3.1) shall not be considered unlawful possession under the provisions of subsection b. or c. of this section.

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

Exemptions.

2C:39-6. a. Provided a person complies with the requirements of subsection j. of this section, N.J.S.2C:39-5 does not apply to:

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

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

(3) Members of the State Police and, under conditions prescribed by the superintendent, members of the Marine Law Enforcement Bureau of the Division of State Police;

(4) A sheriff, undersheriff, sheriff's officer, county prosecutor, assistant prosecutor, prosecutor's detective or investigator, deputy attorney general or State investigator employed by the Division of Criminal Justice of the Department of Law and Public Safety, investigator employed by the State Commission of Investigation, inspector of the Alcoholic Beverage Control Enforcement Bureau of the Division of State Police in the Department of Law and Public Safety authorized to carry such weapons by the Superintendent of State Police, State park ranger, or State conservation officer;

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

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

said commanding officer, while in the actual performance of his official duties;

(7) (a) A regularly employed member, including a detective, of the police department of any county or municipality, or of any State, interstate, municipal or county park police force or boulevard police force, at all times while in the State of New Jersey;

(b) A special law enforcement officer authorized to carry a weapon as provided in subsection b. of section 7 of P.L.1985, c.439 (C.40A:14-146.14);

(c) An airport security officer or a special law enforcement officer appointed by the governing body of any county or municipality, except as provided in subsection b. of this section, or by the commission, board or other body having control of a county park or airport or boulevard police force, while engaged in the actual performance of his official duties and when specifically authorized by the governing body to carry weapons; or

(8) A full-time, paid member of a paid or part-paid fire department or force of any municipality who is assigned full-time or part-time to an arson investigation unit created pursuant to section 1 of P.L.1981, c.409 (C.40A:14-7.1) or to the county arson investigation unit in the county prosecutor's office, while either engaged in the actual performance of arson investigation duties or while actually on call to perform arson investigation duties and when specifically authorized by the governing body or the county prosecutor, as the case may be, to carry weapons. Prior to being permitted to carry a firearm, such a member shall take and successfully complete a firearms training course administered by the Police Training Commission pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm.

b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

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

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

c. Provided a person complies with the requirements of subsection j. of this section, subsections b. and c. of N.J.S.2C:39-5 do not apply to:

(1) A special agent of the Division of Taxation who has passed an examination in an approved police training program testing proficiency in the handling of any firearm which he may be required to carry, while in the actual performance of his official duties and while going to or from his place of duty, or any other police officer, while in the actual performance of his official duties;

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

(3) (Deleted by amendment, P.L.1986, c.150.)

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

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

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

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

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

(9) A railway policeman, except a transit police officer of the New Jersey Transit Police Department, at all times while in the State of New Jersey, provided that he has passed an approved police academy training program consisting of at least 280 hours. The training program shall include, but need not be limited to, the handling of firearms, community relations, and juvenile relations; or

(10) A campus police officer appointed under P.L.1970, c.211 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a firearm, a campus police officer shall take and successfully complete a firearms training course administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm; or

(11) A person who has not been convicted of a crime under the laws of this State or under the laws of another state or the United States, and who is employed as a full-time security guard for a nuclear power plant under the license of the Nuclear Regulatory Commission, while in the actual performance of his official duties.

(12) A transit police officer of the New Jersey Transit Police Department, at all times while in the State of New Jersey, provided the officer has satisfied the training requirements of the Police Training Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291 (C.27:25-15.1).

d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to antique firearms, provided that such antique firearms are unloaded or are being fired for the purposes of exhibition or demonstration at an authorized target range or in such other manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held, or if not held on property under the control of a particular municipality, the superintendent.

(2) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to an antique cannon that is capable of being fired but that is unloaded and immobile, provided that the antique cannon is possessed by (a) a scholastic institution, a museum, a municipality, a county or the State, or (b) a person who obtained a firearms purchaser identification card as specified in N.J.S.2C:58-3.

(3) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is being transported by one eligible to possess it, in compliance with regulations the superintendent may promulgate, between its permanent location and place of purchase or repair.

(4) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to antique cannons that are being loaded or fired by one eligible to possess an antique cannon, for purposes of exhibition or demonstration at an authorized target range or in the manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held, or if not held on property under the control of a particular municipality, the superintendent, provided that performer has given at least 30 days' notice to the superintendent.

(5) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to the transportation of unloaded antique cannons directly to or from exhibitions or demonstrations authorized under paragraph (4) of subsection d. of this section,

provided that the transportation is in compliance with safety regulations the superintendent may promulgate. Nor do those subsections apply to transportation directly to or from exhibitions or demonstrations authorized under the law of another jurisdiction, provided that the superintendent has been given 30 days' notice and that the transportation is in compliance with safety regulations the superintendent may promulgate.

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

f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be construed to prevent:

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

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

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

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

(b) Directly to or from any target range, or other authorized place for the purpose of practice, match, target, trap or skeet shooting exhibitions, provided in all cases that during the course of the travel all firearms are carried in the manner specified in

subsection g. of this section and the person has complied with all the provisions and requirements of Title 23 of the Revised Statutes and any amendments thereto and all rules and regulations promulgated thereunder; or

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

(4) A person from keeping or carrying about a private or commercial aircraft or any boat, or from transporting to or from such vessel for the purpose of installation or repair a visual distress signalling device approved by the United States Coast Guard.

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

h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent any employee of a public utility, as defined in R.S.48:2-13, doing business in this State or any United States Postal Service employee, while in the actual performance of duties which specifically require regular and frequent visits to private premises, from possessing, carrying or using any device which projects, releases or emits any substance specified as being noninjurious to canines or other animals by the Commissioner of Health and which immobilizes only on a temporary basis and produces only temporary physical discomfort through being vaporized or otherwise dispensed in the air for the sole purpose of repelling canine or other animal attacks.

The device shall be used solely to repel only those canine or other animal attacks when the canines or other animals are not restrained in a fashion sufficient to allow the employee to properly perform his duties.

Any device used pursuant to this act shall be selected from a list of products, which consist of active and inert ingredients, permitted by the Commissioner of Health.

i. Nothing in N.J.S.2C:39-5 shall be construed to prevent any person who is 18 years of age or older and who has not been convicted of a felony, from possession for the purpose of personal self-defense of one pocket-sized device which contains and releases not more than three-quarters of an ounce of chemical substance not ordinarily capable of lethal use or of inflicting serious bodily injury, but rather, is intended to produce temporary physical discomfort or disability through being vaporized or otherwise dispensed in the air. Any person in possession of any device in violation of this subsection shall be deemed and adjudged to be a disorderly person, and upon conviction thereof, shall be punished by a fine of not less than $100.00.

j. A person shall qualify for an exemption from the provisions of N.J.S.2C:39-5, as specified under subsections a. and c. of this section, if the person has satisfactorily completed a firearms training course approved by the Police Training Commission.

Such exempt person shall not possess or carry a firearm until the person has satisfactorily completed a firearms training course and shall annually qualify in the use of a revolver or similar weapon. For purposes of this subsection, a "firearms training course" means a course of instruction in the safe use, maintenance and storage of firearms which is approved by the Police Training Commission. The commission shall approve a firearms training course if the requirements of the course are substantially equivalent to the requirements for firearms training provided by police training courses which are certified under section 6 of P.L.1961, c.56 (C.52:17B-71). A person who is specified in paragraph (1), (2), (3) or (6) of subsection a. of this section shall be exempt from the requirements of this subsection.

k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent any financial institution, or any duly authorized personnel of the institution, from possessing, carrying or using for the protection of money or property, any device which projects, releases or emits tear gas or other substances intended to produce temporary physical discomfort or temporary identification.

3. This act shall take effect immediately.

Approved September 9, 1992.

CHAPTER 95

AN ACT concerning child care and amending and supplementing the "Child Care Center Licensing Act," P.L.1983, c.492 (C.30:5B-1 et seq.).

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

1. Section 2 of P.L.1983, c.492 (C.30:5B-2) is amended to read as follows:

C.30:5B-2 Findings.

2. The Legislature finds that it is in the public interest to license and regulate child care programs and facilities in order to insure the continuous growth and development of children. The Legislature further finds that comprehensive child care programs are of value to the health, safety, education, physical, social and intellectual growth and general well-being of the children served and that the programs strengthen and supplement the family unit. The Legislature further finds that child care programs provide places for preventive health measures, early detection of illnesses and handicaps and development of special talents and interests. The Legislature further finds that the State and parents have a responsibility in the education of children and that the role of the teacher as caregiver is essential to the continuous development of children. The Legislature further finds that experience indicates that the development of child care centers should be encouraged, whether publicly or privately supported, to provide a full range of services benefiting the child, parent and community and that there is a great need for expansion of existing centers and for the establishment of additional centers and other child care programs.

2. Section 3 of P.L.1983, c.492 (C.30:5B-3) is amended to read as follows:

C.30:5B-3 Definitions.

3. As used in this act:

a. "Child" means any person under the age of 13.

b. "Child care center" or "center" means any facility which is maintained for the care, development or supervision of six or more children who attend the facility for less than 24 hours a day. In the case of a center operating in a sponsor's home, children

who reside in the home shall not be included when counting the number of children being served. This term shall include, but shall not be limited to, day care centers, drop-in centers, nighttime centers, recreation centers sponsored and operated by a county or municipal government recreation or park department or agency, day nurseries, nursery and play schools, cooperative child centers, centers for children with special needs, centers serving sick children, infant-toddler programs, school age child care programs, employer supported centers, centers that had been licensed by the Department of Human Services prior to the enactment of the "Child Care Center Licensing Act," P.L.1983, c.492 (C.30:5B-1 et seq.) and kindergartens that are not an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth. This term shall not include:

(1) (Deleted by amendment, P.L.1992, c.95).

(2) A program operated by a private school which is run solely for educational purposes. This exclusion shall include kindergartens, prekindergarten programs or child care centers that are an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth;

(3) Centers or special classes operated primarily for religious instruction or for the temporary care of children while persons responsible for such children are attending religious services;

(4) A program of specialized activity or instruction for children that is not designed or intended for child care purposes, including, but not limited to, Boy Scouts, Girl Scouts, 4-H clubs, and Junior Achievement, and single activity programs such as athletics, gymnastics, hobbies, art, music, and dance and craft instruction, which are supervised by an adult, agency or institution;

(5) Youth camps required to be licensed under the "New Jersey Youth Camp Safety Act," P.L.1973, c.375 (C.26:12-1 et seq.). To qualify for an exemption from licensing under this provision, a program must have a valid and current license as a youth camp issued by the Department of Health. A youth camp sponsor who also operates a child care center shall secure a license from the Department of Human Services for the center;

(6) Day training centers operated by or under contract with the Division of Developmental Disabilities within the Department of Human Services;

(7) Programs operated by the board of education of the local public school district that is responsible for their implementation and management;

(8) A program such as that located in a bowling alley, health spa or other facility in which each child attends for a limited time period while the parent is present and using the facility;

(9) A child care program operating within a geographical area, enclave or facility that is owned or operated by the federal government;

(10) A family day care home that is registered pursuant to the "Family Day Care Provider Registration Act," P.L.1987, c.27 (C.30:5B-16 et seq.); and

(11) Privately operated infant and preschool programs that are approved by the Department of Education to provide services exclusively to local school districts for handicapped children, pursuant to N.J.S.18A:46-1 et seq.

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

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

e. "Parent" means a natural or adoptive parent, guardian, or any other person having responsibility for, or custody of, a child.

f. "Person" means any individual, corporation, company, association, organization, society, firm, partnership, joint stock company, the State or any political subdivision thereof.

g. "Sponsor" means any person owning or operating a child care center.

3. Section 5 of P.L.1983, c.492 (C.30:5B-5) is amended to read as follows:

C.30:5B-5 Rules, regulations.

5. a. The department shall have responsibility and authority to license and inspect child care centers. The commissioner shall promulgate rules and regulations for the operation and maintenance of child care centers which shall prescribe standards governing the safety and adequacy of the physical plant or facilities; the education, health, safety, general well-being and physical and intellectual development of the children; the quality and quantity of food served; the number of staff and the qualifications of each staff member; the implementation of a developmentally appropriate program; the maintenance and confidentiality of records and furnishing of required information; the transportation of children; and the administration of the center. The commissioner shall also promulgate rules and regulations for license application, issuance, renewal, expiration, denial, suspension and revocation. In developing, revising or amending such rules and

regulations, the commissioner shall consult with the Child Care Advisory Council created pursuant to section 14 of P.L.1983, c.492 (C.30:5B-14), and with other appropriate administrative officers and agencies, including the Departments of Health, Education, Labor, Community Affairs and the Division of Motor Vehicles giving due weight to their recommendations. The rules and regulations promulgated pursuant to this act shall be adopted and amended in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. The department shall conduct an on site facility inspection and shall evaluate the program of the child care center to determine whether the center complies with the provisions of this act.

c. Any rule or regulation involving physical examination, immunization or medical treatment shall include an appropriate exemption for any child whose parent or parents object thereto on the ground that it conflicts with the tenets and practice of a recognized church or religious denomination of which the parent or child is an adherent or member.

d. The department shall have the authority to inspect and examine the physical plant or facilities of a child care center and to inspect all documents, records, files or other data maintained pursuant to this act during normal operating hours and without prior notice.

e. The department shall request the appropriate State and local fire, health and building officials to conduct examinations and inspections to determine compliance with State and local ordinances, codes and regulations by a child care center. The inspections shall be conducted and the results reported to the department within 60 days after the request.

f. Nothing in this act shall be interpreted to permit the adoption of any code or standard which exceeds the standards established pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

4. Section 14 of P.L.1983, c.492 (C.30:5B-14) is amended to read as follows:

C.30:5B-14 Child Care Advisory Council.

14. a. The Director of the Division of Youth and Family Services in the Department of Human Services and the Director of the Division on Women in the Department of Community Affairs shall establish a Child Care Advisory Council which shall consist of at least 15 individuals who have experience, training or other

interests in child care issues. To the extent possible, the directors shall designate members of existing councils or task forces heretofore established on child care in New Jersey as the advisory council.

b. The advisory council shall:

(1) Review rules and regulations or proposed revisions to existing rules and regulations governing the licensing of child care centers;

(2) Review proposed statutory amendments governing the licensing of child care centers and make recommendations to the commissioner;

(3) Advise the commissioner on the administration of the licensing responsibilities under this act;

(4) Advise the Commissioners of Human Services and Community Affairs and other appropriate units of State government on the needs, priorities, programs, and policies relating to child care throughout the State;

(5) Study and recommend alternative resources for child care; and

(6) Facilitate employer supported child care through information and technical assistance.

c. The advisory council may accept from any governmental department or agency, public or private body or any other source grants or contributions to be used in carrying out its responsibilities under this act.

5. Section 15 of P.L.1983, c.492 (C.30:5B-15) is amended to read as follows:

C.30:5B-15 Annual report.

15. The Child Care Advisory Council shall prepare and submit to the Senate and General Assembly an annual report of its findings and recommendations.

C.30:5B-5.1 Issuance of certificate of approval.

6. a. The department shall issue a certificate of approval to those centers meeting the requirements set forth in this section.

b. A center shall be required to comply only with physical facility and life or safety requirements of the department's regulations and with the requirements for administration and control of medication, environmental sanitation and reporting communicable diseases when a center:

(1) Operates on a seasonal or short-term basis for eight weeks or less and does not offer a continuous program that extends across the three-year period of licensure; or

(2) Was operating on or before May 16, 1984 and was exempt from the licensing provisions because it was operated by an aid society of a properly organized and accredited church.

c. A center certified pursuant to this section shall be exempt from the other rules and regulations for the operation and maintenance of child care centers promulgated pursuant to section 5 of P.L.1983, c.492 (C.30:5B-5).

d. Nothing shall prevent a center exempted under this section from securing a regular license on a voluntary basis.

7. This act shall take effect on the 180th day after enactment.

Approved September 10, 1992.

CHAPTER 96

AN ACT concerning emergency medical services for children and supplementing chapter 2K of Title 26 of the Revised Statutes.

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

C.26:2K-48 Findings, declarations.

1. The Legislature finds and declares that:

a. Traumatic injuries, such as automobile accidents, bicycle accidents, drownings and poisonings, are the most common cause of death in children over the age of one; and children have a high death rate in these emergency situations.

b. Children react differently than adults to stress, metabolize drugs differently, and suffer different illnesses and injuries. Because of these differences, children's emergency medical needs should be recognized.

c. Emergency medical services training programs focus on adults and, therefore, offer fewer hours of pediatric training. In addition, many emergency medical services personnel have no clinical experience with children, indicating the need to improve training of these personnel in pediatric emergencies.

d. It is the public policy of this State that children are entitled to comprehensive emergency medical services, including pre-hospital, hospital and rehabilitative care.

C.26:2K-49 Definitions.

2. As used in this act:

"Advanced life support" means an advanced level of pre-hospital, interhospital, and emergency service care which includes basic life support functions, cardiac monitoring, cardiac defibrillation, telemetered electrocardiography, administration of antiarrhythmic agents, intravenous therapy, administration of specific medications, drugs and solutions, use of adjunctive ventilation devices, trauma care and other techniques and procedures authorized in writing by the commissioner pursuant to department regulations and P.L.1984, c.146 (C.26:2K-7 et seq.).

"Advisory council" means the Emergency Medical Services for Children Advisory Council established pursuant to section 5 of this act.

"Basic life support" means a basic level of pre-hospital care which includes patient stabilization, airway clearance, cardiopulmonary resuscitation, hemorrhage control, initial wound care and fracture stabilization, and other techniques and procedures authorized by the commissioner.

"Commissioner" means the Commissioner of Health.

"Coordinator" means the person coordinating the EMSC program within the Office of Emergency Medical Services in the Department of Health.

"Department" means the Department of Health.

"EMSC program" means the Emergency Medical Services for Children program established pursuant to section 3 of this act, and other relevant programmatic activities conducted by the Office of Emergency Medical Services in the Department of Health in support of appropriate treatment, transport, and triage of ill or injured children in New Jersey.

"Emergency medical services personnel" means persons trained and certified or licensed to provide emergency medical care, whether on a paid or volunteer basis, as part of a basic life support or advanced life support pre-hospital emergency care service or in an emergency department or pediatric critical care or specialty unit in a licensed hospital.

"Pre-hospital care" means the provision of emergency medical care or transportation by trained and certified or licensed emergency medical services personnel at the scene of an emergency and while transporting sick or injured persons to a medical care facility or provider.

C.26:2K-50 Emergency Medical Services for Children program.

3. a. There is established within the Office of Emergency Medical Services in the Department of Health, the Emergency Medical Services for Children program.

b. The commissioner shall hire a full-time coordinator for the EMSC program in consultation with, and by the recommendation of the advisory council.

c. The coordinator shall implement the EMSC program following consultation with, and at the recommendation of, the advisory council. The coordinator shall serve as a liaison to the advisory council.

d. The coordinator may employ professional, technical, research and clerical staff as necessary within the limits of available appropriations. The provisions of Title 11A of the New Jersey Statutes shall apply to all personnel so employed.

e. The coordinator may solicit and accept grants of funds from the federal government and from other public and private sources.

C.26:2K-51 Purposes of the program.

4. The EMSC program shall include, but not be limited to, the establishment of the following:

a. Initial and continuing education programs for emergency medical services personnel that include training in the emergency care of infants and children;

b. Guidelines for referring children to the appropriate emergency treatment facility;

c. Pediatric equipment guidelines for pre-hospital care;

d. Guidelines for hospital-based emergency departments appropriate for pediatric care to assess, stabilize, and treat critically ill infants and children, either to resolve the problem or to prepare the child for transfer to a pediatric intensive care unit or a pediatric trauma center;

e. Guidelines for pediatric intensive care units, pediatric trauma centers and intermediate care units fully equipped and staffed by appropriately trained critical care pediatric physicians, surgeons, nurses and therapists;

f. An interhospital transfer system for critically ill or injured children; and

g. Pediatric rehabilitation units staffed by rehabilitation specialists and capable of providing any service required to assure maximum recovery from the physical, emotional, and cognitive effects of critical illness and severe trauma.

C.26:2K-52 Emergency Medical Services for Children Advisory Council.

5. a. There is created an Emergency Medical Services for Children Advisory Council to advise the Office of Emergency Medical Services and the coordinator of the EMSC program on all matters concerning emergency medical services for children. The advisory council shall assist in the formulation of policy and regulations to effectuate the purposes of this act.

b. The advisory council shall consist of a minimum of 14 public members to be appointed by the Governor, with the advice and consent of the Senate, for a term of three years. Membership of the advisory council shall include: one practicing pediatrician, one pediatric critical care physician, one board certified pediatric emergency physician and one pediatric physiatrist, to be appointed upon the recommendation of the New Jersey chapter of the American Academy of Pediatrics; one pediatric surgeon, to be appointed upon the recommendation of the New Jersey chapter of the American College of Surgeons; one emergency physician, to be appointed upon the recommendation of the New Jersey chapter of the American College of Emergency Physicians; one emergency medical technician, to be appointed upon the recommendation of the New Jersey State First Aid Council; one paramedic, to be appointed upon the recommendation of the State mobile intensive care advisory council; one family practice physician, to be appointed upon the recommendation of the New Jersey chapter of the Academy of Family Practice; two registered emergency nurses, one to be appointed upon the recommendation of the New Jersey State Nurses Association and one to be appointed upon the recommendation of the New Jersey Chapter of the Emergency Nurses Association; and three members, each with a non-medical background, two of whom are parents with children under the age of 18, to be appointed upon the joint recommendation of the Association for Children of New Jersey and the Junior Leagues of New Jersey.

c. Vacancies on the advisory council shall be filled for the unexpired term by appointment of the Governor in the same manner as originally filled. The members of the advisory council shall serve without compensation. The advisory council shall elect a chairperson, who may select from among the members a vice-chairperson and other officers or subcommittees which are deemed necessary or appropriate. The council may further organize itself in any manner it deems appropriate and enact bylaws as deemed necessary to carry out the responsibilities of the council.

C.26:2K-53 Rules, regulations.

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

7. This act shall take effect immediately.

Approved September 10, 1992.

CHAPTER 97

AN ACT concerning the siting of a regional low-level radioactive waste disposal facility, and amending P.L.1987, c.333.

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

1. Section 17 of P.L.1987, c.333 (C.13:1E-193) is amended to read as follows:

C.13:1E-193 Taxation as real property.

17. a. The regional low-level radioactive waste disposal facility shall, for the purposes of local property taxation, be assessed and taxed in the same manner as other real property.

In the event that the facility is constructed or operated on a site which is exempt from local property taxation by virtue of the ownership thereof by any public agency, the owner or operator of the facility shall, the provisions of any law, rule, regulation, ordinance, resolution or contract to the contrary notwithstanding, annually pay to the affected municipality a sum equal to the amount which would annually be due if the land on which the facility is located and any improvements thereto were assessed and taxed as real property subject to local property taxation. These payments shall be made to the chief fiscal officer of the affected municipality by December 31 of each year.

b. Subsequent to the effective date of this act, the owner or operator of the facility shall, on or before January 25 of each year, file with the chief fiscal officer of the municipality wherein the facility is located a statement, verified by oath, showing the gross receipts from all charges imposed during the preceding cal-

endar year upon any person for the disposal of low-level radioactive waste at the facility, and shall at the same time pay to the chief fiscal officer a sum equal to 5% of those receipts.

c. All moneys received by any municipality pursuant to this section shall be appropriated and utilized for the following purposes:

(1) Extra police or fire costs, whether for salaries, equipment, or administrative expenses, which were necessitated by the operations of the facility;

(2) Any local inspection program costs incurred by the local board of health or the county health department, as the case may be, provided that the program is performed pursuant to the provisions of this act and any rule or regulation promulgated pursuant thereto;

(3) Road construction or repair costs necessitated by the transportation of low-level radioactive waste through the municipality to the facility; and

(4) Other expenses directly related to the impact of the facility on the municipality.

Any appropriation made for an expenditure covered under this subsection shall, for the purposes of P.L.1976, c.68 (C.40A:4-45.1 et seq.), be considered as an expenditure mandated by State law.

d. The municipality in which the facility is located may petition the board for approval to collect an amount in excess of the amount prescribed in subsection b. of this section. The board, after affording the affected owner or operator with notice of this petition and an opportunity to be heard thereon, may grant the petition, but only if the board is satisfied that the grant is warranted by the expenses imposed upon the municipality as a result of the operation of the facility.

e. The board may, upon the petition of the affected owner or operator or upon its own motion, direct that the amount to be paid pursuant to subsection b. of this section be reduced to a lower percentage if, after affording the affected municipality notice of the petition or board intent to decrease the amount and an opportunity to be heard thereon, the board finds that the lower amount is sufficient to cover the expenses imposed upon the municipality as a result of the operation of the facility.

f. The municipality in which the facility is located shall not be required to be the host municipality site for a major hazardous waste facility sited pursuant to P.L.1981, c.279 (C.13:1E-49 et seq.), and no municipality which is the host municipality site for a major hazardous waste facility as defined in section 3 of P.L.1981, c.279 (C.13:1E-51) shall be required to be the host

municipality site for a regional low-level radioactive waste disposal facility sited pursuant to the provisions of this act.

g. The board may offer financial or other incentives to the host municipality as may be made available to it by the operator or the State.

h. Any board action taken pursuant to subsection d. or e. of this section shall be considered to be the final agency action thereon for the purposes of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and shall be subject only to judicial review as provided in the Rules of Court.

2. This act shall take effect immediately.

Approved September 14, 1992.

CHAPTER 98

AN ACT concerning the duration of certain local public contracts, and amending P.L.1971, c.198.

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

1. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to read as follows:

C.40A:11-2 Definitions.

2. As used herein the following words have the following definitions, unless the context otherwise indicates:

(1) "Contracting unit" means:

(a) Any county; or

(b) Any municipality; or

(c) Any board, commission, committee, authority or agency, which is not a State board, commission, committee, authority or agency, and which has administrative jurisdiction over any district other than a school district, project, or facility, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter

into contracts or agreements for the performance of any work or the furnishing or hiring of any materials or supplies usually required, the cost or contract price of which is to be paid with or out of public funds.

(2) "Governing body" means:

(a) The governing body of the county, when the purchase is to be made or the contract or agreement is to be entered into by, or in behalf of, a county; or

(b) The governing body of the municipality, when the purchase is to be made or the contract or agreement is to be entered into by, or on behalf of, a municipality; or

(c) Any board, commission, committee, authority or agency of the character described in subsection (1)(c) of this section.

(3) "Contracting agent" means the governing body of a contracting unit, or any board, commission, committee, officer, department, branch or agency which has the power to prepare the advertisements, to advertise for and receive bids and, as permitted by this act, to make awards for the contracting unit in connection with purchases, contracts or agreements.

(4) "Purchase" is a transaction, for a valuable consideration, creating or acquiring an interest in goods, services and property, except real property or any interest therein.

(5) "Materials" includes goods and property subject to chapter 2 of Title 12A of the New Jersey Statutes, apparatus, or any other tangible thing, except real property or any interest therein.

(6) "Professional services" means services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law, and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services may also mean services rendered in the performance of work that is original and creative in character in a recognized field of artistic endeavor.

(7) "Extraordinary unspecifiable services" means services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor.

(8) "Project" means any work, undertaking, program, activity, development, redevelopment, construction or reconstruction of any area or areas.

(9) "Work" includes services and any other activity of a tangible or intangible nature performed or assumed pursuant to a contract or agreement with a contracting unit.

(10) "Homemaker--home health services" means at home personal care and home management provided to an individual or members of his family who reside with him, or both, necessitated by the individual's illness or incapacity. "Homemaker--home health services" includes, but is not limited to, the services of a trained homemaker.

(11) "Recyclable material" means those materials which would otherwise become municipal solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(12) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(13) "Marketing" means the marketing of designated recyclable materials source separated in a municipality which entails a marketing cost less than the cost of transporting the recyclable materials to solid waste facilities and disposing of the materials as municipal solid waste at the facility utilized by the municipality.

(14) "Municipal solid waste" means all residential, commercial and institutional solid waste generated within the boundaries of a municipality.

(15) "Distribution" (when used in relation to electricity) means the process of conveying electricity from a contracting unit who is a generator of electricity or a wholesale purchaser of electricity to retail customers or other end users of electricity.

(16) "Transmission" (when used in relation to electricity) means the conveyance of electricity from its point of generation to a contracting unit who purchases it on a wholesale basis for resale.

(17) "Disposition" means the transportation, placement, reuse, sale, donation, transfer or temporary storage of recyclable materials for all possible uses except for disposal as municipal solid waste.

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

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

15. All purchases, contracts or agreements for the performing of work or the furnishing of materials, supplies or services shall

be made for a period not to exceed 12 consecutive months, except that contracts or agreements may be entered into for longer periods of time as follows:

(1) Supplying of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) The provision of solid waste disposal services by a resource recovery facility, the furnishing of products of a resource recovery facility, the disposal of the solid waste delivered for disposal which cannot be processed by a resource recovery facility or the waste products resulting from the operation of a resource recovery facility, including hazardous waste and recovered metals and other materials for reuse, or the design, financing, construction, operation or maintenance of a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection; and when the facility is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facil-

ity" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

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

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

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

(21) In the case of a contracting unit which is a county or municipality, the provision of emergency medical services by a

hospital to residents of a municipality or county as appropriate for a term not to exceed five years;

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

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

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

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

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

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

(28) The supplying of liquid oxygen or other chemicals, for a term not to exceed five years, when the contract includes the installation of tanks or other storage facilities by the supplier, on or near the premises of the contracting unit; and

(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 that three years.

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

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

3. This act shall take effect immediately.

Approved September 14, 1992.

CHAPTER 99

AN ACT to amend "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1993 and regulating the disbursement thereof," approved ....., 1992 (P.L.1992, c...).

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

1. Section 38 of P.L.1992, c.40, the Fiscal Year 1993 annual appropriations act is amended to read as follows:

38. Notwithstanding the provisions of any law to the contrary, no State Troopers, corrections officers, personnel providing services in any institution operated by the State or communications operators, security guards, alcoholic beverage control inspectors or marine police officers within the Division of State Police shall be laid off. Savings required to be realized through the reduction of personnel shall be made by the reduction of managerial and other exempt personnel outside the collective negotiations units in the unclassified service, and then, if necessary, by the reduction of managerial and other exempt personnel outside the collective negotiations units in the career service. As used in this section, managerial and other exempt personnel means employees assigned to employee relations groupings X, M, D, E, V, Z, Y and W.

2. Section 39 of P.L.1992, c.40, the Fiscal Year 1993 annual appropriations act is amended to read as follows:

39. a. The Consolidated State Laboratory shall be in but not of the Department of the Treasury. Moneys appropriated to the Departments of Health, Environmental Protection and Energy, and Agriculture to support the previously individual laboratory service units are transferred to the Consolidated State Laboratory for laboratory services. The Consolidated State Laboratory is authorized to establish fees for services provided. Revenues generated thereby shall be utilized to support the operation of the Consolidated State Laboratory. The unexpended balances as of June 30, 1992 in the accounts of the individual laboratory service units are appropriated for the same purpose and transferred to the Consolidated State Laboratory.

b. The State police shall not charge local law enforcement agencies a fee for forensic laboratory services.

3. This act shall take effect immediately but shall remain inoperative until the enactment of the annual appropriation act for the fiscal year ending June 30, 1993, P.L.1992, c.40; except that if enacted after July 1, 1992, this act shall be retroactive to July 1, 1992.

Passed September 14, 1992.

CHAPTER 100

AN ACT to amend "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1993 and regulating the disbursement thereof," passed June 30, 1992 (P.L.1992, c.40).

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

1. The following item in Section 1 of P.L.1992, c.40 (on page 103 of Senate Bill No. 1000 [1R]) is amended to read as follows:

82 DEPARTMENT OF THE TREASURY
70 Government Direction, Management and Control
73 Financial Administration

An amount equivalent to the amount due to be paid in Fiscal Year 1993 to the State by the Port Authority of New York and New Jersey pursuant to the regional economic development agreement dated January 1, 1990 among the States of New York and New Jersey and the Port Authority of New York and New Jersey is appropriated to the Economic Recovery Fund established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12) for the purposes of P.L.1992, c.16 (C.34:1B-7.10 et al.).

2. This act shall take effect immediately and shall be retroactive to July 1, 1992.

Approved September 16, 1992.

CHAPTER 101

AN ACT concerning the maintenance of county and municipal parks and supplementing Title 40 and chapter 10A of Title 54 of the Revised Statutes.

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

C.40:12-20 Findings, declarations.

1. The Legislature finds and declares that county and municipal parks in the State are deteriorating due to a lack of proper maintenance; that the use and enjoyment of such parks is diminished by their poor condition; that counties and municipalities often do not have the funds to expend for the proper maintenance of their parks; that proper maintenance helps extend the life of park facilities, thereby reducing the need in some cases for large public capital expenditures for new park facilities and allowing any savings resulting therefrom to be used for other public purposes; that private businesses located near county or municipal parks have a public service interest as well as a private financial incentive in ensuring that such parks are well cared for; that such businesses often have financial and other resources available to them to devote to such a worthy purpose; that many nonprofit organizations would welcome the opportunity for their members and volunteers to assist counties or municipalities in the maintenance of county or municipal parks in a spirit of public service; and that, therefore, it is appropriate to authorize counties and municipalities and private businesses or nonprofit organizations to establish mutually beneficial partnerships in the manner prescribed by this act that will result in county and municipal parks that are better maintained for the use and enjoyment of the public.

C.40:12-21 Definitions.

2. As used in this act:

"Local government unit" means a county, municipality, or joint meeting, including any commission, utilities or other authority, board, or agency thereof, or a county park commission, county board of park commissioners, county or municipal board of recreation commissioners, municipal recreation commission, or similar entity.

"Park" means a park, playground, picnic area, square, monument, beach, waterfront, recreation area, conservation area, or similar place or property, or any open space, owned or controlled by a local government unit.

"Participating business entity" means a business entity that has entered into a park maintenance agreement with a local government unit in accordance with this act.

"Participating entity" means a business entity or nonprofit organization that has entered into a park maintenance agreement with a local government unit in accordance with this act.

C.40:12-22 Agreements to provide for maintenance.

3. Any local government unit may enter into an agreement with a business entity or nonprofit organization located within or near the local government unit to provide for the maintenance of a park or any portion thereof located within the local government unit, at no cost to the local government unit except as provided pursuant to section 4 of this act. No such park maintenance agreement may be entered into unless the business entity or nonprofit organization successfully demonstrates to the local government unit that the business entity or nonprofit organization is capable of maintaining the park according to the agreed upon terms and conditions. A park maintenance agreement shall be for such period as may be agreed upon by the local government unit and the business entity or nonprofit organization, and may be terminated by the business entity or nonprofit organization upon at least six months' notice to the local government unit, or by the local government unit at any time without prior notice to the business entity or nonprofit organization, for any reason, including, but not limited to, failure of the participating business entity or nonprofit organization to comply with any term or condition of the park maintenance agreement.

C.40:12-23 Provision of materials, supplies, services.

4. A local government unit may provide at no cost to a participating entity such materials, supplies, or services that the local government unit deems appropriate to assist the participating entity with its park maintenance responsibilities, including, but not limited to, solid waste recycling or disposal services.

C.40:12-24 Advertising, promotion.

5. A local government unit may advertise and promote a park maintenance agreement program established by the local government unit pursuant to this act.

C.40:12-25 Public recognition of participating entity.

6. A local government unit may provide for appropriate public recognition of a participating entity, including, but not limited to:

a. issuance of a certificate of recognition; and

b. authorization for the participating entity to pay for and erect a sign or signs at the park maintained by that participating entity indicating (1) the name and address of the participating entity, and (2) that it has assumed all or a portion of the maintenance responsibilities for the park as a public service in accordance with this act. The local government unit shall determine the size, color, style, and location of any such sign or signs that may be erected. A local government unit may

pay for a sign or signs erected in accordance with this section if the participating entity is a nonprofit organization.

C.40:12-26 No liability in civil actions, insurance.

7. a. Except where permitted by the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., no local government unit, or any employee or agent thereof, may be held liable in any civil action to any person for any injury or damages that may be caused or sustained by any participating entity, or any employee, agent, contractor, member, or volunteer thereof, during the course, or as a result of, maintaining a park.

b. As a condition of any park maintenance agreement entered into in accordance with this act:

(1) a participating entity, and each employee, agent, contractor, member, or volunteer of that participating entity assisting in maintaining a park, shall sign a waiver releasing the local government unit and its employees and agents from any civil liability for any injury or damages, except those arising from criminal or willful, wanton, or grossly negligent conduct, that may be sustained by the participating entity, or any employee, agent, contractor, member, or volunteer thereof, as the case may be, during the course, or as a result of, maintaining a park;

(2) a participating business entity shall agree to indemnify, and if requested by the local government unit, defend, the local government unit and its employees and agents against all claims made by any person for injuries or damages that may be caused or sustained by the participating business entity, or any employee, agent, contractor, member, or volunteer thereof, during the course, or as a result of, maintaining a park; and

(3) a participating business entity shall obtain and retain insurance in an amount sufficient for the purposes set forth in this section.

C.40:12-27 Participating entity, not public, State employees.

8. While performing park maintenance responsibilities pursuant to a park maintenance agreement entered into in accordance with this act, a participating entity and its employees, agents, contractors, members, and volunteers shall not be considered to be "public employees" or "State employees" for the purposes of the "New Jersey Tort Claims Act," or otherwise be accorded any of the protections set forth therein.

C.40:12-28 Applicable laws, regulations.

9. a. Nothing in this act may be construed to supersede the provisions of R.S.40:12-1 et seq., R.S.40:61-1 et seq., chapters 32

and 37 of Title 40 of the Revised Statutes, or any rule or regulation established by a local government unit applicable to the operation of its parks for the benefit of all park users.

b. Any agreement entered into in accordance with this act shall not be subject to the requirements and provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

10. This act shall take effect immediately.

Approved September 19, 1992.

CHAPTER 102

AN ACT concerning the licensure of physician assistants, and amending P.L.1991, c.378 and R.S.45:9-1.

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

1. Section 2 of P.L.1991, c.378 (C.45:9-27.11) is amended to read as follows:

C.45:9-27.11 Definitions.

2. As used in this act:

"Approved program" means an education program for physician assistants which is approved by the Committee on Allied Health Education and Accreditation or its successor.

"Board" means the State Board of Medical Examiners created pursuant to R.S.45:9-1.

"Committee" means the Physician Assistant Advisory Committee established pursuant to section 11 of this act.

"Director" means the Director of the Division of Consumer Affairs.

"Health care facility" means a health care facility as defined in section 2 of P.L.1971, c.136 (C.26:2H-2).

"Institution" means any of the charitable, hospital, relief and training institutions, noninstitutional agencies, and correctional institutions enumerated in R.S.30:1-7.

"Physician assistant" means a person who holds a current, valid license issued pursuant to section 4 of this act.

"Physician" means a person licensed to practice medicine and surgery pursuant to chapter 9 of Title 45 of the Revised Statutes.

"Veterans' home" means the New Jersey Veterans' Memorial Home - Menlo Park, the New Jersey Veterans' Memorial Home - Vineland and the New Jersey Veterans' Memorial Home - Paramus.

2. Section 4 of P.L.1991, c.378 (C.45:9-27.13) is amended to read as follows:

C.45:9-27.13 License requirements.

4. a. The board shall issue a license as a physician assistant to an applicant who has fulfilled the following requirements:

(1) Is at least 18 years of age;

(2) Is of good moral character;

(3) Has successfully completed an approved program; and

(4) Has passed the national certifying examination administered by the National Commission on Certification of Physician Assistants, or its successor.

b. In addition to the requirements of subsection a. of this section, an applicant for renewal of a license as a physician assistant shall:

(1) Execute and submit a sworn statement made on a form provided by the board that neither the license for which renewal is sought nor any similar license or other authority issued by another jurisdiction has been revoked, suspended or not renewed; and

(2) Present satisfactory evidence that any continuing education requirements have been completed as required by this act.

c. The board, in consultation with the committee, may accept, in lieu of the examination required by paragraph (4) of subsection a. of this section, proof that an applicant for licensure holds a current license in a state which has standards substantially equivalent to those of this State.

3. Section 5 of P.L.1991, c.378 (C.45:9-27.14) is amended to read as follows:

C.45:9-27.14 Employment.

5. a. A physician assistant may be employed by a physician, a health care facility, an institution or a veterans' home.

b. A physician, health care facility, institution or veterans' home which employs a physician assistant shall file with the board a notice of employment within 10 days after the date on which the employment commences, on a form and in accordance with rules to be promulgated by the board in accordance with section 17 of this act.

4. Section 6 of P.L.1991, c.378 (C.45:9-27.15) is amended to read as follows:

C.45:9-27.15 Practice of physician assistant.

6. a. A physician assistant may practice in all medical care settings, including, but not limited to, a physician's office, a health care facility, an institution, a veterans' home or a private home, provided that:

(1) the physician assistant is under the direct supervision of a physician pursuant to section 9 of this act;

(2) the practice of the physician assistant is limited to those procedures authorized under section 7 of this act;

(3) an appropriate notice of employment has been filed with the board pursuant to subsection b. of section 5 of this act;

(4) the supervising physician or physician assistant advises the patient at the time that services are rendered that they are to be performed by the physician assistant;

(5) the physician assistant conspicuously wears an identification tag using the term "physician assistant" whenever acting in that capacity; and

(6) any entry by a physician assistant in a clinical record is appropriately signed and followed by the designation, "PA-C."

b. Any physician assistant who practices in violation of any of the conditions specified in subsection a. of this section shall be deemed to have engaged in professional misconduct in violation of subsection f. of section 8 of P.L.1978, c.73 (C.45:1-21).

5. Section 7 of P.L.1991, c.378 (C.45:9-27.16) is amended to read as follows:

C.45:9-27.16 Allowable procedures.

7. a. A physician assistant may perform the following procedures:

(1) Approaching a patient to elicit a detailed and accurate history, perform an appropriate physical examination, identify problems, record information and interpret and present information to the supervising physician;

(2) Suturing and caring for wounds including removing sutures and clips and changing dressings, except for facial wounds, traumatic wounds requiring suturing in layers and infected wounds;

(3) Providing patient counseling services and patient education consistent with directions of the supervising physician;

(4) Assisting a physician in an inpatient setting by conducting patient rounds, recording patient progress notes, determining and

implementing therapeutic plans jointly with the supervising physician and compiling and recording pertinent narrative case summaries;

(5) Assisting a physician in the delivery of services to patients requiring continuing care in a private home, nursing home, extended care facility or other setting, including the review and monitoring of treatment and therapy plans;

(6) Facilitating the referral of patients to, and promoting their awareness of, health care facilities and other appropriate agencies and resources in the community; and

(7) Such other procedures suitable for discretionary and routine performance by physician assistants as designated by the board pursuant to subsection a. of section 15 of this act.

b. A physician assistant may perform the following procedures only when directed, ordered or prescribed by the supervising physician or specified in accordance with protocols promulgated pursuant to subsection c. of section 15 of this act:

(1) Performing non-invasive laboratory procedures and related studies or assisting duly licensed personnel in the performance of invasive laboratory procedures and related studies;

(2) Giving injections, administering medications and requesting diagnostic studies;

(3) Suturing and caring for facial wounds, traumatic wounds requiring suturing in layers and infected wounds;

(4) Writing prescriptions or ordering medications in an inpatient setting in accordance with section 10 of this act; and

(5) Such other procedures as may be specified in accordance with protocols promulgated in accordance with subsection b. of section 15 of this act.

c. A physician assistant may assist a supervising surgeon in the operating room when a qualified assistant physician is not required by the board and a second assistant is deemed necessary by the supervising surgeon.

6. Section 11 of P.L.1991, c.378 (C.45:9-27.20) is amended to read as follows:

C.45:9-27.20 Physician Assistant Advisory Committee.

11. There is created within the State Board of Medical Examiners, a Physician Assistant Advisory Committee. The committee shall consist of five members who are residents of this State, one of whom shall be a public member and one of whom shall be a physician licensed pursuant to chapter 9 of Title 45 of the

Revised Statutes. The remaining three members shall be, except for those first appointed, physician assistants licensed in accordance with the provisions of this act. The physician assistant members first appointed to the committee need not be licensed in this State but shall be physician assistants certified by the National Commission on Certification of Physician Assistants.

The Governor shall appoint the members of the committee for a term of three years, except that of the members first appointed, two shall be appointed for a term of one year, two shall be appointed for a term of two years and one shall be appointed for a term of three years. Each member shall serve until his successor has been qualified. Any vacancy in the membership of the committee shall be filled for the unexpired term in the same manner as the original appointments were made. No member shall serve for more than two consecutive terms in addition to any unexpired term to which he has been appointed. The Governor may remove a member of the committee for cause.

Members of the committee shall be compensated and reimbursed for actual expenses reasonably incurred in the performance of their official duties in accordance with subsection a. of section 2 of P.L.1977, c.285 (C.45:1-2.5).

7. Section 12 of P.L.1991, c.378 (C.45:9-27.21) is amended to read as follows:

C.45:9-27.21 Election of officers; meetings.

12. The committee shall annually elect from among its members a president and vice-president. The committee shall meet at least twice each year and may hold additional meetings, as necessary to discharge its duties. In addition to such meetings, the committee shall meet at the call of the president, the board or the Attorney General.

8. Section 13 of P.L.1991, c.378 (C.45:9-27.22) is amended to read as follows:

C.45:9-27.22 Executive Director.

13. An Executive Director of the committee shall be appointed by the director and shall serve at the director's pleasure. The salary of the Executive Director shall be determined by the director within the limits of available funds. The director shall be empowered within the limits of available funds to hire any assistants and confidential investigative personnel as are necessary to administer this act.

9. Section 14 of P.L.1991, c.378 (C.45:9-27.23) is amended to read as follows:

C.45:9-27.23 Powers, duties.

14. a. The committee may have the following powers and duties, as delegated by the board:

(1) to evaluate and pass upon the qualifications of candidates for licensure;

(2) to take disciplinary action, in accordance with P.L.1978, c.73 (C.45:1-14 et seq.) against a physician assistant who violates any provision of this act;

(3) to adopt and administer the examination to be taken by applicants for licensure; and

(4) subject to the requirements of section 16 of this act, to adopt standards for and approve continuing education programs.

b. In addition to the powers and duties specified in subsection a. of this section, the committee may make recommendations to the board regarding any subjects pertinent to this act.

10. Section 15 of P.L.1991, c.378 (C.45:9-27.24) is amended to read as follows:

C.45:9-27.24 Additional procedures and protocols.

15. The board may receive and shall give due consideration to advice from the committee in adopting regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), in the following areas:

a. Designating additional procedures which may be performed on a discretionary and routine basis by licensed physician assistants in accordance with paragraph (7) of subsection a. of section 7 of this act;

b. Designating additional procedures which may be performed by a licensed physician assistant only when ordered, prescribed or directed by the supervising physician; and

c. Establishing and adopting protocols to be followed by licensed physician assistants performing any of the procedures listed in subsection b. of section 7 of this act.

11. Section 16 of P.L.1991, c.378 (C.45:9-27.25) is amended to read as follows:

C.45:9-27.25 Continuing professional education.

16. a. The board, or the committee if so delegated by the board, shall:

(1) approve only such continuing professional education programs as are available to all physician assistants in this State on a reasonable nondiscriminatory basis. Programs may be held within or without this State, but shall be held so as to enable physician assistants in all areas of the State to attend;

(2) establish standards for continuing professional education programs, including the specific subject matter and content of courses of study and the selection of instructors;

(3) accredit educational programs offering credits towards the continuing professional education requirements; and

(4) establish the number of credits of continuing professional education required of each applicant for license renewal. Each credit shall represent or be equivalent to one hour of actual course attendance, or in the case of those electing an alternative method of satisfying the requirements of this act, shall be approved by the board and certified pursuant to procedures established for that purpose.

b. The board may, at its discretion:

(1) waive the requirements of paragraph (2) of subsection b. of section 4 of this act for due cause; and

(2) accredit courses with non-hourly attendance, including home study courses, with appropriate procedures for the issuance of credit upon satisfactory proof of the completion of such courses.

c. If any applicant for renewal of registration completes a number of credit hours in excess of the number established pursuant to paragraph (4) of subsection a. of this section, the excess credit may, at the discretion of the board, be applicable to the continuing education requirement for the following biennial renewal period but shall not be applicable thereafter.

12. Section 17 of P.L.1991, c.378 (C.45:9-27.26) is amended to read as follows:

C.45:9-27.26 Powers, duties of board.

17. The board shall, in addition to such other powers and duties as it may possess by law:

a. Administer and enforce the provisions of this act;

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

c. Establish professional standards for persons licensed under this act;

d. Conduct hearings pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except that the board shall have the right to administer oaths to witnesses, and shall have the power to issue subpoenas for the compulsory attendance of witnesses and the production of pertinent books, papers, or records;

e. Conduct proceedings before any board, agency or court of competent jurisdiction for the enforcement of the provisions of this act;

f. Evaluate and pass upon the qualifications of candidates for licensure;

g. Establish standards for and approve educational programs for physician assistants as required by paragraph (3) of subsection a. of section 4 of this act;

h. Adopt and administer the examination to be taken by applicants for licensure;

i. Subject to the requirements of section 16 of this act, establish standards for and approve continuing education programs; and

j. Have the enforcement powers provided pursuant to P.L.1978, c.73 (C.45:1-14 et seq.).

13. Section 18 of P.L.1991, c.378 (C.45:9-27.27) is amended to read as follows:

C.45:9-27.27 Enforcement.

18. The provisions of the uniform enforcement law, P.L.1978, c.73 (C.45:1-14 et seq.), shall apply to this act. The authority of the board may be delegated to the committee at the discretion of the board.

14. Section 19 of P.L.1991, c.378 (C.45:9-27.28) is amended to read as follows:

C.45:9-27.28 Fees for licenses.

19. a. The board shall by rule or regulation establish, prescribe or change the fees for licenses, renewals of licenses or other services provided by the board or the committee pursuant to the provisions of this act. Licenses shall be issued for a period of two years and be biennially renewable, provided however, that the board may, in order to stagger the expiration dates thereof, provide that those licenses first issued or renewed after the effective date of this act shall expire and become void on a date fixed by the board, not sooner than six months nor later than 29 months after the date of issue.

b. Fees shall be established, prescribed or changed by the board pursuant to subsection a. of this section to the extent as is

necessary to defray all proper expenses incurred by the committee, the board and any staff employed to administer this act. However, fees shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

c. All fees and any fines imposed by the board shall be paid to the board and shall be forwarded to the State Treasurer and become part of the General Fund.

d. There shall be annually appropriated to the Department of Law and Public Safety for the use of the board such sums as shall be necessary to implement and effectuate the provisions of this act.

15. R.S.45:9-1 is amended to read as follows:

State Board of Medical Examiners; advisory committee.

45:9-1. The State Board of Medical Examiners, hereinafter in this chapter designated as the "board" shall consist of 17 members, one of whom shall be the Commissioner of Health, or his designee, two of whom shall be public members and one an executive department designee as required pursuant to section 2 of P.L.1971, c.60 (C.45:1-2.2), and 13 of whom shall be persons of recognized professional ability and honor, and shall possess a license to practice their respective professions in New Jersey, and all of whom shall be appointed by the Governor in accordance with the provisions of section 2 of P.L.1971, c.60 (C.45:1-2.2); provided, however, that said board shall consist of 10 graduates of schools of medicine or osteopathic medicine who shall possess the degree of M.D. or D.O. The number of osteopathic physicians on the board shall be a minimum of, but not limited to, two members. In addition the membership of said board shall comprise one podiatrist , one physician assistant and one licensed bio-analytical laboratory director, who may or may not be the holder of a degree of M.D. The term of office of members of the board hereafter appointed shall be three years or until their successors are appointed. Said appointees shall, within 30 days after receipt of their respective commissions, take and subscribe the oath or affirmation prescribed by law and file the same in the office of the Secretary of State.

The Governor shall also appoint an advisory committee to consist of four licensed bio-analytical laboratory directors, only two of whom shall possess the degree of M.D. or D.O., and who shall be appointed from a list to be submitted by the society or organization of which the persons nominated are members. The members of this advisory committee shall serve for a term of

three years and until their successors are appointed and qualified, and shall be available to assist the board in the administration of the "Bio-analytical Laboratory and Laboratory Directors Act (1953)," P.L.1953, c.420 (C.45:9-42.1 et seq.). The advisory committee shall meet at the call of the board. The board may authorize reimbursement of the members of the advisory committee for their actual expenses incurred in connection with the performance of their duties as members of the committee.

16. This act shall take effect immediately.

Approved September 21, 1992.

CHAPTER 103

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, 1993 and regulating the disbursement thereof," approved June ....., 1992 (P.L.1992, c...) (now pending as Senate, No. 1000 (1R)).

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

1. The following item in Section 1 of P.L.1992, c.40 on page 141, is amended to read as follows:

GENERAL FUND
STATE AID
DEPARTMENT OF HUMAN SERVICES
20 Physical and Mental Health
23 Mental Health Services--State Aid
7700 Division of Mental Health and Hospitals

08-7700 Community Services	$66,958,000
Total Appropriation, Division of Mental Health and Hospitals	$66,958,000
State Aid;	
Support of Patients in County Mental Hospitals	($66,958,000)

2. The following item in Section 1 of P.L.1992, c.40 on page 120, is amended to read as follows:

GENERAL FUND
GRANTS-IN-AID
DEPARTMENT OF HUMAN SERVICES
24 Special Health Services
7540 Division of Medical Assistance and Health Services
Grants-In-Aid

28-7540 Lifeline Programs	$36,943,000
Total Appropriation, Division of Medical Assistance and Health Services	$1,613,769,000
Grants:	
Payments for Lifeline Credits..... ($2,818,000)	

3. In addition to the amounts appropriated in P.L.1992, c.40, there is appropriated out of the Casino Revenue Fund the following sum for the purpose specified:

CASINO REVENUE FUND
GRANTS-IN-AID
DEPARTMENT OF HUMAN SERVICES
50 Economic Planning, Development and Security
53 Economic Assistance and Security
7540 Division of Medical Assistance and Health Services
Grants-In-Aid

28-7540 Lifeline Programs	$32,000,000
Total Appropriation, Division of Medical Assistance and Health Services	$32,000,000
Grants:	
Payments for Lifeline Credits..... ($32,000,000)	

4. Throughout P.L.1992, c.40, where appropriate, corresponding adjustments for totals in departments, fund totals, subtotals and other totals are amended to be in accordance with the amendments made by sections 1, 2 and 3 of this act.

5. This act shall take effect July 1, 1992, or if enacted after July 1, 1992, shall be retroactive to July 1, 1992.

Filed September 21, 1992.

CHAPTER 104

AN ACT providing for a record of the awarding of certain State contracts.

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

1. For a period of 12 months after the effective date of this act, the State Treasurer shall maintain a record of public contracts awarded by the State to any bidder whose bidding address as registered with the Division of Purchase and Property is located in another state and who was awarded a public contract over a bidder whose bidding address as registered with the Division of Purchase and Property is located in this State and who entered the next lowest responsible bid. The State Treasurer shall report his findings to the Legislature on a quarterly basis.

2. This act shall take effect immediately and shall expire one year after the date of enactment.

Approved September 22, 1992.

CHAPTER 105

AN ACT to validate certain proceedings for the issuance of bonds of school districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

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

1. All proceedings heretofore had or taken by any school district or at any school election for the authorization or issuance of bonds of the school district and any bonds or other obligations of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such meeting or election, are hereby ratified, validated and confirmed, notwithstanding that notices to persons desiring military and civilian absentee ballots were not published as required by the provisions of N.J.S.18A:14-25; provided however that the notices were published prior to the election, and notwithstanding that the meeting at which the resolution was passed to place a proposal on the ballot at the annual election was a rescheduled regular meeting and that notice of such meeting was not published as required by the provisions of P.L.1975, c.231 (C.10:4-6 et seq.); and provided further, that no action, suit, or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date upon which this act shall take effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, if instituted within 15 days after the effective date of this act.

2. This act shall take effect immediately.

Approved September 22, 1992.

CHAPTER 106

AN ACT to validate certain proceedings for the issuance of bonds of school districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

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

1. All proceedings heretofore had or taken by any school district or at any school district meeting or election for the authorization or issuance of bonds of the school district, and any

bonds or other obligations of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such meeting or election, are hereby ratified, validated and confirmed, notwithstanding that a supplemental debt statement was not prepared and filed as required by the provisions of N.J.S.18A:24-17; provided that a supplemental debt statement heretofore has been prepared and filed in the places required by N.J.S.18A:24-17; provided that no action, suit, or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date upon which this act shall take effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, if instituted within 15 days after the effective date of this act.

2. This act shall take effect immediately.

Approved September 22, 1992.

CHAPTER 107

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, 1993, and regulating the disbursement thereof," approved ....., 1992 (P.L.1992, c....) (now pending before the Legislature as Senate Bill No. 1000 of 1992).

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

1. In addition to the amount appropriated to the Department of Law and Public Safety for Licensing, Registration and Inspection Services, receipts in excess of the amount anticipated from the sale of newly designed, reflectorized license plates with marks identical to the motorists' existing license plates, not to exceed $5,000,000, are appropriated for overtime expenses of personnel at motor vehicle agencies and inspection stations, subject to the approval of the Director of the Division of Budget and Accounting.

2. This act shall take effect immediately but shall remain inoperative until the enactment into law of the annual appropriations act for the fiscal year ending June 30, 1993, P.L.1992, c.40.

Approved September 22, 1992.

CHAPTER 108

AN ACT creating the "Casino Revenue Fund Advisory Commission" and supplementing P.L.1977, c.110 (C.5:12-1 et seq.).

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

C.5:12-145.3 Casino Revenue Fund Advisory Commission.

1. There is created a commission to be known as the "Casino Revenue Fund Advisory Commission." The commission shall consist of 15 members to be appointed as follows: two members of the Senate, appointed by the President of the Senate, not more than one of whom shall be of the same political party; two members of the General Assembly, appointed by the Speaker of the General Assembly, not more than one of whom shall be of the same political party; three public members who are senior citizens, one of whom is appointed by the President of the Senate, one of whom is appointed by the Speaker of the General Assembly and one of whom is appointed by the Governor; three public members who are disabled, one of whom is appointed by the President of the Senate, one of whom is appointed by the Speaker of the General Assembly and one of whom is appointed by the Governor; one public member who is a representative of the casino industry to be appointed by the Governor upon the recommendation of the Casino Association of New Jersey; the President of the New Jersey Association of Directors of Area Agencies on Aging, the Chairperson of the New Jersey Association of County Representatives for Disabled Persons, the Director of the Division on Aging in the Department of Community Affairs and the Legislative Budget and Finance Officer, or their designees, who shall serve as ex officio members.

The legislative members shall serve during the two-year legislative session in which the appointment is made. The senior citizen and disabled members shall serve for three year terms or

until a successor is appointed; but of the members initially appointed, one of the senior citizens and one of the disabled members shall serve for a term of one year, one of the senior citizens and one of the disabled members shall serve for a term of two years and one of the senior citizens and one of the disabled members shall serve for a term of three years.

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

Members shall be eligible for reimbursement for necessary and reasonable expenses incurred in the performance of their official duties but reimbursement of expenses shall be within the limits of funds appropriated or otherwise made available to the commission for its purposes.

C.5:12-145.4 Duties of commission.

2. The commission shall review the programs funded by the Casino Revenue Fund, established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145), and make recommendations to the Legislature annually or more often, if necessary, concerning existing or proposed programs or legislation and the expenditure of these funds. The commission also shall evaluate the need for existing, additional or expanded programs which may be funded from the Casino Revenue Fund and shall advise the Legislature accordingly.

C.5:12-145.5 Organization, election of chairperson, secretary.

3. The commission shall organize as soon after the appointment of its members as is practicable. A majority of the commission members shall elect a chairperson from among the members and a secretary who need not be a member of the commission. The commission shall meet at regular intervals but at least on a quarterly basis.

C.5:12-145.6 Entitlement to assistance, services, incurring of expenses.

4. The commission is 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 available to it for its purposes. The Department of the Treasury shall supply professional, stenographic and clerical assistance which is necessary for the commission to perform its duties. The commission may incur miscellaneous expenses as it may deem necessary, in order to per-

form its duties, and as may be within the limits of funds appropriated or otherwise made available to it for those purposes.

C.5:12-145.7 Annual report.

5. The commission shall submit an annual report to the Legislature by March 1 of each year.

6. This act shall take effect immediately.

Approved September 22, 1992.

CHAPTER 109

AN ACT establishing a civil action for sexual abuse 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: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, conducted in the presence of the jury. At the plenary hearing the court shall hear all credible evidence and the Rules of Evidence shall not apply, except for Rule 4 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, but shall not apply to any action which is commenced before the effective date.

Approved September 24, 1992.

CHAPTER 110

AN ACT concerning information on organ donations, amending R.S.39:3-10 and R.S.39:3-41.

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

1. R.S.39:3-10 is amended to read as follows:

Licensing of drivers; classifications.

39:3-10. No person shall drive a motor vehicle on a public highway in this State unless licensed to do so in accordance with this article. No person under 17 years of age shall be licensed to drive motor vehicles, nor shall a person be licensed until he has passed a satisfactory examination as to his ability as an operator. The examination shall include a test of the applicant's vision, his ability to understand traffic control devices, his knowledge of safe driving practices and of the effects that ingestion of alcohol or drugs has on a person's ability to operate a motor vehicle, his knowledge of such portions of the mechanism of motor vehicles as is necessary to insure the safe operation of a vehicle of the kind or kinds indicated by the applicant and of the laws and ordinary usages of the road and a demonstration of his ability to operate a vehicle of the class designated.

The director shall expand the driver's license examination by 20%. The additional questions to be added shall consist solely of questions developed in conjunction with the State Department of Health concerning the use of alcohol or drugs as related to highway safety. The director shall develop in conjunction with the State Department of Health supplements to the driver's manual which shall include information necessary to answer any question on the driver's license examination concerning alcohol or drugs as related to highway safety.

The director shall expand the driver's license examination to include a question asking whether the applicant is aware of the provisions of the "Uniform Anatomical Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.) and the procedure for indicating on the driver's license the intention to make a donation of body organs or tissues pursuant to P.L.1978, c.181 (C.39:3-12.2).

Any person applying for a driver's license to operate a motor vehicle or motorized bicycle in this State shall surrender to the director any current driver's license issued to him by another state upon his receipt of a driver's license for this State. The director shall refuse to issue a driver's license if the applicant fails to comply with this provision.

The director shall create classified licensing of drivers covering the following classifications:

a. Motorcycles, except that for the purposes of this section, motorcycle shall not include any three-wheeled motor vehicle equipped with a single cab with glazing enclosing the occupant, seats similar to those of a passenger vehicle or truck, seat belts and automotive steering;

b. Omnibuses as classified by R.S.39:3-10.1 and school buses classified under N.J.S.18A:39-1 et seq.;

c. Articulated vehicles means a combination of a commercial motor vehicle registered at a gross weight in excess of 18,000 pounds and one or more motor-drawn vehicles joined together by means of a coupling device;

d. All motor vehicles not included in classifications a., b. and c. A license issued pursuant to this classification d. shall be referred to as the "basic driver's license."

Every applicant for a license under classification b. or c. shall be a holder of a basic driver's license. Any issuance of a license under classification b. or c. shall be by endorsement on the basic driver's license.

A driver's license for motorcycles may be issued separately, but if issued to the holder of a basic driver's license, it shall be by endorsement on the basic driver's license.

The director, upon payment of the lawful fee and after he or a person authorized by him has examined the applicant and is satisfied of the applicant's ability as an operator, may, in his discretion, license the applicant to drive a motor vehicle. The license shall authorize him to drive any registered vehicle, of the kind or kinds indicated, and shall expire, except as otherwise provided, on the last day of the forty-eighth calendar month following the calendar month in which such license was issued.

The director may, at his discretion and for good cause shown, issue licenses which shall expire on a date fixed by him. The fee for such licenses shall be fixed by the director in amounts proportionately less or greater than the fee herein established.

The required fee for a license for the 48-month period shall be as follows:

Motorcycle license or endorsement ..	$13.00
Omnibus or school bus endorsement	$16.00
Articulated vehicle endorsement	$8.00
Basic driver's license.....	$16.00

The director shall waive the payment of fees for issuance of omnibus endorsements whenever an applicant establishes to the

director's satisfaction that said applicant will use the omnibus endorsement exclusively for operating omnibuses owned by a nonprofit organization duly incorporated under Title 15 or 16 of the Revised Statutes or Title 15A of the New Jersey Statutes.

The director shall issue licenses for the following license period on and after the first day of the calendar month immediately preceding the commencement of such period, such licenses to be effective immediately.

All applications for renewals of licenses shall be made on forms prescribed by the director and in accordance with procedures established by him.

The director in his discretion may refuse to grant a license to drive motor vehicles to a person who is, in his estimation, not a proper person to be granted such a license, but no defect of the applicant shall debar him from receiving a license unless it can be shown by tests approved by the Director of the Division of Motor Vehicles that the defect incapacitates him from safely operating a motor vehicle.

A person violating this section shall be subject to a fine not exceeding $500.00 or imprisonment in the county jail for not more than 60 days, but if that person has never been licensed to drive in this State or any other jurisdiction, he shall be subject to a fine of not less than $200.00 and, in addition, the court shall issue an order to the Director of the Division of Motor Vehicles requiring the director to refuse to issue a license to operate a motor vehicle to the person for a period of not less than 180 days. The penalties provided for by this paragraph shall not be applicable in cases where failure to have actual possession of the operator's license is due to an administrative or technical error by the Division of Motor Vehicles.

Nothing in this section shall be construed to alter or extend the expiration of any license issued prior to the date this amendatory and supplementary act becomes operative.

2. R.S.39:3-41 is amended to read as follows:

Driver's manual made available; contents.

39:3-41. a. At the time of the issuance of an examination permit or a special learner's permit to operate a motor vehicle, the director shall make available to each applicant for the examination permit or special learner's permit a driver's manual containing information required to be known and followed by licensed drivers relating to licensing requirements.

b. At the time of any required examination for renewal of a driver's license, the director shall upon request make available to each applicant for renewal a copy of the manual and any supplements thereto.

c. The driver's manual and any supplements thereto or any other booklet or writing prepared in connection with examinations for drivers' licenses or for renewals of drivers' licenses shall contain all information necessary to answer any question on an examination for a driver's license or for a renewal of a driver's license.

d. The director, following consultation with the New Jersey Organ and Tissue Sharing Network, shall include in the driver's manual information explaining the provisions of the "Uniform Anatomical Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.), the beneficial uses of donated body organs and tissues, and the procedure for indicating on the driver's license the intention to make such a donation pursuant to P.L.1978, c.181 (C.39:3-12.2). The director may distribute all remaining copies of the existing driver's manual before reprinting the manual with the information required pursuant to this subsection.

3. This act shall take effect immediately.

Approved September 25, 1992.

CHAPTER 111

AN ACT concerning emotionally disturbed children and supplementing Title 30 of the Revised Statutes.

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

C.30:4C-66 Short title.

1. This act shall be known and may be cited as the "Bring Our Children Home Act."

C.30:4C-67 Findings, declarations.

2. The Legislature finds and declares that it is the intent of the Legislature to preserve the sanctity of the family unit and to prevent the unnecessary out-of-home placement of emotionally disturbed children, whether in New Jersey or out-of-State.

The Legislature further finds and declares that it is in the best interest of children that an individualized, appropriate child and family driven care system be developed so that children with special emotional needs and their families receive appropriate educational, nonresidential, residential and family supportive services.

C.30:4C-68 Definitions.

3. As used in this act:

"Case Assessment Resource Team" or "CART" means an entity that reviews the needs of every child in the defined target population and recommends a service plan that best meets the needs of that child and his family;

"County Inter-Agency Coordinating Council" or "CIACC" means an entity which fosters cross-system service planning for the defined target population; and

"Individualized, appropriate child and family driven care system" means a plan of care for a child with special emotional needs that will provide for, as a priority, the needs of the child and the family, including whatever placement in or out-of-State that is most appropriate for the child and his family.

C.30:4C-69 Development of interdepartmental plan.

4. The Commissioner of Human Services shall develop an interdepartmental plan for the implementation of an individualized, appropriate child and family driven care system for children with special emotional needs and for the reduction of inappropriate use of out-of-home placements of these children. The plan shall first address children ready to be returned from institutions such as the Arthur Brisbane Child Treatment Center and other in-State and out-of-State residential facilities, and those at imminent risk of extended out-of-home placement. The commissioner shall consult with appropriate representatives from the State departments of Education, Corrections, Health, Community Affairs and the Public Advocate, the Statewide Children's Coordinating Council in the Department of Human Services, the Administrative Office of the Courts, and Statewide family advocacy groups, in the development of the plan.

C.30:4C-70 Establishment of CART, CIACC.

5. A county may establish a CART and CIACC in accordance with the provisions of this act. In the event that a county does not establish a CART or CIACC, the Department of Human Services may establish a CART or CIACC for that county.

C.30:4C-71 Contents of plan.

6. The plan shall:

a. Assess current policies and activities of all divisions in the Department of Human Services in the implementation of the individualized, appropriate child and family driven care system;

b. Assess the implementation of the policies and procedures of the Case Assessment Resource Teams (CARTs) and the County Inter-Agency Coordinating Councils (CIACCs) sanctioned by the Department of Human Services to be certain, among other things, that a family using the services is a full participant in the CART/CIACC process;

c. Be consistent with principles set forth in section 7 of this act;

d. Set forth specific timelines and procedures for the implementation of new policies and practices that shall be undertaken to develop a system of care which is integrated across divisional and departmental lines;

e. Specify the role and function of the CARTs and CIACCs in developing the individualized, appropriate child and family driven care system;

f. Recommend departmental or divisional organizational changes required to execute the system of care;

g. Specify the interdepartmental amounts and sources of financial resources required to implement and maintain a coordinated system of care;

h. Develop a mechanism to guarantee that savings accrued through implementation of this plan be applied to community-based children's services;

i. Identify funding mechanisms compatible with individual county needs to carry out the purposes of this act;

j. Develop a system to monitor and evaluate the outcomes for children with special emotional needs who have received community-based services as a result of the implementation of an individualized, appropriate child and family driven care system;

k. Develop an independent evaluation mechanism to report at least quarterly, which is designed to enhance and evaluate the CART/CIACC inter-agency system at both the local and Statewide levels;

l. Describe all services, both public and private, including rehabilitation services, vocational services, substance abuse services, housing services, educational services, medical and dental care to be provided by local school systems under the "Education of the Handicapped Act," (20 U.S.C. §1401 et seq.); and

m. Describe how parents will be involved in the development of the plan and how the plan will insure their full participation in the CART/CIAAC process.

C.30:4C-72 Principles of system of care.

7. The individualized, appropriate child and family driven system of care may embody the following principles:

a. Services are to be child and family driven, with priority given to keeping children in their own homes. A child and his family or his primary caregiver, if no family is living, shall be fully involved in all aspects of the planning and delivery of services;

b. Services are to be community-based and are to be provided in the least restrictive setting consistent with the unique needs and potential of each child and family;

c. Services are to promote early identification and intervention;

d. Services are to be culturally and ethnically competent;

e. Services should be based upon the child's potential and reflect a continuum of care that includes out-of-home placement when appropriate;

f. The rights of children and their families are to be protected; and

g. A case coordinator should be assigned to each child and family to insure that service plans are implemented.

C.30:4C-73 Use of monies saved.

8. Any monies saved by the Department of Human Services in preventing the out-of-home placement of children pursuant to this act shall be used by the department to provide services pursuant to the interdepartmental plan developed pursuant to this act.

9. The Commissioner shall develop the plan within six months of the effective date of this act and submit the plan to the Governor and Legislature.

10. This act shall take effect immediately.

Approved September 29, 1992.

CHAPTER 112

AN ACT concerning voluntary contributions through gross income tax returns for the Vietnam Veterans' Memorial Fund, supplementing Title 54A of the New Jersey Statutes.

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

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 $5 ❑, $10 ❑, other amount $___ ❑ to this fund."

Any costs incurred by the Division of Taxation for collection or administration attributable to this act may be deducted from receipts collected pursuant to this act, as determined by the Director of the Division of Budget and Accounting.

The State Treasurer shall deposit net contributions collected pursuant to this act into the Vietnam Veterans' Memorial Fund.

2. This act shall take effect immediately and shall apply to taxable years beginning after December 31, 1991 and before December 31, 1993.

Approved September 29, 1992.

CHAPTER 113

AN ACT authorizing a "Charity Racing Day for the Vietnam Veterans' Memorial."

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

C.5:5-44.7 Designation of "Charity Racing Day for the Vietnam Veterans' Memorial;" fund.

1. a. The New Jersey Racing Commission shall designate one of the racing days authorized each year to a holder of a permit to hold or conduct a horse race meeting pursuant to P.L.1940, c.17 (C.5:5-22 et seq.) as "Charity Racing Day for the Vietnam Veter-

ans' Memorial" or shall allot to each such permit holder one additional racing day to be known as "Charity Racing Day for the Vietnam Veterans' Memorial."

b. All moneys received by the commission as its share of the total contributions to all parimutuel pools conducted or made on the racing day designated or allotted pursuant to subsection a. of this section shall be deposited in the Vietnam Veterans' Memorial Fund, created pursuant to section 4 of P.L.1985, c.494 (C.52:18A-208).

c. The commission shall designate or allot the days provided for in subsection a. of this section until sufficient funds from all sources have been credited to the Vietnam Veterans' Memorial Fund, created pursuant to section 4 of P.L.1985, c.494 (C.52:18A-208), to pay for the construction of the Vietnam Veterans' Memorial. The Vietnam Veterans' Memorial Committee, established pursuant to section 2 of P.L.1985, c.494 and reconstituted pursuant to section 1 of P.L.1989, c.148, shall inform the commission of the amount necessary to construct this memorial, and the State Treasurer shall periodically certify to the commission the amount of moneys in the fund.

2. This act shall take effect immediately.

Approved September 29, 1992.

CHAPTER 114

AN ACT authorizing the issuance of bonds by the New Jersey Housing and Mortgage Finance Agency to establish the Housing Incentive Finance Fund, providing for loan guarantees for housing developers under certain circumstances, and supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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

C.55:14K-45 Short title.

1. This act shall be known and may be cited as the "Housing Incentive Finance Act."

C.55:14K-46 Findings, determinations, declarations.

2. The Legislature finds, determines and declares:

a. Changing economic conditions and the current state of financial markets have curtailed the amount of capital available, upon terms tolerable and practicable to developers, for the development of land and construction of housing.

b. The factors that have led to these conditions -- such as changes in federal government supervision of institutional lenders, increased reserve requirements imposed on financial institutions, and other structural changes in financial markets -- will continue to affect the home-building industry for the foreseeable future.

c. The depressed state of this industry exerts a significant adverse impact on the national economy, particularly severe in this densely populated and highly industrialized State, by curtailing employment opportunities and depressing accustomed standards of living.

d. The distresses of the economy have fallen with exceptional severity upon the housing supply for home-seekers at all economic levels, and most particularly for those of mid-level and modest incomes.

e. Significant alleviation of the current economic situation requires cooperation between public and private institutions, which can be effectively fostered by a State program directed towards meeting short-term capital requirements.

f. The most logical State agency to administer such assistance is the New Jersey Housing and Mortgage Finance Agency (HMFA), with its many years of successful experience in actively but prudently financing a variety of housing initiatives.

g. It is, accordingly, the intention of this act to establish, under the administration of the HMFA, a program that will stimulate the housing industry in this State by making available, in adequate volume and on reasonable terms, construction loan guarantees that will enable builders to initiate development of housing of all types and for persons of all income levels in this State.

C.55:14K-47 Definitions.

3. As used in this act:

"Agency" means the New Jersey Housing and Mortgage Finance Agency.

"Bonds" means bonds, notes or any other form of evidence of indebtedness of the agency, bearing either a fixed rate or variable rate of interest, issued pursuant to this act.

"Construction costs" means all expenditures made or incurred by a qualified housing developer, inclusive of reasonable pre-construction costs, prior to the obtaining of permanent financing on a completed housing development.

"Construction loan" means a loan made to a qualified developer for the financing of construction costs.

"Development" means development within the meaning of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

"Fund" means the Housing Incentive Finance Fund established pursuant to section 5 of this act.

"Housing developer" means any person, firm, corporation or association of persons that has undertaken or proposes to undertake a housing development.

"Housing development" means development undertaken for the purpose of creating one or more residential structures for owner occupancy, and whether in the form of detached units or attached units for separate occupancy, together with any structures or facilities appurtenant or ancillary thereto.

"Institutional lender" means any bank or trust company, savings bank, national banking association, savings and loan association, or building and loan association maintaining an office in this State, or any insurance company or any mortgage banking firm or mortgage banking corporation authorized to transact business in this State.

"Qualified housing developer" means a housing developer who has qualified for a loan guarantee pursuant to this act.

"Qualified housing development" means a housing development for which a loan guarantee may be made pursuant to this act.

C.55:14K-48 Issuance of Housing Incentive Bonds.

4. a. In addition to the bonding authority conferred by section 20 of P.L.1983, c.530 (C.55:14K-20), the agency is hereby authorized to issue bonds so that the total capital sum of the bonds does not exceed $200,000,000 of bonds outstanding at any one time, for the exclusive purpose of funding loan guarantees in the manner and to the extent provided in this act.

b. These bonds shall be designated as Housing Incentive Bonds and shall not be general obligations of the agency, but shall be special obligations of the agency; and the payment of interest on and repayment of principal of these bonds shall be secured by and paid out of the revenues accruing to the fund pursuant to section 5 of this act or, if at any time the revenue should prove insufficient for the full and punctual payment thereof, out of moneys provided through the credit enhancement arrangements authorized in section 8 of this act.

c. Except as otherwise explicitly authorized in this act, any bonds issued or to be issued pursuant to this section shall be subject to all the requirements, conditions and restrictions of P.L.1983, c.530 (C.55:14K-1 et seq.) upon the bonding authority of the agency.

d. The interest rate and other terms upon which bonds are issued pursuant to this section shall not create a prospective obligation of the agency in excess of the amount of revenues that can reasonably be expected from the fees that the agency can reasonably expect to charge pursuant to subsection d. of section 5 of this act.

C.55:14K-49 Housing Incentive Finance Fund established.

5. a. There is hereby established in the agency the Housing Incentive Finance Fund, which shall be continuing and nonlapsing, for the purpose of funding loan guarantees authorized pursuant to this act. Moneys in the fund not immediately required for payment or liquid reserves may be invested and reinvested by the agency in the same manner in which other agency funds may be invested.

b. There shall be paid into the fund: (1) all proceeds from the sale of bonds pursuant to section 4 of this act; (2) fees received pursuant to this act; (3) any income earned upon investment of moneys in the fund by the agency pursuant to subsection a. of this section; and (4) any other funds that may be available to the fund through appropriation by the Legislature or otherwise.

c. Moneys in the fund shall be used exclusively for (1) funding loan guarantees pursuant to this act; (2) paying the interest on and repaying the principal of bonds issued pursuant to section 4 of this act; (3) entering into agreements pursuant to section 8 of this act for credit enhancement of bonds issued by the agency pursuant to this act; (4) making payments in fulfillment of the terms of loan guarantees entered into pursuant to section 7 of this act; and (5) defraying the administrative costs of the agency in carrying out the purposes and provisions of this act.

d. Fees for the issuance of loan guarantees issued by the fund shall be established by the agency at the lowest rate compatible with the integrity of the fund and its proper administration, maintenance of adequate reserves for the actuarially sound funding of guarantee pledges, and the ability of the agency to pay the interest upon and repay the principal of bonds issued pursuant to section 4 of this act.

C.55:14K-50 Guarantee of construction loans.

6. a. The agency is hereby authorized to guarantee with moneys in the fund construction loans made to qualified housing

developers of qualified housing developments, in compliance with the terms of this act and subject to the conditions set forth in this section.

b. A construction loan may be guaranteed only to a housing developer who has qualified therefor by demonstrating to the satisfaction of the agency that the housing developer has the ability to develop, construct and complete the housing development in which he is engaged or proposes to engage, and that he has sufficient ability, reputation and credit-worthiness to obtain permanent financing upon such completion.

c. A construction loan may be guaranteed only with respect to a housing development of 100 units or fewer, or to a segment not exceeding 100 units of a larger housing development projected or in progress; and no such loan shall be made for a subsequent unit of a larger housing development until the satisfaction of any loan made with respect to a prior segment of the same development.

d. A construction loan with respect to any housing development may be guaranteed only when it has been demonstrated to the satisfaction of the agency that, with respect to the size, location, potential sales market for units in that development, the proposed marketing policy and projected sales revenue to the housing developer, and other pertinent economic factors indicate an economic viability sufficient to qualify that development for such a loan guarantee within the terms and purposes of this act. Aside from this, no constraints may be placed upon the marketing or pricing policy of a qualified housing developer as a condition of a construction loan guarantee.

e. No construction loan guaranteed pursuant to this act shall be made for a period of more than two years; except that the agency may, by regulation, provide for cases in which unforeseen economic changes or physical obstacles may warrant an extension.

f. Every loan guaranteed pursuant to this act shall be secured by a first lien upon the real property concerned in the development, or segment thereof, with respect to which the loan is made and such other collateral as the agency may consider necessary to secure the interests of the fund in accordance with the provisions and purposes of this act; and the agency may, if it deems necessary, require the loan to be secured by a personal loan guaranty by the developer or by a lien upon other real property contained in a development not included in the segment with respect to which the loan is made, or upon any other real property, or interest therein, belonging to the qualified housing developer to whom the loan is made.

g. No construction loan shall be guaranteed if the loan exceeds 80 percent of the sales price of the development, or segment thereof, or the total sales price of all units therein, as estimated to the satisfaction of the agency at the time when the loan is issued.

h. None of the restrictions or conditions attached to the issuance of an "eligible loan," and the qualifications of a "housing sponsor" to whom such a loan may be made, as those terms are defined and used in P.L.1983, c.530 (C.55:14K-1 et seq.), shall apply to any qualified housing development, qualified housing developer, or construction loan guaranteed pursuant to the terms of this act.

C.55:14K-51 Loan guarantees.

7. a. The agency is hereby authorized to contract with institutional lenders to guarantee on behalf of a housing developer the repayment of the full principal balance of that loan outstanding at the time of any default, if (1) the loan was made for construction costs as defined in section 3 of this act; (2) the amount of the loan and the terms on which it was made conform substantially to the amount and terms then available to the borrower on such a construction loan; and (3) the regulations of the agency pursuant to subsection c. of this section are complied with.

b. The agency shall establish within the fund sufficient reserves and liquid reserves, aside from those moneys required to meet payments of interest and repayments of principal on bonds issued pursuant to section 4 of this act, to provide a sufficient and actuarially sound basis for its pledges contained in any guarantee contract entered into pursuant to subsection a. of this section.

c. The agency shall adopt rules and regulations governing the issuance of loan guarantees pursuant to this section, including:

(1) procedures for the submission of requests for such guarantees;

(2) standards and requirements governing the allocation of guarantees to applicant institutional lenders, and determining the fees to be charged therefor and the manner of payment of those fees;

(3) restrictions as to the maturities and interest rates of any loan, or the return realized therefrom by the institutional lender, upon which a guarantee is to be issued;

(4) requirements as to commitments by institutional lenders with respect to loans upon which guarantees may be issued; and

(5) any other matters related to the duties and the exercise of the powers of the agency under this section.

C.55:14K-52 Insurance against defaults.

8. In order to secure purchasers of the bonds issued pursuant to section 4 of this act against any default arising out of insuffi-

ciency of moneys in the fund and resulting in failure to make full and punctual payments of interest and principal in accordance with the terms of their issuance, the agency is authorized to enter into a contract or contracts with one or more corporations authorized under Title 17 of the Revised Statutes to insure against loss from such defaults.

C.55:14K-53 Rules, regulations.

9. The agency is hereby authorized to promulgate, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), all rules and regulations necessary or expedient to the effectuation of the purposes and provisions of this act.

10. This act shall take effect on the 90th day next following its enactment, except that section 9 shall take effect immediately.

Approved October 1, 1992.

CHAPTER 115

AN ACT concerning the Medicaid program and amending P.L.1979, c.365 and P.L.1981, c.217.

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

1. Section 7 of P.L.1979, c.365 (C.30:4D-7.2) is amended to read as follows:

C.30:4D-7.2 Lien against, recovery sought from estate of recipient.

7. a. A lien may be filed against or recovery sought from the estate of a deceased recipient for assistance correctly paid or to be paid on his behalf when he was 65 years of age or older, except as provided in section 1 of P.L.1981, c.217 (C.30:4D-7.2a).

b. A lien may be filed by the division against a third party's property, whether real or personal, or against any interest or estate in property, whether vested or contingent.

Subject to section 6 of P.L.1979, c.365 (C.30:4D-7.1), any third party recovery obtained by the division under this subsection shall not be reduced by any counsel fees, costs, or other expenses, or portions thereof, incurred by the recipient or the recipient's attorney.

c. A certificate of debt may be filed by the division against such parties and in such a manner as is specified in subsection (h) of section 17 of P.L.1968, c.413 (C.30:4D-17).

d. A lien, claim or encumbrance imposed by this act shall be deemed a preferred claim against the recipient's estate and shall have a priority equivalent to that under subsection d. of N.J.S.3B:22-2.

2. Section 1 of P.L.1981, c.217 (C.30:4D-7.2a) is amended to read as follows:

C.30:4D-7.2a Encumbrances, recovery limited against certain estates.

1. No encumbrance or recovery shall be imposed against or sought from the estate of a deceased recipient for assistance correctly paid under:

a. The "New Jersey Medical Assistance and Health Services Act," P.L.1968, c.413 (C.30:4D-1 et seq.), if the amount sought to be recovered is less than $500, the gross estate is less than $3,000 or there is a surviving spouse or a surviving child who is under the age of 21 or is blind or permanently and totally disabled, except for assistance incorrectly or illegally paid, or for third party liability recovery sought under P.L.1968, c.413 (C.30:4D-1 et seq.); or

b. The "Pharmaceutical Assistance to the Aged and Disabled" program, P.L.1975, c.194 (C.30:4D-20 et seq.), except for assistance incorrectly or illegally paid, or for third party liability recovery sought under P.L.1968, c.413 (C.30:4D-1 et seq.).

3. This act shall take effect on the 90th day after enactment except that section 2 shall apply to all estates coming into being on or after the date of enactment of this act.

Approved October 21, 1992.

CHAPTER 116

AN ACT to validate certain proceedings for the issuance of bonds of school districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

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

1. All proceedings heretofore had or taken by any school district or at any school election for the authorization or issuance of bonds of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that the notices to persons desiring Military Service and Civilian Absentee Ballots were not published in accordance with the provisions of section 7 of the "Absentee Voting Law (1953)," P.L.1953, c.211 (C.19:57-7) or as required by N.J.S.18A:14-25; provided however, that no action, suit or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 15 days after the effective date of this act.

2. This act shall take effect immediately.

Approved October 21, 1992.

CHAPTER 117

AN ACT to validate certain proceedings for the issuance of bonds of school districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

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

1. All proceedings heretofore had or taken by any school district or at any school election for the authorization or issuance of bonds of the school district and any bonds or other obligations of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such meeting or election, are hereby ratified, validated and confirmed, notwithstanding that there were insufficient numbers of polling districts as required by N.J.S.18A:14-5; provided, however, that no action, suit, or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date upon which this act shall take effect and within the time fixed therefor by or pursuant to

law or rule of court, or when such time has not heretofore expired, if instituted within 15 days after the effective date of this act.

2. This act shall take effect immediately.

Approved October 21, 1992.

CHAPTER 118

AN ACT concerning the protection of amusement park riders and supplementing chapter 3 of Title 5 of the Revised Statutes.

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

C.5:3-55 Definitions.

1. As used in this act:

"Amusement park" means any permanent indoor or outdoor facility or park where amusement rides are available for use by the general public.

"Amusement park operator" means any person, firm or corporation that owns, leases, manages or operates an amusement park or amusement ride.

"Amusement ride" includes any device within the meaning of section 2 of P.L.1975, c.105 (C.5:3-32), and any other water-based recreational amusement, including all water slides, wave pools and water parks.

"Rider" means a person attending an amusement park or utilizing an amusement ride. Rider also includes any person who is an invitee, whether or not that person pays consideration.

C.5:3-56 Certain riders prohibited, operator immunity.

2. A rider shall not board or attempt to board any amusement ride if he is knowingly under the influence of any alcoholic beverage as defined in R.S.33:1-1 or under the influence of any prescription, legend drug or controlled dangerous substance as this term is defined in P.L.1970, c.226 (C.24:21-1 et al.), or any other substance which affects the rider's ability to safely use the ride and abide by the posted and stated instructions. The operator of the amusement ride may prevent a rider who is perceptibly or apparently under the influence of drugs or alcohol from riding on

an amusement ride. An operator who prevents a rider from boarding a ride in accordance with this section shall not be criminally or civilly liable in any manner or to any extent whatsoever if the operator has a reasonable basis for believing that the rider is under the influence of drugs or alcohol.

C.5:3-57 Written report of accident precondition to bringing suit.

3. a. As a precondition to bringing any suit in connection with an injury against an amusement park operator, a rider shall report in writing to the amusement park operator all the details of any accident within 90 days from the time of the incident giving rise to the suit.

b. In order to facilitate reporting of accidents or injuries, every amusement park operator shall designate an office or location as a site for reporting accidents and injuries. The designated office or site shall be open and staffed during regular business hours and shall be clearly designated in writing. The operator shall designate and identify more than one such office or location if necessary within the amusement park so that no area containing amusement park rides is further than reasonable walking distance from an office or location.

c. An accident report shall include at least the following: name and address of the accident victim, brief description of incident location, alleged cause of accident, name and address of the ride operator, others involved and witnesses, if any. The precondition in subsection a. of this section is not applicable unless the operator conspicuously posts notice of the reporting requirement in English and one other language deemed appropriate by the amusement park operator and in at least five different locations on the premises, including each entrance and exit, each place designated for receiving reports of accidents and injuries during business hours and each place designated as a first aid station. The Department of Labor shall provide the rider or his representative with a copy of the accident report as required by section 17 of P.L.1975, c.105 (C.5:3-47) upon request.

C.5:3-58 Late reports, determination of prejudice to operator.

4. A rider who fails to give the report required by section 3 of this act within 90 days from the time of the accident or incident may be permitted to give the report at any time within one year after the accident or incident at the discretion of a judge of the Superior Court if the operator is not substantially prejudiced thereby. The inability of the amusement park operator to locate

and bring within the jurisdiction of the court needed witnesses for his defense shall be considered by the court in determining whether the operator has been substantially prejudiced by the delay. Application to the court for permission to give a late report shall be made upon motion based on affidavits showing sufficient reason for the rider's failure to give the report within 90 days from the time of the accident or incident.

C.5:3-59 Report to serve as notice to operator.

5. When an operator files a report of an accident as required by section 17 of P.L.1975, c.105 (C.5:3-47) within 90 days from the time of the accident that report shall serve as notice to the operator for the purposes of section 3 of this act.

6. This act shall take effect immediately.

Approved October 22, 1992.

CHAPTER 119

AN ACT concerning sale or purchase of articles produced by inmates of correctional institutions within the jurisdiction of the Department of Corrections, and supplementing article 5 of 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.30:4-93.1 Interstate sale of articles, goods manufactured by inmates.

1. a. Notwithstanding the provisions of any other law to the contrary, the Department of Corrections may enter into contracts with any other state, or any political subdivision thereof, for the sale of articles or goods manufactured or produced by the inmates of any correctional institution within its jurisdiction.

The Commissioner of Corrections shall prepare, or cause to be prepared, a notice setting forth a description and a price list of all the articles which are manufactured or produced by the inmates of the correctional institutions under his jurisdiction and which are available for sale to other states and their political subdivisions. In a manner the commissioner determines to be appropriate, the notice shall be made available to other states and their political subdivisions.

b. The Department of Corrections may also enter into contracts with any other state, or political subdivision thereof, to purchase articles or goods manufactured or produced by the inmates of correctional institutions within that other state or political subdivision.

2. This act shall take effect immediately.

Approved October 22, 1992.

CHAPTER 120

AN ACT concerning the employment of certain persons at racetracks and amending P.L.1940, c.17.

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

1. Section 17 of P.L.1940, c.17 (C.5:5-37) is amended to read as follows:

C.5:5-37 Appointment of officials, persons to supervise operation of mutuels.

17. a. The commission shall appoint a State steward and two or more associate State stewards in the case of a running race meeting and a State steward, presiding judge, and two or more associate judges in the case of a harness race meeting, which stewards and judges shall meet qualifications and standards established by the commission in rules and regulations promulgated pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); and a State veterinarian and such associate State veterinarians as the commission deems necessary, who shall be licensed or approved to practice in this State by the State Board of Veterinary Medical Examiners, to serve at each horse race meeting held under a permit issued under this act. These officials shall devote full-time to their duties during each meeting at which they serve; shall be in the unclassified service under Title 11A (Civil Service) of the New Jersey Statutes and serve at the pleasure of the commission; and shall, where practicable, be rotated among the running race and harness tracks as appropriate. The compensation of these officials shall be fixed by the commission and shall be paid weekly by the holder of a permit at whose

horse race track the officials shall serve. These officials shall have full and free access to any portion of the space or enclosure where such horse race meeting is held and shall have such powers and duties as the commission may from time to time delegate to them under the provisions of this act.

b. The commission shall employ persons to supervise the operation of mutuels at each horse race meeting held under a permit issued pursuant to P.L.1940, c.17 (C.5:5-22 et seq.). These employees shall be in the unclassified service under Title 11A (Civil Service) of the New Jersey Statutes. The compensation of these employees shall be paid by the commission, which shall be reimbursed by the permitholders at whose racetracks these persons serve. Such compensation shall be computed based on the number of days that each person has worked at each track and shall be remitted to the commission on a monthly basis. The persons employed by the commission to supervise the operation of mutuels shall have full and free access to any portion of the space or enclosure where such horse race meeting is held and shall have such powers and duties as the commission may from time to time delegate to them under the provisions of P.L.1940, c.17 (C.5:5-22 et seq.).

2. This act shall take effect six months after the date of enactment.

Approved October 22, 1992.

CHAPTER 121

AN ACT concerning economic impact statements on legislative bills and amending P.L.1977, c.247.

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

1. Section 3 of P.L.1977, c.247 (C.52:13F-3) is amended to read as follows:

C.52:13F-3 Economic impact statement; preparation, contents.

3. An economic impact statement on a specific legislative bill shall be prepared by the Commissioner of Commerce and Economic Development when so directed by a majority of the legislative committee considering that bill. The legislative com-

mittee shall set a time limit up to 120 days for completion of the economic impact statement. The legislative committee shall specify, but not limit, areas of impact to be covered by the statement, to include the short and long term economic impact of the bill.

The economic impact statement shall also include a jobs impact statement which may include:

a. An assessment of the number of jobs to be generated or lost by the bill if it should become law; a determination as to how many of these jobs are short-term and temporary in nature, how many are of a long-term and more permanent nature, and the skills which, if developed in the workforce, might further the purpose of the legislation and increase the permanency of these jobs;

b. An assessment of the bill's impact on entrepreneurial activity, interstate commerce, international trade and development of new markets; and

c. A cost benefit analysis of the initiative proposed by the legislation, which shall compare and examine the cost of the initiative and its impact on the State, the number of jobs to be generated or lost, the cost of maintaining those jobs and the impact of those jobs generated or lost on the economic climate of the State.

In preparing the economic impact statement, the Commissioner of Commerce and Economic Development is authorized to obtain essential information from other State agencies.

2. This act shall take effect immediately, and shall apply to requests for economic impact statements made after the effective date of this act.

Approved October 22, 1992.

CHAPTER 122

AN ACT concerning emergency sirens and amending P.L.1991, c.475.

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

1. Section 1 of P.L.1991, c.475 (C.13:1G-4.2) is amended to read as follows:

C.13:1G-4.2 Use of sirens near schools restricted; exceptions.

1. a. A siren or other sound emitting device used to alert firefighters or other emergency services personnel of a fire or other emergency shall be located no closer than 250 feet from any elementary school or adjacent school yard or playground, except that this prohibition shall not apply to any siren or sound emitting device that is located on the premises of a fire station or other facility operated by a local fire department or force or first aid, rescue or emergency squad.

This subsection shall not apply to sirens or other sound emitting devices placed in service before July 16, 1992, and located in municipalities with a population of less than 25,000 persons and with a population density of more than 2,500 persons per square mile, according to the latest federal decennial census.

Nothing in this subsection shall have the effect of restricting the use of a siren or other sound emitting device to alert the public of an emergency pursuant to the provisions of the emergency management act, P.L.1942, c.251 (C.App. A:9-33 et seq.), or any applicable federal laws or regulations pertaining to emergency planning and preparedness.

b. The Commissioner of Environmental Protection and Energy shall promulgate rules and regulations necessary to carry out the purposes of this act pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

2. This act shall take effect immediately.

Approved October 22, 1992.

CHAPTER 123

AN ACT exempting employers from licensure as secondary mortgage lenders under certain circumstances and amending P.L.1970, c.205.

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

1. Section 3 of P.L.1970, c.205 (C.17:11A-36) is amended to read as follows:

C.17:11A-36 License required; exceptions.

3. a. No person shall engage in the secondary mortgage loan business in this State unless such person shall first obtain a license under this act. For the purpose of this act, a person is deemed to be engaged in the secondary mortgage loan business in this State if: (a) such person advertises, causes to be advertised, solicits, negotiates, offers to make or makes a secondary mortgage loan in this State, whether directly or by any person acting for his benefit; or (b) such person becomes the subsequent holder of a promissory note or mortgage, indenture or any other similar instrument or document received in connection with a secondary mortgage loan. A real estate broker licensed pursuant to the provisions of the law of this State or an attorney authorized to practice law in this State shall not be required to obtain a license to negotiate a secondary mortgage loan in the normal course of the business of a real estate broker or attorney.

b. No corporation, partnership, association or other entity, other than an individual, shall obtain a license unless at least one officer, partner, member or other principal is licensed under the "Secondary Mortgage Loan Act," P.L.1970, c.205 (C.17:11A-34 et seq.).

c. Any person who makes two or fewer secondary mortgage loans in this State during any calendar year which are at an interest rate which is not in excess of the usury rate in existence at the time the loan is made, as established in accordance with the law of this State, and on which the borrower has not agreed to pay, directly or indirectly, any charge, cost, expense or any fee whatsoever, other than said interest, shall not be required to obtain a license under the provisions of P.L.1970, c.205 (C.17:11A-34 et seq.).

d. Any employer who provides secondary mortgage loans solely to his employees as a benefit of employment which are at an interest rate which is not in excess of the usury rate in existence at the time the loan is made, as established in accordance with the law of this State, and on which the borrower has not agreed to pay, directly or indirectly, any charge, cost, expense or any fee whatsoever, other than said interest, shall not be required to obtain a license under the provisions of P.L.1970, c.205 (C.17:11A-34 et seq.).

2. This act shall take effect immediately.

Approved October 23, 1992.

CHAPTER 124

AN ACT concerning the Department of State, amending P.L.1982, c.150 and P.L.1992, c.40 and supplementing P.L.1948, c.445 (C.52:16A-1 et seq.).

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

1. Section 6 of P.L.1982, c.150 (C.52:16A-40) is amended to read as follows:

C.52:16A-40 $10 additional fee.

6. The Secretary of State shall charge a $10 fee for use of telephone and expedited over the counter corporate services, which shall be in addition to the fee for the service provided by law. The statutory fee and the additional fee shall be paid by the person requesting the information and documents by the method of payment as established by the Secretary of State.

2. Section 8 of P.L.1982, c.150 (C.52:16A-42) is amended to read as follows:

C.52:16A-42 Additional fees dedicated and pledged.

8. a. There is created a fund held by the State Treasurer, but not to exist in the State Treasury, to be the repository for additional fees for electronic data processing, telephone and expedited over the counter corporate services charged to persons pursuant to this act.

b. In each fiscal year the additional fees shall be held in the fund and disbursed in such amounts as may be requested by the Secretary of State, to meet the costs of: (1) the timely and efficient filing of all documents filed with the division; (2) the maintenance in an accurate and available form of information contained in all documents filed with the division; and (3) the operation of the services provided by the division.

c. The additional fees are dedicated and pledged to those uses and purposes.

3. The following provision in Section 1 of P.L.1992, c.40 on page 95 is amended to read as follows:

GENERAL FUND
DIRECT STATE SERVICES
74 DEPARTMENT OF STATE
70 Government Direction, Management and Control74 General Government Services
2505 Office of the Secretary of State

Receipts from over-the-counter service surcharges and the unexpended balance of such surcharges as of June 30, 1992 are appropriated to meet the costs of the Division of Commercial Recording pursuant to section 8 of P.L.1982, c.150 (C.52:16A-42).

4. The State Auditor shall undertake a study to determine whether any or all of the services provided by the Department of State may be provided in a more cost effective manner by a private entity, selected through a competitive bidding process. The State Auditor shall report the findings of the study and any recommendations for legislation to the Governor and Legislature within 180 days after the enactment of this act.

5. This act shall take effect immediately.

Approved October 23, 1992.

CHAPTER 125

AN ACT concerning the State-administered retirement systems and the State Investment Council, revising various parts of the statutory law, repealing section 12 of P.L.1966, c.67, and making an appropriation.

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

1. N.J.S.18A:66-2 is amended to read as follows:

Definitions.

18A:66-2. As used in this article:

a. "Accumulated deductions" means the sum of all the amounts, deducted from the compensation of a member or contributed by or in behalf of the member, including interest credited to January 1, 1956, standing to the credit of the member's individual account in the annuity savings fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this article.

c. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this article.

d. "Compensation" means the contractual salary, for services as a teacher as defined in this article, 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 or extracurricular duties beyond the regular school day or the regular school year.

e. "Employer" means the State, the board of education or any educational institution or agency of or within the State by which a teacher is paid.

f. "Final compensation" means the average annual compensation for which contributions are made for the three years of creditable service in New Jersey immediately preceding the member's retirement or death, or it shall mean the average annual compensation for New Jersey service for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or the member's beneficiary.

g. "Fiscal year" means any year commencing with July 1, and ending with June 30, next following.

h. "Pension" means payments for life derived from appropriations made by the State or employers to the Teachers' Pension and Annuity Fund.

i. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, granted under the provisions of this article, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

j. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension granted to a member from the Teachers' Pension and Annuity Fund, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

k. "Present-entrant" means any member of the Teachers' Pension and Annuity Fund who had established status as a "present-entrant member" of said fund prior to January 1, 1956.

l. "Rate of contribution initially certified" means the rate of contribution certified by the retirement system in accordance with N.J.S.18A:66-29.

m. "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%.

n. "Retirement allowance" means the pension plus the annuity.

o. "School service" means any service as a "teacher" as defined in this section.

p. "Teacher" means any regular teacher, special teacher, helping teacher, teacher clerk, principal, vice-principal, supervisor, supervising principal, director, superintendent, city superintendent, assistant city superintendent, county superintendent, State Commissioner or Assistant Commissioner of Education, members of the State Department of Education who are certificated, unclassified professional staff and other members of the teaching or professional staff of any class, public school, high school, normal school, model school, training school, vocational school, truant reformatory school, or parental school, and of any and all classes or schools within the State conducted under the order and superintendence, and wholly or partly at the expense of the State Board of Education, of a duly elected or appointed board of education, board of school directors, or board of trustees of the State or of any school district or normal school district thereof, and any persons under contract or engagement to perform one or more of these functions. It shall also mean any person who serves, while on an approved leave of absence from regular duties as a teacher, as an officer of a local, county or State labor organization which represents, or is affiliated with an organization which represents, teachers as defined in this subsection. No person shall be deemed a teacher within the meaning of this article who is a substitute teacher. In all cases of doubt the board of trustees shall determine whether any person is a teacher as defined in this article.

q. "Teachers' Pension and Annuity Fund," hereinafter referred to as the "retirement system" or "system," is the corporate name of the arrangement for the payment of retirement allowances and other benefits under the provisions of this article, including the several funds placed under said system. By that name all its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

r. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and December 31, 1946, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a

continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as herein provided;

(11) Korean conflict on or after June 23, 1950, and on or prior to January 31, 1955, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as herein provided; and provided further that any member classed as a veteran pursuant to this subsection prior to August 1, 1966, shall continue to be classed as a veteran, whether or not that person completed the 90-day service between said dates as herein provided;

(12) Vietnam conflict, on or after December 31, 1960, and on or prior to May 7, 1975, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as herein provided;

(13) Lebanon peacekeeping mission, on or after September 26, 1982, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as

proclaimed by the President of the United States, Congress or the Governor, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(14) Grenada peacekeeping mission, on or after October 25, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States, Congress or the Governor, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(15) Panama peacekeeping mission, on or after the date of inception of that mission, as proclaimed by the President of the United States, Congress or the Governor, whichever date of inception is earliest, who has served in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States, Congress or the Governor, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(16) Operation "Desert Shield/Desert Storm" mission in the Arabian peninsula and the Persian Gulf, on or after the date of inception of that operation, as proclaimed by the President of the United States, Congress or the Governor, whichever date of inception is earliest, who has served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States, Congress or the Governor, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided.

"Veteran" also means any honorably discharged member of the American Merchant Marine who served during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits.

s. "Child" means a deceased member's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and the 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.

t. "Widower" means the man to whom a member was married at least five years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least one-half of his support from the member 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 widower will be considered terminated by marriage of the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

u. "Widow" means the woman to whom a member was married at least five years before the date of his death and to whom he continued to be married until the date of his death and who was receiving at least one-half of her 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 widow will be considered terminated by the marriage of the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

v. "Parent" means the parent of a member who was receiving at least one-half of the parent's 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 termi ated by marriage of the parent subsequent to the death of the member.

w. "Medical board" means the board of physicians provided for in N.J.S.18A:66-56.

2. N.J.S.18A:66-18 is amended to read as follows:

Contingent reserve fund.

18A:66-18. 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 of trustees adopts and regular interest, the actuary of the board shall compute annually the amount of contribution, expressed as a proportion of the compensation paid to all members, except veteran members who were employed as teachers on January 1, 1955, which, if paid monthly during the entire prospective service of such members, will be sufficient to provide for the pension reserves required at the time of discontinuance of active service, to cover all pensions to which they may be entitled or which are payable on their account, and to provide for the amount of the death and accidental disability benefits payable on their account, and which amount is not covered by other contributions to be made as provided in this section and the funds in hand available for such benefits. This shall be known as the "normal contribution." The actuary shall redetermine the normal contributions for the retirement system as of March 31, 1990 and March 31, 1991.

b. Upon the basis of the tables recommended by the actuary which the board of trustees adopts and regular interest, the actuary of the board shall compute the amount of the unfunded liability as of March 31, 1990, excluding the liability for pension adjustment benefits and post-retirement medical benefits for active employees funded pursuant to section 2 of P.L.1987, c.385 (C.18A:66-18.1), which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section, and by prospective employer normal contributions and employee contributions. Using the total amount of this unfunded accrued liability, the actuary shall determine a rate of contribution that shall be an initial amount of contribution divided by the compensation of all active members for the valuation period where, if the contribution is increased annually for a specific period of time, it will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions, 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. This shall be known as the "accrued liability contribution rate." The actuary shall compute annually an amount of contribution based upon the total compensation of all

members in active service and the accrued liability contribution rate. This shall be known as the "accrued liability contribution."

The value of the assets for the valuation period ending March 31, 1990 shall be the full market value of the assets as of that date. The value of the assets for the valuation period ending March 31, 1991 shall be the value of the assets for the preceding valuation period increased by 8 3/4%, plus the net cash flow for the valuation period (the difference between the benefits paid by the system and the contributions to the system) increased by 4 3/8%, plus 20% of the difference between this expected value and the full market value of the assets as of March 31, 1991. The value of the assets for the valuation periods ending on or after March 31, 1992 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 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.

The tables of actuarial assumptions previously adopted by the board of trustees for the valuation periods ending March 31, 1990 and March 31, 1991 shall be applicable to the revaluations of the retirement system under P.L.1992, c.125 (C.43:4B-1 et al.), except that the assumptions for salary increases, medical premium inflation and increases in pension adjustment benefits shall be those proposed by the actuary to the retirement system in the draft revision of the annual actuarial reports for the valuation periods ending March 31, 1990 and March 31, 1991 submitted by the actuary on April 27, 1992.

c. (Deleted by amendment, P.L.1992, c.125.)

d. 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, and which shall be paid into the contingent reserve fund in the manner provided by section 18A:66-33.

e. Except as provided in sections 18A:66-26 and 18A:66-53, the death benefits payable under the provisions of this article upon the death of an active or retired member shall be paid from the contingent reserve fund.

f. The disbursements for benefits not covered by reserves in the system on account of veterans shall be met by direct contribution of the State.

3. N.J.S.18A:66-57 is amended to read as follows:

Officers, actuary, legal adviser, secretary.

18A:66-57. The board shall elect annually from its membership a chairman and may also elect a vice chairman, who shall have all the power and authority of the chairman in the event of the death, absence or disability of the chairman. The actuary of the fund shall be selected by the Retirement Systems Actuary Selection Committee established by P.L.1992, c.125.

The actuary shall be the technical adviser of the board on matters regarding the operation of the funds created by the provisions of this article and shall perform such other duties as are required in connection therewith.

The Attorney General shall be the legal adviser of the retirement system, except that if the Attorney General determines that a conflict of interest would affect the ability of the Attorney General to represent the board on a matter affecting the retirement system, the board may select and employ legal counsel to advise and represent the board on that matter.

The chief or assistant chief of the office of secretarial services of the Division of Pensions of the State Department of the Treasury, shall be the secretary of the board. The chief and assistant chief of the office of secretarial services shall be in the competitive division of the State classified service. The secretary presently in office shall hold the position as chief of the office of secretarial services subject to all of the provisions of Title 11 of the Revised Statutes and shall not be removed from said office except in the manner provided under the provisions of said title relating to permanent employees in the competitive division of the State classified service. The board of trustees shall select its secretary from among the eligible candidates.

4. Section 3 of P.L.1973, c.140 (C.43:6A-3) is amended to read as follows:

C.43:6A-3 Definitions.

3. As used in this act:

a. "Accumulated deductions" means the sum of all amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity saving fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this amendatory and supplementary act.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity computed on the basis of such mortality tables recommended by the actuary as the State House Commission adopts with regular interest.

d. "Beneficiary" means any person entitled to receive any benefit pursuant to the provisions of this act by reason of the death of a member or retirant.

e. "Child" means a deceased member's or retirant's unmarried child who is either (a) under the age of 18; (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board; or (c) under the age of 21 and is attending school full time.

f. "Compensation" means the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the State for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular work schedule.

g. "Final salary" means the annual salary received by the member at the time of his retirement or death.

h. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

i. "Medical board" means the board of physicians provided for in section 29 of this act.

j. "Member" means the Chief Justice and associate justices of the Supreme Court, judges of the Superior Court and tax court of the State of New Jersey required to be enrolled in the retirement system established by this act.

For purposes of this act, the person holding the office of standing master by appointment pursuant to N.J.S.2A:1-7 shall have the same privileges and obligations under this act as a judge of a Superior Court.

k. "Parent" means the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident

which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

l. "Pension" means payment for life derived from contributions by the State.

m. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension computed on the basis of such mortality tables recommended by the actuary as shall be adopted by the State House Commission with regular interest.

n. "Regular interest" means interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the State House Commission 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 commission shall not set the average percentage rate of increase applied to salaries below 6%.

o. "Retirant" means any former member receiving a pension or retirement allowance as provided by this act.

p. "Retirement allowance" means the pension plus the annuity.

q. "Retirement system" or "system" herein refers to the "Judicial Retirement System of New Jersey," which is the corporate name of the arrangement for the payment of pensions, retirement allowances and other benefits under the provisions of this act including the several funds placed under said system. By that name, all of its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

r. "Service" means public service rendered for which credit is allowed on the basis of contributions made by the State.

s. "Several courts" means the Supreme, Superior, and tax courts.

t. "Widow" means the woman to whom a member or a retirant was married at least four years before the date of his death and to whom he continued to be married until the date of his death. The eligibility of such a widow to receive a survivor's benefit will be considered terminated by the marriage of the widow subsequent to the member's or the retirant's death. In the event of accidental death the four-year qualification shall be waived. When used in this act, the term "widow" shall mean and include "widower" as may be necessary and appropriate to the particular situation.

u. "Widower" means the man to whom a member or a retirant was married at least four years before the date of her death and to whom she continued to be married until the date of her death. The eligibility of such a widower to receive a survivor's benefit will be considered terminated by the marriage of the widower subsequent to the member's or retirant's death. In the event of accidental death the four-year qualification shall be waived.

5. Section 29 of P.L.1973, c.140 (C.43:6A-29) is amended to read as follows:

C.43:6A-29 State House Commission; operation of system.

29. a. Subject to the provisions of P.L.1955, c.70 (C.52:18A-95 to 52:18A-104), the general responsibility for the proper operation of the retirement system is hereby vested in the State House Commission.

b. Except as otherwise herein provided, no member of the State House Commission shall have any direct interest in the gains or profits of any investments of the retirement system, nor shall any member of the State House Commission directly or indirectly, for himself or as an agent in any manner use the moneys of the retirement system, except to make such current and necessary payments as are authorized by the commission; nor shall any member of the State House Commission become an endorser or surety, or in any manner an obligor for moneys loaned to or borrowed from the retirement system.

c. For purposes of this act, each member of the State House Commission shall be entitled to one vote and a majority vote of all members shall be necessary for any decision by the commission at any meeting of said commission.

d. Subject to the limitations of this act, the State House Commission shall annually establish rules and regulations for the administration of the funds created by this act and for the transaction of its business. 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.

e. The actuary of the system shall be selected by the Retirement Systems Actuary Selection Committee established by P.L.1992, c.125. He shall be the technical adviser of the commission on matters regarding the operation of the funds created by the provisions of this act and shall perform such other duties as are required in connection herewith.

f. The Attorney General shall be the legal adviser of the retirement system, except that if the Attorney General determines that a conflict of interest would affect the ability of the Attorney General to represent the commission on a matter affecting the retirement system, the commission may select and employ legal counsel to advise and represent the commission on that matter.

g. The Director of the Division of Pensions of the State Department of the Treasury shall be the secretary of the commission for purposes pertaining to the provisions of this act.

h. For purposes of this act, the State House Commission shall keep a record of all of its proceedings which shall be open to public inspection. The retirement system shall publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash and securities of the system and the last balance sheet showing the financial condition of the system by means of any actuarial valuation of the assets and liabilities of the retirement system.

i. The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions. It shall be composed of three physicians. The medical board shall pass on all medical examinations required under the provisions of this act, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

6. Section 33 of P.L.1973, c.140 (C.43:6A-33) is amended to read as follows:

C.43:6A-33 Contingent reserve fund.

33. a. Upon the basis of the tables recommended by the actuary which the commission adopts and regular interest, the actuary shall compute annually the amount of the contribution, expressed as a proportion of the salaries paid to all members, which if paid monthly during the entire prospective service of the members, will be sufficient to provide for the pension reserves required at the time of the discontinuance of active service, to cover all pensions to which they may be entitled or which are payable on their account and to provide for the amount of the death benefits payable on their account, which amount is not covered by other contributions to be made as provided in this section and the funds in hand available for such benefits. This shall be known as the "normal contribution." The actuary shall redetermine the normal contributions for the retirement system as of June 30, 1990 and June 30, 1991.

b. Upon the basis of the tables recommended by the actuary which the commission adopts and regular interest, the actuary shall compute the amount of the unfunded liability as of June 30, 1990, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section, and by prospective employer normal contributions and employee contributions. Using the total amount of this unfunded accrued liability, the actuary shall determine a rate of contribution that shall be an initial amount of contribution divided by the compensation of all active members for the valuation period where, if the contribution is increased annually for a specific period of time, it will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions, 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 40 years. This shall be known as the "accrued liability contribution rate." The actuary shall compute annually an amount of contribution based upon the total compensation of all members in active service and the accrued liability contribution rate. This shall be known as the "accrued liability contribution."

The value of the assets for the valuation period ending June 30, 1990 shall be the full market value of the assets as of that date. The value of the assets for the valuation period ending June 30, 1991 shall be the value of the assets for the preceding valuation period increased by 8 3/4%, plus the net cash flow for the valuation period (the difference between the benefits paid by the system and the contributions to the system) increased by 4 3/8%, plus 20% of the difference between this expected value and the full market value of the assets as of June 30, 1991. The value of the assets for the valuation periods ending on or after June 30, 1992 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 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.

The tables of actuarial assumptions previously adopted by the commission for the valuation periods ending June 30, 1990 and June 30, 1991 shall be applicable to the revaluations of the retirement system under P.L.1992, c.125 (C.43:4B-1 et al.), except that the assumptions for salary increases, medical premium inflation

and increases in pension adjustment benefits shall be those proposed by the actuary to the retirement system in the draft revision of the annual actuarial reports for the valuation periods ending June 30, 1990 and June 30, 1991 submitted by the actuary on April 27, 1992.

c. The actuary 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 proportion of the earnable salary of all members, computed as described in subsection a. hereof and of the State's accrued liability contribution, payable in the ensuing year, as described in subsection b. hereof. The State shall pay into the contingent reserve fund during the ensuing year the amount so determined. In the event the amount certified to be paid by the State includes amounts due for services rendered by members to counties, the total amount so certified shall be paid to the retirement system by the State; provided, however, the full cost attributable to such services rendered to such counties shall be computed separately by the actuary and the State shall be reimbursed for such amounts by such counties.

The cash death benefits, payable as the result of contribution by the State under the provisions of this act upon the death of a member in active service and after retirement, shall be paid from the contingent reserve fund.

d. (Deleted by amendment, P.L.1992, c.125.)

7. Section 6 of P.L.1954, c.84 (C.43:15A-6) is amended to read as follows:

C.43:15A-6 Definitions.

6. As used in this act:

a. "Accumulated deductions" means the sum of all the amounts, deducted from the compensation of a member or contributed by or on behalf of the member, standing to the credit of the member's individual account in the annuity savings fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this act.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, granted under the provisions of this act, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

d. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this act.

e. "Child" means a deceased member's unmarried child either (1) under the age of 18 or (2) of any age who, at the time of the member's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and the 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.

f. "Parent" shall mean the parent of a member who was receiving at least 1/2 of the parent's 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.

g. "Widower" means the man to whom a member was married at least five years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least 1/2 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 widower will be considered terminated by marriage of the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

h. "Final compensation" means the average annual compensation for which contributions are made for the three years of creditable service in New Jersey immediately preceding the member's retirement or death, or it shall mean the average annual compensation for New Jersey service for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or the member's beneficiary.

i. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

j. "Medical board" shall mean the board of physicians provided for in section 17 (C.43:15A-17).

k. "Pension" means payments for life derived from appropriations made by the employer as provided in this act.

l. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension granted under the provisions of this act, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

m. "Public Employees' Retirement System of New Jersey," hereinafter referred to as the "retirement system" or "system," is the corporate name of the arrangement for the payment of retirement allowances and other benefits under the provisions of this act including the several funds placed under said system. By that name all of its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

n. "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 the 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%.

o. "Retirement allowance" means the pension plus the annuity.

p. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I, between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk, who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions, or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and December 31, 1946, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90-day service as herein provided;

(11) Korean conflict on or after June 23, 1950, and on or prior to January 31, 1955, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90-day service as herein provided; and provided further, that any member classed as a veteran pursuant to this paragraph prior to August 1, 1966, shall continue to be classed as a veteran whether or not that person completed the 90-day service between said dates as herein provided;

(12) Vietnam conflict on or after December 31, 1960, and on or prior to May 7, 1975, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90 days' service as herein provided;

(13) Lebanon peacekeeping mission, on or after September 26, 1982, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States, Congress or the Governor, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(14) Grenada peacekeeping mission, on or after October 25, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States, Congress or the Governor, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(15) Panama peacekeeping mission, on or after the date of inception of that mission, as proclaimed by the President of the United States, Congress or the Governor, whichever date of inception is earliest, who has served in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14

days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States, Congress or the Governor, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(16) Operation "Desert Shield/Desert Storm" mission in the Arabian peninsula and the Persian Gulf, on or after the date of inception of that operation, as proclaimed by the President of the United States, Congress or the Governor, whichever date of inception is earliest, who has served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States, Congress or the Governor, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided.

"Veteran" also means any honorably discharged member of the American Merchant Marine who served during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits.

q. "Widow" means the woman to whom a member was married at least five years before the date of his death and to whom he continued to be married until the date of his death and who was receiving at least 1/2 of her 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 widow will be considered terminated by the marriage of the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

r. "Compensation" means the base or contractual salary, for services as an employee, 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 or extracurricular duties beyond the regular workday or the regular work year. 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.

8. Section 18 of P.L.1954, c.84 (C.43:15A-18) is amended to read as follows:

C.43:15A-18 Officers, actuary, legal adviser, secretary.

18. The board shall elect annually from its membership a chairman and may also elect a vice-chairman, who shall have all the power and authority of the chairman in the event of the death, absence or disability of the chairman.

The actuary of the fund shall be selected by the Retirement Systems Actuary Selection Committee established by P.L.1992, c.125.

The actuary shall be the technical adviser of the board on matters regarding the operation of the funds created by the provisions of this act and shall perform such other duties as are required in connection therewith.

The Attorney General shall be the legal adviser of the retirement system, except that if the Attorney General determines that a conflict of interest would affect the ability of the Attorney General to represent the board on a matter affecting the retirement system, the board may select and employ legal counsel to advise and represent the board on that matter.

The chief or assistant chief of the office of secretarial services of the Division of Pensions of the State Department of the Treasury shall be the secretary of the board. The chief and assistant chief of the office of secretarial services shall be in the competitive division of the State classified service. The secretary presently in office shall hold the position as assistant chief of the office of secretarial services subject to all of the provisions of Title 11 of the Revised Statutes and shall not be removed from said office except in the manner provided under the provisions of said Title relating to permanent employees in the competitive division of the State classified service. The board of trustees shall select its secretary from among the eligible candidates.

9. 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 the amount of contribution, expressed as a proportion of the compensation paid to all members, which, if paid monthly during the entire prospective service of the members, will be sufficient to provide for the pension reserves required at the time of discontinuance of active service, to cover all pensions to which they may be entitled or which are payable on their account and to provide for the amount of the death and accidental disability benefits payable on their account, and which amount is not covered by other contributions, to be made as provided in this section and the funds in hand available for such benefits. This shall be known as the "normal contribution." The actuary shall redetermine the normal contributions for the retirement system as of March 31, 1990 and March 31, 1991.

b. 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 unfunded liability as of March 31, 1990, excluding the liability for pension adjustment benefits and post-retirement medical 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, and by prospective employer normal contributions and employee contributions. Using the total amount of this unfunded accrued liability, the actuary shall determine a rate of contribution that shall be an initial amount of contribution divided by the compensation of all active members for the valuation period where, if the contribution is increased annually for a specific period of time, it will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions, 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. This shall be known as the "accrued liability contribution rate." The actuary shall compute annually an amount of contribution based upon the total compensation of all members in active service and the accrued liability contribution rate. This shall be known as the "accrued liability contribution."

The value of the assets for the valuation period ending March 31, 1990 shall be the full market value of the assets as of that date. The value of the assets for the valuation period ending March 31, 1991 shall be the value of the assets for the preceding

valuation period increased by 8 3/4%, plus the net cash flow for the valuation period (the difference between the benefits paid by the system and the contributions to the system) increased by 4 3/8%, plus 20% of the difference between this expected value and the full market value of the assets as of March 31, 1991. The value of the assets for the valuation periods ending on or after March 31, 1992 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 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.

The tables of actuarial assumptions previously adopted by the board of trustees for the valuation periods ending March 31, 1990 and March 31, 1991 shall be applicable to the revaluations of the retirement system under P.L.1992, c.125 (C.43:4B-1 et al.), except that the assumptions for salary increases, medical premium inflation and increases in pension adjustment benefits shall be those proposed by the actuary to the retirement system in the draft revision of the annual actuarial reports for the valuation periods ending March 31, 1990 and March 31, 1991 submitted by the actuary on April 27, 1992.

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.

10. R.S.43:16-5 is amended to read as follows:

Consolidated Police and Firemen's Pension Fund.

43:16-5. For the purpose of paying the pensions provided by this chapter, all pension funds heretofore created and in existence pursuant to the provisions of an act entitled "An act providing for the retirement of policemen and firemen of the police and fire

departments in municipalities of this State, including all police officers having supervision of regulation of traffic upon county roads, and providing a pension for such retired policemen and firemen and members of the police and fire departments, and the widows, children and sole dependent parents of deceased members of said departments," approved April 15, 1920 (P.L.1920, c.160), and chapter 16 of Title 43 of the Revised Statutes, shall, from and after July 1, 1953, be consolidated, and, as so consolidated, shall be transferred to and placed under the Consolidated Police and Firemen's Pension Fund created by the provisions of this chapter. All rights and privileges created and extended to members of a municipal police department or of a paid or part-paid fire department or of a county police department, including members of the paid or part-paid fire department of any fire district located in any township which has adopted said act or said chapter of the Revised Statutes are hereby expressly preserved, continued and transferred from said pension funds to said consolidated fund. Nothing herein contained shall be deemed to affect or impair the right of any beneficiary of any of the funds so created, but all rights of such beneficiaries which have accrued or may accrue in or against any such pension fund shall be deemed to have accrued or to accrue against the funds so consolidated. Said consolidated fund shall be maintained as follows:

(a) There shall be deducted from every payment of salary to each member, as defined in the supplement to this chapter enacted by laws of 1944, c.253, s.12, as amended and supplemented, and paid into said consolidated fund 7% of the amount thereof.

(b) All employers, as defined in the supplement to this chapter enacted by laws of 1944, c.253, s.21, as amended and supplemented, shall contribute to the said consolidated fund in the following manner and amounts:

(1) An amount equal to 6% of the total of salaries annually paid to the members of the consolidated fund under said employer's jurisdiction, which shall be known as the employer's normal contribution, and which shall be paid into said fund no later than April 1 of the State's fiscal year in which payment is due.

(2) An additional amount annually for a period of 30 years, commencing July 1, 1953, equal to 66 2/3% of the share of the particular employer of the annual amortization payment determined by the actuary to be required to bring the fund to a state of actuarial solvency at the end of the said 30-year period. In determining an employer's share of said annual amortization payment,

the actuary shall determine separately, and give due credit to the value of the assets transferred by such employer to said consolidated fund. The amount of each of such annual payments shall be certified by the fund to the treasurer of each employer prior to the first day of the year in which such payment is required to be made, and said amount shall be appropriated in said employer's budget for that year. Said annual payment, which shall be known as the employer's accrued liability contribution, shall be made in two equal portions; the first on the first day of each year, and the second on July 1 of each year.

(3) An additional amount to be paid each year following the termination of the 30-year period provided for in subsection (b)(2) of this section, sufficient to meet the requirements of the fund.

(4) A fee, payable no later than April 1 of the State's fiscal year in which payment of the employer's normal contribution is due and consisting of such proportion of the administrative expense of the consolidated fund as the number of active and retired members under the jurisdiction of such employer, or their beneficiaries, then bears to the total number of active and retired members under the jurisdiction of such employer, or their beneficiaries, then bears to the total number of active and retired members and beneficiaries in the consolidated fund.

(c) The State of New Jersey shall contribute annually, throughout a period of 20 years, commencing July 1, 1972, such amount as may be necessary to make up the balance of the accrued liability of the consolidated fund. The amount of such annual contributions by the State shall be certified to the State Treasurer by the actuary at the time required for other State departmental budgetary certifications. All funds necessary to meet the State's share of said annual payments shall be included in the annual State budget and appropriated by the Legislature.

(d) If payment of the full amount of the employer's obligation is not made within 30 days of the due date established by the act, interest at the rate of 10% per annum shall commence to run against unpaid balance thereof on the first day after such thirtieth day.

If payment in full, representing the monthly transmittal and report of salary deductions, is not made within 15 days of the due date established by the pension fund, interest at the rate of 10% per annum shall commence to run against the total transmittal of salary deductions for the period on the first day after such fifteenth day.

(e) The accrued liability contribution of any employer shall be payable by the employer for the entire period of the financing of

such liability and shall continue to be due and owing to the fund even when there are no longer any beneficiaries entitled to benefits.

(f) (Deleted by amendment, P.L.1992, c.125.)

(g) (Deleted by amendment, P.L.1992, c.125.)

(h) Upon the basis of tables recommended by the actuary which the commission adopts after consultation with the Director of the Division of Pensions, the actuary shall compute the amount of unfunded liability of the fund as of June 30, 1990 which is not already covered by the assets of the fund, valued in accordance with the asset valuation method established in this section, and prospective employer normal contributions and employee contributions. Using the total amount of this unfunded liability, the actuary shall compute the amount of the flat annual payment which, if paid in each succeeding fiscal year, commencing with July 1, 1991, for a period of nine years, will provide for this liability. This payment shall be increased or decreased in succeeding fiscal years to amortize any actuarial loss or gain over the remaining time in this nine-year period. Any unfunded liability remaining after this nine-year period shall be funded by direct State appropriations. The actuary shall annually certify over the nine-year period the amount payable to the fund in the ensuing year, and the State shall pay into the fund during the ensuing year the amount so certified.

The value of the assets for the valuation period ending June 30, 1990 shall be the full market value of the assets as of that date. The value of the assets for the valuation period ending June 30, 1991 shall be the value of the assets for the preceding valuation period increased by 8 3/4%, plus the net cash flow for the valuation period (the difference between the benefits paid by the system and the contributions to the system) increased by 4 3/8%, plus 20% of the difference between this expected value and the full market value of the assets as of June 30, 1991. The value of the assets for the valuation periods ending on or after June 30, 1992 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 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.

The tables of actuarial assumptions previously adopted by the commission for the valuation periods ending June 30, 1990 and

June 30, 1991 shall be applicable to the revaluations of the retirement system under P.L.1992, c.125 (C.43:4B-1 et al.).

11. Section 7 of P.L.1952, c.358 (C.43:16-6.2) is amended to read as follows:

C.43:16-6.2 Annual meeting of commission; chairman, records, legal adviser, actuary.

7. On July 1, 1952, and in each succeeding year, or, when July 1 is a legal holiday, upon the first business day thereafter, the members of the commission shall meet in annual meeting at which a chairman shall be elected from the membership thereof. The commission shall keep, in convenient form, such data as may be necessary for the actuarial evaluation of the fund committed to its charge and to serve as a record of its experience in the administration of the pension system dependent upon such fund. A record shall be kept of all proceedings of the commission, which shall be open to public inspection. The Attorney General shall act as the legal adviser of the commission, except that if the Attorney General determines that a conflict of interest would affect the ability of the Attorney General to represent the commission on a matter affecting the retirement system, the commission may select and employ legal counsel to advise and represent the commission on that matter. The actuary of the fund shall be selected by the Retirement Systems Actuary Selection Committee established by P.L.1992, c.125. He shall be the technical adviser of the commission on all matters regarding the operation of the pension fund not otherwise prescribed by law.

12. Section 12 of P.L.1944, c.253 (C.43:16-17) is amended to read as follows:

C.43:16-17 Definitions.

12. The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Member" shall mean a person who on July 1, 1944, was a member of a municipal police department or paid or part-paid fire department or county police department or a paid or part-paid fire department of a fire district located in a township and who has contributed to the pension fund established under chapter 16 of Title 43 of the Revised Statutes and shall hereafter contribute to said fund.

(2) "Active member" shall mean any "member" who is a police officer, firefighter, detective, line person, driver of police van, fire alarm operator or inspector of combustibles and who is subject to call for active service or duty as such.

(3) "Employee member" shall mean any "member" who is not subject to call for active service or duty as a police officer, firefighter, detective, line person, driver of police van, fire alarm operator or inspector of combustibles.

(4) "Commission" shall mean the board having the general responsibility for the proper operation of the pension fund created by this act, subject to the provisions of chapter 70 of the laws of 1955.

(5) "Physician or surgeon" shall mean the medical board composed of physicians who shall be called upon to determine the disability of members as provided by this act.

(6) "Employer" shall mean the county, municipality or agency thereof by which a member is employed.

(7) "Service" shall mean service rendered while a member is employed by a municipal police department, paid or part-paid fire department, county police department or paid or part-paid fire department of a fire district located in a township prior to the effective date of this act for such service to such departments thereafter.

(8) "Pension" shall mean the amount payable to a member or the member's beneficiary under the provisions of this act.

(9) "Average salary" shall mean the average salary paid during the last three years of a member's service.

(10) "Beneficiary" shall mean any person or persons, other than a member, receiving or entitled to receive a pension or benefits, as provided by this act.

(11) "Parent" shall mean the parent of a member who was receiving at least one-half of that parent's 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.

(12) "County police" shall mean all police officers having supervision of regulation of traffic upon county roads.

(13) (Deleted by amendment, P.L.1989, c.78.)

(14) "Surviving spouse" shall mean the person to whom a member was married before the date of retirement or at least two years before the date of the member's death and whose marriage to the member continued until the member's death.

(15) "Child" shall mean a deceased member's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and whose impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the examining physicians of the fund.

(16) "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the commission and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of the assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the commission shall not set the average percentage rate of increase applied to salaries below 6%.

(17) "Final compensation" shall mean the compensation received by the member in the last 12 months of service preceding retirement.

(18) "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.

13. Section 1 of P.L.1944, c.255 (C.43:16A-1) is amended to read as follows:

C.43:16A-1 Definitions.

1. As used in this act:

(1) "Retirement system" 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 rec-

ommended 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 at least two years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least one-half of his support from the member or retirant in the 12-month period immediately preceding the member's or retirant's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of the widower subsequent to the death of the member or retirant. In the

event of the payment of an accidental death benefit, the two-year qualification shall be waived.

(24) "Widow" shall mean the woman to whom a member or retirant was married at least two years before the date of his death and to whom he continued to be married until the date of his death and who has not remarried. In the event of the payment of an accidental death benefit, the two-year qualification shall be waived.

(25) "Fiscal year" shall mean any year commencing with July 1, and ending with June 30, next following.

(26) "Compensation" shall mean the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular 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.

(29) (Deleted by amendment, P.L.1992, c.78).

(30) (Deleted by amendment, P.L.1992, c.78).

14. Section 13 of P.L.1944, c.255 (C.43:16A-13) is amended to read as follows:

C.43:16A-13 Police and firemen's retirement system trustees.

13. (1) Subject to the provisions of P.L.1955, c.70 (C.52:18A-95 et seq.), the general responsibility for the proper operation of the retirement system is hereby vested in a board of trustees.

(2) The board shall consist of nine trustees as follows:

(a) Four members to be appointed by the Governor, with the advice and consent of the Senate, who shall serve for a term of office of four years and until their successors are appointed and who shall be private citizens of the State of New Jersey who are neither an officer thereof nor an active or retired member of any police or fire department thereof. Of the four members initially appointed by the Governor pursuant to P.L.1992, c.125 (C.43:4B-1 et al.), one shall be appointed for a term of one year, one for a

term of two years, one for a term of three years, and one for a term of four years.

(b) The State Treasurer or the deputy State Treasurer, when designated for that purpose by the State Treasurer.

(c) Two policemen and two firemen who shall be active or retired members of the system and who shall be elected by the members of the system for a term of four years according to such rules and regulations as the board of trustees shall adopt to govern such election.

(3) Each trustee shall, after his appointment or election, take an oath of office that, so far as it devolves upon him he will diligently and honestly fulfill his duties as a board member, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed by the member making it, and certified by the officer before whom it is taken, and immediately filed in the office of the Secretary of State.

(4) If a vacancy occurs in the office of a trustee, the vacancy shall be filled in the same manner as the office was previously filled.

(5) The trustees shall serve without compensation, but they shall be reimbursed for all necessary expenses that they may incur through service on the board.

(6) Each trustee shall be entitled to one vote in the board. Five trustees must be present at any meeting of said board for the transaction of its business.

(7) Subject to the limitations of this act, the board of trustees shall annually establish rules and regulations for the administration of the funds created by this act and for the transaction of its business. 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.

(8) The board of trustees shall elect from its membership a chairman. The Chief of the Bureau of Police and Fire Funds of the Division of Pensions of the State Department of the Treasury shall be the secretary of the board. The administration of the program shall be performed by the personnel of the Division of Pensions.

(9) The board of trustees shall keep a record of all of its proceedings which shall be open to public inspection. The retirement system shall publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash and securities of the system,

and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

(10) The Attorney General of the State of New Jersey shall be the legal adviser of the retirement system, except that if the Attorney General determines that a conflict of interest would affect the ability of the Attorney General to represent the board on a matter affecting the retirement system, the board may select and employ legal counsel to advise and represent the board on that matter.

(11) The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions, subject to veto by the board of trustees 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 act, 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.

(12) The actuary of the system shall be selected by the Retirement Systems Actuary Selection Committee established by P.L.1992, c.125. He shall be the technical adviser of the board of trustees on matters regarding the operation of the funds created by the provisions of this act, and shall perform such other duties as are required in connection therewith.

(13) At least once in each three-year period the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the retirement system and, with the advice of the actuary, the board of trustees shall adopt for the retirement system such mortality, service and other tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this act.

(14) (Deleted by amendment.)

(15) On the basis of such tables recommended by the actuary as the board of trustees shall adopt and regular interest, the actuary shall make an annual valuation of the assets and liability of the funds of the system created by this act.

(16) (Deleted by amendment, P.L.1987, c.330.)

(17) Each policeman or fireman member of the board of trustees shall be entitled to time off from his duty, with pay, during the periods of his attendance upon regular or special meetings of

the board of trustees, and such time off shall include reasonable travel time required in connection therewith.

15. Section 15 of P.L.1944, c.255 (C.43:16A-15) is amended to read as follows:

C.43:16A-15 Contributions; expenses of administration.

15. (1) The contributions required for the support of the retirement system shall be made by members and their employers.

(2) The uniform percentage contribution rate for members shall be 8.5% of compensation.

(3) (Deleted by amendment, P.L.1989, c.204).

(4) Each employer shall make contributions equal to the percentage of compensation of members in its employ as certified by the board of trustees based on annual actuarial valuations. The percentage rate of contribution payable by employers shall be determined initially on the basis of the entry age normal cost method. This shall be known as the "normal contribution." The actuary shall redetermine the normal contributions for the retirement system as of June 30, 1989 and June 30, 1990.

(5) (Deleted by amendment, P.L.1989, c.204).

(6) The percentage rates of contribution payable by employers pursuant to subsection (4) of this section shall be subject to adjustment from time to time by the board of trustees with the advice of the actuary on the basis of annual actuarial valuations and experience investigations as provided under section 13, so that the value of future contributions of members and employers, when taken with present assets, shall be equal to the value of prospective benefit payments.

(7) Each employer shall cause to be deducted from the salary of each member the percentage of earnable compensation prescribed in subsection (2) of this section. To facilitate the making of deductions, the retirement system may modify the amount of deduction required of any member by an amount not to exceed 1/10 of 1% of the compensation upon which the deduction is based.

(8) The deductions provided for herein shall be made notwithstanding that the minimum salary provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein, and payment of salary or compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by such

person during the period covered by such payment, except as to the benefits provided under this act. The chief fiscal officer of each employer shall certify to the retirement system in such manner as the retirement system may prescribe, the amounts deducted; and when deducted shall be paid into said annuity savings fund, and shall be credited to the individual account of the member from whose salary said deduction was made.

(9) 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 unfunded liability as of June 30, 1989, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section, and by prospective employer normal contributions and employee contributions. Using the total amount of this unfunded accrued liability, the actuary shall determine a rate of contribution that shall be an initial amount of contribution divided by the compensation of all active members for the valuation period where, if the contribution is increased annually for a specific period of time, it will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions, 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. This shall be known as the "accrued liability contribution rate." The actuary shall compute annually an amount of contribution based upon the total compensation of all members in active service and the accrued liability contribution rate. This shall be known as the "accrued liability contribution."

The value of the assets for the valuation period ending June 30, 1989 shall be the full market value of the assets as of that date. The value of the assets for the valuation period ending June 30, 1990 shall be the value of the assets for the preceding valuation period increased by 8 3/4%, plus the net cash flow for the valuation period (the difference between the benefits paid by the system and the contributions to the system) increased by 4 3/8%, plus 20% of the difference between this expected value and the full market value of the assets as of June 30, 1990. The value of the assets for the valuation periods ending on or after June 30, 1991 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 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.

The tables of actuarial assumptions previously adopted by the board of trustees for the valuation periods ending June 30, 1989 and June 30, 1990 shall be applicable to the revaluations of the retirement system under P.L.1992, c.125 (C.43:4B-1 et al.), except that the assumptions for salary increases, medical premium inflation and increases in pension adjustment benefits shall be those proposed by the actuary to the retirement system in the draft revision of the annual actuarial reports for the valuation periods ending June 30, 1989 and June 30, 1990 submitted by the actuary on April 27, 1992.

The normal and accrued liability contributions, which shall be certified by the retirement system no later than December 31 each year, shall be included in the budget of the employer and levied and collected in the same manner as any other taxes are levied and collected for the payment of the salaries of members.

(10) The treasurer or corresponding officer of the employer shall pay to the State Treasurer no later than April 1 of the State's fiscal year in which payment is due the amount so certified as payable by the employer, and shall pay monthly to the State Treasurer the amount of the deductions from the salary of the members in the employ of the employer, and the State Treasurer shall credit such amount to the appropriate fund or funds, of the retirement system.

If payment of the full amount of the employer's obligation is not made within 30 days of the due date established by this act, interest at the rate of 10% per annum shall commence to run against the unpaid balance thereof on the first day after such 30th day.

If payment in full, representing the monthly transmittal and report of salary deductions, is not made within 15 days of the due date established by the retirement system, interest at the rate of 10% per annum shall commence to run against the total transmittal of salary deductions for the period on the first day after such 15th day.

(11) The expenses of administration of the retirement system shall be paid by the State of New Jersey. Each employer shall reimburse the State for a proportionate share of the amount paid by the State for administrative expense. This proportion shall be computed as the number of members under the jurisdiction of such employer bears to the total number of members in the system. The pro rata share of the cost of administrative expense shall be included with the certification by the retirement system of the employer's contribution to the system.

(12) Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any pension or other benefits on account of the employees or beneficiaries of any employer participating in the retirement system, for which reserves have not been previously created from funds, contributed by such employer or its employees for such benefits.

(13) (Deleted by amendment, P.L.1992, c.125.)

(14) Commencing with valuation year 1991, with payment to be made in Fiscal Year 1994, the Legislature shall annually appropriate and the State Treasurer shall pay into the pension accumulation fund of the retirement system an amount equal to 1.4% of the compensation of the members of the system upon which the normal contribution rate is based to fund the benefits provided by section 16 of P.L.1964, c.241 (C.43:16A-11.1), as amended by P.L.1979, c.109.

16. Section 3 of P.L.1965, c.89 (C.53:5A-3) is amended to read as follows:

C.53:5A-3 Definitions.

3. As used in this act:

a. "Aggregate contributions" means the sum of all the amounts, deducted from the salary of a member or contributed by him or on his behalf, standing to the credit of his individual account in the Annuity Savings Fund. Interest credited on contributions to the former "State Police Retirement and Benevolent Fund" shall be included in a member's aggregate contributions.

b. "Annuity" means payments for life derived from the aggregate contributions of a member.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, computed upon the basis of such mortality tables recommended by the actuary as the board of trustees adopts and regular interest.

d. "Beneficiary" means any person entitled to receive any benefit pursuant to the provisions of this act by reason of the death of a member or retirant.

e. "Board of trustees" or "board" means the board provided for in section 30 of this act.

f. "Child" means a deceased member's or retirant's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any sub-

stantial, 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.

g. "Creditable service" means service rendered for which credit is allowed on the basis of contributions made by the member or the State.

h. "Parent" means the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

i. "Final compensation" means the average compensation received by the member in the last 12 months of creditable service preceding his retirement or death. Such term includes the value of the member's maintenance allowance for this same period.

j. "Final salary" means the average salary received by the member in the last 12 months of creditable service preceding his retirement or death. Such term shall not include the value of the member's maintenance allowance.

k. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

l. "Medical board" means the board of physicians provided for in section 30 of this act.

m. "Member" means any full-time, commissioned officer, noncommissioned officer or trooper of the Division of State Police of the Department of Law and Public Safety of the State of New Jersey enrolled in the retirement system established by this act.

n. "Pension" means payment for life derived from contributions by the State.

o. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed on the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees and regular interest.

p. "Regular interest" means 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 the 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%.

q. "Retirant" means any former member receiving a retirement allowance as provided by this act.

r. "Retirement allowance" means the pension plus the annuity.

s. "State Police Retirement System of New Jersey," herein also referred to as the "retirement system" or "system," is the corporate name of the arrangement for the payment of retirement allowances and of the benefits under the provisions of this act including the several funds placed under said system. By that name, all of its business shall be transacted, its funds invested, warrants for moneys drawn, and payments made and all of its cash and securities and other property held. All assets held in the name of the former "State Police Retirement and Benevolent Fund" shall be transferred to the retirement system established by this act.

t. "Surviving spouse" means the person to whom a member or a retirant was married on the date of the death of the member or retirant. The dependency of such a surviving spouse will be considered terminated by the marriage of the surviving spouse subsequent to the member's or the retirant's death.

u. "Compensation" for purposes of computing pension contributions means the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the State for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular workday or shift.

17. Section 30 of P.L.1965, c.89 (C.53:5A-30) is amended to read as follows:

C.53:5A-30 State police retirement system trustees.

30. a. Subject to the provisions of P.L.1955, c.70 (C.52:18A-95 et seq.), the general responsibility for the proper operation of the retirement system is hereby vested in the board of trustees.

b. The board shall consist of five trustees as follows:

(1) Two active or retired members of the system who shall be appointed by the Superintendent of State Police, who shall serve at the pleasure of the superintendent and until their successors are appointed and one of whom shall be or shall have been a commissioned officer of the Division of State Police.

(2) Two members to be 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 who are neither an officer thereof nor active or retired members of the system. Of the two members initially appointed by the Governor pursuant to P.L.1992, c.125 (C.43:4B-1 et al.), one shall be appointed for a term of two years and one for a term of three years.

(3) The State Treasurer ex officio. The Deputy State Treasurer, when designated for that purpose by the State Treasurer, may sit as a member of the board of trustees and when so sitting shall have all the powers and shall perform all the duties vested by this act in the State Treasurer.

c. Each trustee shall, after his appointment, take an oath of office that, so far as it devolves upon him, he will diligently and honestly fulfill his duties as a board member, that he will not knowingly violate or permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed by the member taking it, and certified by the official before whom it is taken, and immediately filed in the office of the Secretary of State.

d. If a vacancy occurs in the office of a trustee, the vacancy shall be filled in the same manner as the office was previously filled.

e. The trustees shall serve without compensation, but they shall be reimbursed by the State for all necessary expenses that they may incur through service on the board. No employee member shall suffer loss of salary through the serving on the board.

f. Except as otherwise herein provided, no member of the board of trustees shall have any direct interest in the gains or profits of any investments of the retirement system; nor shall any member of the board of trustees directly or indirectly, for himself or as an agent in any manner use the moneys of the retirement system, except to make such current and necessary payments as are authorized by the board of trustees; nor shall any member of the board of trustees become an endorser or surety, or in any manner an obligor for moneys loaned to or borrowed from the retirement system.

g. Each trustee shall be entitled to one vote in the board. A majority vote of all trustees shall be necessary for any decision by the trustees at any meeting of said board.

h. Subject to the limitations of this act, the board of trustees shall annually establish rules and regulations for the administration of the funds created by this act and for the transactions of its business. 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.

i. The actuary of the fund shall be selected by the Retirement Systems Actuary Selection Committee established by P.L.1992, c.125. He shall be the technical adviser of the board on matters regarding the operation of the funds created by the provisions of this act and shall perform such other duties as are required in connection herewith.

j. The Attorney General shall be the legal adviser of the retirement system, except that if the Attorney General determines that a conflict of interest would affect the ability of the Attorney General to represent the board on a matter affecting the retirement system, the board may select and employ legal counsel to advise and represent the board on that matter.

k. The Chief of the Bureau of Police and Fire Funds of the Division of Pensions of the State Department of the Treasury shall be the secretary of the board.

l. The board of trustees shall keep a record of all of its proceedings which shall be open to public inspection. The retirement system shall publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash and securities of the system and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

m. The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions, subject to veto by the board of trustees for valid reason. It shall be composed of three physicians. The medical board shall pass on all medical examinations required under the provisions of this act, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

n. (Deleted by amendment, P.L.1987, c.330).

18. Section 34 of P.L.1965, c.89 (C.53:5A-34) is amended to read as follows:

C.53:5A-34 Contingent reserve fund.

34. The Contingent Reserve Fund shall be the fund in which shall be credited contributions made by the State.

a. Upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall

compute annually the amount of the contribution, expressed as a proportion of the salaries paid to all members, which, if paid monthly during the entire prospective service of the members, will be sufficient to provide for the pension reserves required at the time of the discontinuance of active service to cover all pensions to which they may be entitled or which are payable on their account and to provide for the amount of the death and accidental disability benefits payable on their account, which amount is not covered by other contributions to be made as provided in this section and the funds in hand available for such benefits. This shall be known as the "normal contribution." The actuary shall redetermine the normal contributions for the retirement system as of June 30, 1990 and June 30, 1991.

b. 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 unfunded liability as of June 30, 1990, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section, and by prospective employer normal contributions and employee contributions. Using the total amount of this unfunded accrued liability, the actuary shall determine a rate of contribution that shall be an initial amount of contribution divided by the compensation of all active members for the valuation period where, if the contribution is increased annually for a specific period of time, it will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions, 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. This shall be known as the "accrued liability contribution rate." The actuary shall compute annually an amount of contribution based upon the total compensation of all members in active service and the accrued liability contribution rate. This shall be known as the "accrued liability contribution."

The value of the assets for the valuation period ending June 30, 1990 shall be the full market value of the assets as of that date. The value of the assets for the valuation period ending June 30, 1991 shall be the value of the assets for the preceding valuation period increased by 8 3/4%, plus the net cash flow for the valuation period (the difference between the benefits paid by the system and the contributions to the system) increased by 4 3/8%, plus 20% of the difference between this expected value and the full market value of the assets as of June 30, 1991. The value of the assets for the valuation periods ending on or after June 30,

1992 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 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.

The tables of actuarial assumptions previously adopted by the board of trustees for the valuation periods ending June 30, 1990 and June 30, 1991 shall be applicable to the revaluations of the retirement system under P.L.1992, c.125 (C.43:4B-1 et al.), except that the assumptions for salary increases, medical premium inflation and increases in pension adjustment benefits shall be those proposed by the actuary to the retirement system in the draft revision of the annual actuarial reports for the valuation periods ending June 30, 1990 and June 30, 1991 submitted by the actuary on April 27, 1992.

An annual employer contribution for valuation years 1990 and 1991 is not required if the actuarial value of the assets exceeds the sum of the entry-age accrued liability and the normal contribution for those valuation years.

c. The actuary 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 proportion of the earnable salary of all members, computed as described in subsection a. hereof and of the State's accrued liability contribution, payable in the ensuing year, as described in subsection b. hereof. The State shall pay into the Contingent Reserve Fund during the ensuing year the amount so certified. In the event the amount certified to be paid by the State includes amounts due for services rendered by members to specific instrumentalities or authorities the total amounts so certified shall be paid to the retirement system by the State; provided, however, the full cost attributable to such services rendered to such instrumentalities and authorities shall be computed separately by the actuary and the State shall be reimbursed for such amounts by such instrumentalities or authorities.

The cash death benefits, payable as the result of contribution by the State under the provisions of this act upon the death of a member in active service and after retirement shall be paid from the Contingent Reserve Fund.

C.43:4B-1 Retirement Systems Actuary Selection Committee established.

19. There is hereby established the Retirement Systems Actuary Selection Committee which shall consist of the State Treasurer, and the directors of the Divisions of Pensions and Benefits and Investment, and Office of Management and Budget, or their designated representatives, and one member designated by each of the boards of trustees of the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund, and the Police and Firemen's Retirement System. The committee shall select the actuary or actuaries for the State retirement systems in accordance with the provisions of P.L. 1954, c. 48 (C.52:34-6 et seq.), provided, however, that the boards shall have the power to veto the selection of the actuary for valid reason.

C.43:4B-2 Information available to, provided to pension boards.

20. The Director of the Division of Pensions shall annually communicate to the board of each pension system the relevant factors used in calculating the State's contributions to that system's accrued liability. Further, the pension boards shall have access to all relevant actuarial information relating to any actuarial matter under consideration by the boards, subject to financial restraints imposed by the contract agreement.

21. This act shall take effect immediately.

Approved October 23, 1992.

CHAPTER 126

AN ACT concerning paid health benefits for certain educational employees, amending P.L.1987, c.384 and supplementing P.L.1961, c.49 (C.52:14-17.25 et seq.).

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

1. Section 3 of P.L.1987, c.384 (C.52:14-17.32f) is amended to read as follows:

C.52:14-17.32f Retired teachers' eligibility.

3. A qualified retiree from the Teachers' Pension and Annuity Fund (N.J.S.18A:66-1 et seq.) and dependents of a qualified

retiree, but not including survivors, are eligible to participate in the program, regardless of whether the retiree's employer participated in the program.

A qualified retiree is a retiree who:

a. Retired on a benefit based on 25 or more years of service credit;

b. Retired on a disability pension based on fewer years of service credit; or

c. Elected deferred retirement based on 25 or more years of service credit and who receives a retirement allowance.

The program shall reimburse a qualified retiree who participates in the program for the premium charges under Part B of the federal medicare program for the retiree and the retiree's spouse. A qualified retiree who retired under subsections a. and b. of this section prior to the effective date of this 1987 amendatory and supplementary act is eligible for the coverage if the retiree applies to the program for it within one year after the effective date, and a qualified retiree as defined under subsection c. of this section whose retirement allowance commenced prior to the effective date of this 1992 amendatory act is eligible for the coverage if the retiree applies to the program for it within one year after the effective date.

The premium or periodic charges for benefits provided to a qualified retiree and the dependents of the retiree, and the cost for reimbursement of medicare premiums shall be paid by the Teachers' Pension and Annuity Fund. The State Health Benefits Commission shall annually certify to the fund the cost for providing health benefits coverage to qualified retirees and their dependents under this section. The fund shall annually remit to the commission the amount certified at a time specified by the State Treasurer.

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; and

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), 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.

An employee who retired prior to the effective date of this act is eligible for the coverage if the employee applies to the program for it within one year after the effective date.

C.52:9HH-2.1 Review of pensions, health benefits legislation.

3. Pursuant to P.L.1991, c.382 (C.52:9HH-1 et seq.), the Pension and Health Benefits Review Commission shall review every bill, joint resolution, or concurrent resolution introduced in either House of the Legislature which constitutes pensions or health benefits legislation as defined by P.L.1991, c.382, and as determined by the Legislative Budget and Finance Officer pursuant to that act.

4. This act shall take effect upon the appointment by the President of the Senate and the Speaker of the General Assembly of such members to the Pension and Health Benefits Review Commission as the President of the Senate and the Speaker of the Assembly are empowered to appoint, pursuant to P.L.1991, c.382 (C.52:9HH-1 et seq.).

Approved October 23, 1992.

CHAPTER 127

AN ACT concerning the certification of school teachers.

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

1. The State Board of Education shall delay until September 1, 1993 the implementation of regulations which revise the certifica-

tion standards for new school teachers to require the provisional certification of college graduates who have completed an approved teacher preparation program pending the fulfillment of a first year teacher induction program and a favorable evaluation.

C.18A:6-76.1 Provisional certificate program; implementation.

2. a. By November 1, 1992, colleges shall notify all students enrolled in teacher education programs of the details and requirements of the provisional certificate and induction program.

b. By November 1, 1992, the Department of Education shall provide all public school districts with a standard plan to implement the induction program that districts may choose to submit, instead of developing individual plans.

c. By February 1, 1993, each district shall submit a board-approved plan to the Department of Education.

d. The Department of Education shall coordinate county or regional training programs for mentors beginning in the 1993-94 school year.

3. This act shall take effect immediately.

Approved October 23, 1992.

CHAPTER 128

AN ACT to provide reimbursement for certain nursing services under certain health insurance policies and supplementing chapters 26 and 27 of Title 17B of the New Jersey Statutes.

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

C.17B:26-2.1f Individual health insurance benefits for certain nursing services.

1. a. Notwithstanding any provision of a policy of individual health insurance, whenever such a policy provides for reimbursement for any service which is within the lawful scope of practice of a duly registered professional nurse who is not being paid a salary by a health care provider for the service so performed, a person covered under that individual health insurance policy or the registered professional nurse rendering the service shall be entitled to reimbursement for the service.

b. This act shall exclude salaried services which are already reimbursed and shall not be construed to affect or impair hospital

procedures for billing in-hospital nursing care. The practice of nursing shall be deemed to be within the provisions of chapter 26 of Title 17B of the New Jersey Statutes and duly registered professional nurses shall have those privileges and benefits in the scope of their practice as are afforded thereunder to licensed physicians and surgeons in the scope of their practice.

c. This section shall apply to any individual health insurance policy: (1) delivered or issued for delivery in this State on or after the effective date of this act; or (2) under which the insurer has reserved the right to change the premium.

C.17B:27-51.1a Group health insurance benefits for certain nursing services.

2. a. Notwithstanding any provision of a policy of group health insurance, whenever such a policy provides for reimbursement for any service which is within the lawful scope of practice of a duly registered professional nurse who is not being paid a salary by a health care provider for the services so performed, a person covered under that group health insurance policy or the registered professional nurse rendering the service shall be entitled to reimbursement for the service.

b. This act shall exclude salaried services which are already reimbursed and shall not be construed to affect or impair hospital procedures for billing in-hospital nursing care. The practice of nursing shall be deemed to be within the provisions of chapter 27 of Title 17B of the New Jersey Statutes and duly registered professional nurses shall have those privileges and benefits in the scope of their practice as are afforded thereunder to licensed physicians and surgeons in the scope of their practice.

c. This section shall apply to any group health insurance policy: (1) delivered or issued for delivery in this State on or after the effective date of this act; or (2) under which the insurer reserves the right to change the premium.

3. This act shall take effect on the 90th day after enactment.

Approved October 24, 1992.

CHAPTER 129

AN ACT concerning special education, amending N.J.S.18A:46-13 and repealing parts of the statutory law.

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

1. N.J.S.18A:46-13 is amended to read as follows:

Types of facilities and programs.

18A:46-13. It shall be the duty of each board of education to provide suitable facilities and programs of education for all the children who are classified as handicapped under this chapter. The absence or unavailability of a special class facility in any district shall not be construed as relieving a board of education of the responsibility for providing education for any child who qualifies under this chapter.

The Department of Human Services shall provide transportation for all children who attend day training centers operated by the department.

A board of education is not required to provide any further educational program for children who have been admitted to the Marie H. Katzenbach School for the Deaf but shall be required to furnish necessary daily transportation Monday through Friday to and from the school for nonboarding pupils when such transportation is approved by the county superintendent of schools in accordance with such rules and regulations as the State board shall promulgate for such transportation. Any special education facility or program authorized and provided for a child attaining age 20 during a school year shall be continued for the remainder of that school year.

Repealer.

2. The following sections are repealed:
N.J.S.18A:46-16;
N.J.S.18A:46-17;
N.J.S.18A:46-18; and
Section 43 of P.L.1975, c.212 (C.18A:46-18.1).

3. This act shall take effect July 1, 1993.

Approved October 26, 1992.

CHAPTER 130

AN ACT concerning State leasing operations, amending P.L.1944, c.112 and P.L.1981, c.120, and supplementing Title 52 of the Revised Statutes.

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

C.52:18A-191.1 Findings, declarations.

1. The Legislature finds and declares that:

a. the State's space leasing program is a $200 million program and should be conducted in an efficient and economical manner;

b. there is no effective control over leasing operations and this has led to an overly expensive program;

c. the State lacks a competitive bidding process in its leasing operations and lacks a master plan to assess current and future facility needs; and

d. there is a lack of appropriate oversight procedures of State leasing operations.

C.52:18A-191.2 Definitions.

2. As used in this act:

"Committee" means the State Leasing and Space Utilization Committee.

"Office" means the Office of Leasing Operations in the General Services Administration of the Department of the Treasury.

"State agency" means any department, division, office, board, commission, council, or bureau in the Executive branch of State government.

C.52:18A-191.3 Office of Leasing Operations established.

3. There is established the Office of Leasing Operations in the General Services Administration of the Department of the Treasury. The office shall be under the supervision of the Administrator of the General Services Administration or his designee. Notwithstanding any provision of law to the contrary, the office is empowered and directed to:

a. approve or disapprove all State agency space planning requests;

b. negotiate leases for all State agencies and determine requirements for construction or renovation including costs;

c. solicit competitive proposals for lease agreements and prepare written evaluations and recommendations;

d. establish reporting requirements to be followed by State agencies;

e. arrange for renovations of leased space;

f. implement the privatization pilot program established by the State Leasing and Space Utilization Committee; and

g. develop, within one year after the effective date of this act, a comprehensive space utilization plan which shall be updated

every two years. The plan shall include a survey of current and future State space needs and specify the extent to which the leasing program should be used to support urban renewal.

C.52:18A-191.4 State Leasing and Space Utilization Committee established.

4. There is established a three-member State Leasing and Space Utilization Committee. The committee shall consist of the President of the Senate, the Speaker of the General Assembly and the State Treasurer, or their respective designees. The committee shall annually select a chairman from among its members. No motion to take any action by the committee shall be valid except upon the affirmative vote of all of the authorized membership of the committee. It shall be the duty of the committee to:

a. approve or disapprove all leases negotiated by the Office of Leasing Operations;

b. approve or disapprove the space utilization plan developed and updated by the Office of Leasing Operations pursuant to P.L.1992, c.130 (C.52:18A-191.1 et al.); and

c. establish a privatization pilot program in which the Office of Leasing Operations shall contract with private business entities to assist it in carrying out its leasing functions. This pilot program may include the use of commercial real estate companies, selected by competitive bidding, to assist the office in selecting sites and negotiating leases.

C.52:18A-191.5 Committee approval required for lease agreements.

5. No lease agreement negotiated by the Office of Leasing Operations shall be valid without the prior written approval of the State Leasing and Space Utilization Committee. The office shall submit to the committee prior to its consideration of a lease agreement:

a. the approved State agency space planning request;

b. a statement setting forth the terms and conditions of the lease agreement;

c. a statement setting forth the cost of the leased space, including the cost of rent, taxes, renovations and other costs involved in the lease agreement;

d. a statement from the Attorney General that the lease agreement is not in conflict with any applicable State or federal law or regulation;

e. a statement certifying that on the basis of a comparison of costs and an analysis of financing, the lease agreement is cost effective and in compliance with the space utilization master plan;

f. a statement certifying that the office advertised for bids for lease agreements and that the lease agreement under consideration is the most cost effective; and

g. a statement from the Director of the Division of Budget and Accounting in the Department of the Treasury certifying that funds have been appropriated to the Office of Leasing Operations to cover all costs associated with the lease, including the cost of renovations, for the fiscal year.

C.52:18A-191.6 Site visits to leased property.

6. The Office of Leasing Operations shall make periodic site visits to leased property to ensure that State agencies are properly using leased space. If the office finds that the space is being improperly used by a State agency, it shall report its findings to the State Leasing and Space Utilization Committee.

C.52:18A-191.7 Information provided to Legislative Budget and Finance Officer.

7. The Office of Leasing Operations shall provide to the Legislative Budget and Finance Officer such information concerning leasing operations which the Legislative Budget and Finance Officer may request.

C.52:18A-191.8 Rules, regulations.

8. The Administrator of the General Services Administration 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 act.

C.52:18A-191.9 Entitlement to assistance, services.

9. The General Services Administration and the State Leasing and Space Utilization Committee are entitled to call to their assistance and avail themselves of the services of employees of any State, county or municipal department, board, bureau, commission or agency as they may require and as may be available to them for their purposes under this act. All State agencies are authorized and directed to cooperate with the office and the committee.

10. All funds appropriated to the Department of the Treasury for the purpose of the Office of Leasing Operations are continued.

11. Section 12 of P.L.1944, c.112 (C.52:27B-64) is amended to read as follows:

C.52:27B-64 Powers and duties vested in State House Commission transferred.

12. The powers and duties vested in the State House Commission by sections 52:20-7, 52:20-13, 52:20-14, 52:20-20 and

52:20-25 of the Revised Statutes are hereby transferred to the General Services Administration and the administrator thereof.

The administrator, with the commissioner's approval, shall to every practicable extent arrange, and from time to time rearrange, the office space assigned to the various departments and other agencies of the State Government in a manner to provide for the most efficient conduct of the business of such departments and agencies. The leasing of office space shall be done in accordance with the provisions of P.L.1992, c.130 (C.52:18A-191.1 et al.).

12. Section 22 of P.L.1981, c.120 (C.52:18A-78.22) is amended to read as follows:

C.52:18A-78.22 Agreements between State agencies and authority.

22. All State agencies may purchase, lease, rent, sublease or otherwise acquire any project or any space embraced in any project and pay such amount as may be agreed upon between the State agency and the authority or a person, firm, partnership or corporation as the purchase price, rent or other charge therefor, except that all leases shall be subject to the approval of the State Leasing and Space Utilization Committee established pursuant to P.L.1992, c.130 (C.52:18A-191.1 et al.). Any agreement entered into by any State agency with the authority or a person, firm, partnership or corporation pursuant to the aforesaid authorization, shall expressly provide that the incurrence of any liabilities by the agency under the agreement, including, without limitation, the payment of any and all rentals or other amounts required to be paid by the agency thereunder, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for that purpose and upon the approval of the lease agreement by the State Leasing and Space Utilization Committee.

13. This act shall take effect on the 90th day after enactment, but the State Treasurer, the President of the Senate and the Speaker of the General Assembly may take actions in advance to effectuate the purposes of this act.

Approved October 26, 1992.

CHAPTER 131

AN ACT concerning mortgage escrow accounts and amending P.L.1990, c.69.

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

1. Section 6 of P.L.1990, c.69 (C.17:16F-20) is amended to read as follows:

C.17:16F-20 Periodic analysis of mortgage escrow account.

6. Not later than the end of the second loan year, the mortgagee or servicing organization shall establish a system for the periodic analysis of the mortgage escrow account, which analysis shall be accomplished at least once a year thereafter. After such analysis, and subject to the limitations set forth in subsection b. of section 2 of P.L.1990, c.69 (C.17:16F-16), the scheduled escrow account payments shall be adjusted to provide a sufficient accumulation of funds in the escrow account to make anticipated disbursements on the appropriate dates during the ensuing year. The mortgagor shall be given 10 days' advance notice of any adjustment in scheduled payments to the escrow account and shall be provided a full explanation of the reasons for any change. When the escrow account is analyzed in accordance with this section, any surplus or shortage shall be refunded to or collected from the mortgagor as provided by the contract. If there is a surplus in the escrow account, application of the surplus to delinquent payments shall be considered a cash refund to the mortgagor.

2. This act shall take effect immediately.

Approved October 26, 1992.

CHAPTER 132

AN ACT authorizing municipalities to establish curfews for juveniles and supplementing Title 40 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 children who are left unsupervised during the overnight hours may be exposed to the most detrimental influences in society; that the allure of the ram-

pant drug counter-culture, the potential for involvement in criminal activity, and other potential threats to the physical and mental health and welfare of children justify governmental action in furtherance of the protection of one of the most fragile and easily influenced segments of our society.

The Legislature further finds and declares that it is in the best interest of society to encourage family unity; to encourage the family unit to provide for the care, protection, and wholesome mental and physical development of children; to encourage the supervision of children by their parents and guardians and to encourage communication between them.

The Legislature further finds and declares that because of the peculiar vulnerability of children, their inability to make critical decisions in an informed, mature manner, and the importance of the parental role in child rearing, it is appropriate to authorize municipalities to enact ordinances to protect children from the dangers of the streets and to encourage the deepening of familial relationships.

C.40:48-2.52 Definitions; enactment of curfew ordinances, violations, penalties, exceptions.

2. a. As used in this act:

(1) "Juvenile" means an individual who is under the age of 18 years.

(2) "Guardian" means a person, other than a parent, to whom legal custody of the juvenile has been given by court order or who is acting in the place of the parent or is responsible for the care and welfare of the juvenile.

(3) "Public place" means any place to which the public has access, including but not limited to a public street, road, thoroughfare, sidewalk, bridge, alley, plaza, park, recreation or shopping area, public transportation facility, vehicle used for public transportation, parking lot or any other public building, structure or area.

b. A municipality is hereby authorized and empowered to enact an ordinance making it unlawful for a juvenile of any age under 18 years within the discretion of the municipality to be on any public street or in a public place between the hours of 10:00 p.m. and 6:00 a.m. unless accompanied by the juvenile's parent or guardian or unless engaged in, or traveling to or from, a business or occupation which the laws of this State authorize a juvenile to perform. Such an ordinance may also make it unlawful for any parent or guardian to allow an unaccompanied juvenile to be on any public street or in any public place during those hours.

c. An ordinance enacted pursuant to this act shall provide that violators shall be required to perform community service and may be subject to a fine of up to $1,000.00. If both a juvenile and the juvenile's parent or guardian violate such an ordinance, they shall be required to perform community service together.

d. An ordinance enacted pursuant to this act shall include exceptions permitting juveniles to engage in errands involving medical emergencies and to attend extracurricular school activities, activities sponsored by religious or community-based organizations, and other cultural, educational and social events after 10 p.m. and before 6 a.m.

e. An ordinance enacted pursuant to this act shall establish clear standards in precise language adequate to apprise a juvenile and a parent or guardian of that which is unlawful and adequate to circumscribe the discretion of police officers in order to overcome subjective and discriminatory enforcement.

3. This act shall take effect immediately.

Approved October 29, 1992.

CHAPTER 133

AN ACT concerning rates and premiums for private passenger automobile insurance and repealing section 40 of P.L.1990, c.8.

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

Repealer.

1. Section 40 of P.L.1990, c.8 (C.17:33B-32) is repealed.

2. This act shall take effect immediately and shall be retroactive to March 12, 1990.

Passed October 29, 1992.

CHAPTER 134

AN ACT exempting certified pedorthists from the provisions of the "Orthotist and Prosthetist Licensing Act" and amending P.L.1991, c.512.

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

1. Section 18 of P.L.1991, c.512 (C.45:12B-18) is amended to read as follows:

C.45:12B-18 Inapplicability of act.

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

a. The activities and services of any person who is licensed to practice medicine and surgery, dentistry or podiatry by this State;

b. The activities and services of a student, fellow, or trainee in orthotics or prosthetics pursuing a course of study at an accredited college or university, or working in a recognized training center or research facility, if these activities and services constitute a part of his course of study under a supervisor licensed pursuant to this act;

c. The application of upper extremity adaptive equipment, finger splints and hand splints by an occupational therapist or the use of generic braces for evaluation purposes by a licensed physical therapist when such bracing is for a term of less than three months and the braces do not become the patient's property; or

d. The activities and services of a certified pedorthist; except that this subsection shall not prevent any certified pedorthist from applying for and obtaining a license under the provisions of P.L.1991, c.512 (C.45:12B-1 et seq.) limiting that person's practice of orthotics and prosthetics to the ankle and below. As used in this subsection: "certified pedorthist" means a person certified by the American Board for Certification in Pedorthics, or its successor, in the design, manufacture, fit and modification of shoes and related foot appliances from the ankle and below as prescribed by a licensed doctor of medicine or podiatry for the amelioration of painful or disabling conditions of the foot; and "foot appliances" includes, but is not limited to, prosthetic fillers and orthotic appliances for use from the ankle and below.

2. Section 2 of P.L.1991, c.512 (C.45:12B-2) is amended to read as follows:

C.45:12B-2 Findings, declarations.

2. The Legislature finds and declares that:

a. The practice of orthotics and prosthetics may, if unregulated, seriously harm or endanger the health, safety, and well-being of the citizens of this State;

b. Citizens of this State need, and will benefit from, an assurance of initial and ongoing professional competence among orthotists and prosthetists practicing in this State;

c. The present unregulated system for dispensing orthotic and prosthetic care does not adequately meet the needs or serve the interests of the public; and

d. It is necessary for this State to regulate and license the practice of orthotics and prosthetics for the purpose of protecting the citizens of this State from injury or harm caused by ill-prepared, incompetent, unscrupulous, or unauthorized practitioners and to assure the highest degree of professional conduct on the part of orthotists and prosthetists practicing in this State.

3. This act shall take effect immediately and shall be retroactive to January 19, 1992.

Approved October 30, 1992.

CHAPTER 135

AN ACT appropriating funds from the Correctional Facilities Construction Fund of 1987 for expansion, renovation and service upgrade of certain correctional facilities.

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

1. There is appropriated to the Department of Corrections from the "Correctional Facilities Construction Fund of 1987," created pursuant to the "Correctional Facilities Construction Bond Act of 1987," P.L.1987, c.178, the sum of $8,629,200 to install a temporary kitchen facility and for the renovation of the existing kitchen facility at the Albert C. Wagner Youth Correctional Facility.

2. The expenditure of the sum appropriated by this act is subject to the provisions and conditions of P.L.1987, c.178 and any rule or regulation promulgated by the department pursuant thereto.

3. This act shall take effect immediately.

Approved November 13, 1992.

CHAPTER 136

AN ACT increasing the fee charged for a marriage license and amending R.S.37:1-12 and P.L.1981, c.382.

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

1. Section 1 of P.L.1981, c.382 (C.37:1-12.1) is amended to read as follows:

C.37:1-12.1 Additional fee.

1. In addition to the fee for issuing a marriage license authorized pursuant to R.S.37:1-12, each licensing officer shall collect a fee of $25 from the applicants which shall be forwarded on a quarterly basis to the Department of Human Services.

2. Section 2 of P.L.1981, c.382 (C.37:1-12.2) is amended to read as follows:

C.37:1-12.2 Trust fund to aid victims of domestic violence.

2. The Department of Human Services shall establish a trust fund for the deposit of the fees received pursuant to section 1 of this act. The moneys from the trust fund shall be used for the specific purpose of establishing and maintaining shelters for the victims of domestic violence, or a. for providing grants-in-aid to such shelters established by local governments or private nonprofit organizations; or b. for providing grants-in-aid to nonresidential agencies whose primary purpose is to serve victims of domestic violence in those counties which do not have emergency residential shelters for victims; or c. for providing grants-in-aid to any nonprofit, Statewide coalition whose membership includes a majority of the programs for battered women in New Jersey and

whose board membership includes a majority of representatives of these programs and whose purpose is to provide services, community education, and technical assistance to these programs to establish and maintain shelter and related services for victims of domestic violence and their children.

3. This act shall take effect on the 30th day after enactment.

Approved November 13, 1992.

CHAPTER 137

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, 1993 and regulating the disbursement thereof," approved ....., 1992 (P.L.1992, c. .....).

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.1992, c.40, the following provision making an allocation is added:

GRANTS-IN-AID
46 DEPARTMENT OF HEALTH
20 *Physical and Mental Health*
21 Health Services -- Grants-in-Aid

Notwithstanding the provisions of P.L.1987, c.370 (C.26:2-148 et seq.), $424,000 is allocated from the Catastrophic Illness in Children Relief Fund to fund the Family Day Care Provider Registration Act.

2. The following language is deleted:

[Notwithstanding the provision of section 6 of P.L.1987, c.27 (C.30:5B-21) or any other law to the contrary, effective July 1, 1992, the certificate of registration for a family day care provider shall be renewed annually and the family day care provider shall

be required to pay a registration fee of $50.00 to the sponsoring organization for each certificate issuance and renewal.]

3. This act shall take effect immediately but shall remain inoperative until the enactment into law of the annual appropriations act for the fiscal year ending June 30, 1993, P.L.1992, c. 40.

Approved November 16, 1992.

CHAPTER 138

AN ACT concerning layoffs.

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

1. The Commissioner of Personnel shall submit to the Governor and the Legislature a detailed plan for any layoffs of employees necessitated in FY1993 no later than five workdays before the first layoff notices are sent out. The plan shall include the methods, procedures, and rationale for the layoffs and the schedule for such layoffs as well as how the layoff plans comply with the legislative intent regarding layoff priorities as expressed in the legislative budget document.

2. This act shall take effect immediately.

Approved November 16, 1992.

CHAPTER 139

AN ACT concerning the provision of long-term foster care to certain children and supplementing Title 30 of the Revised Statutes.

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

C.30:4C-26.10 Short title.

1. This act shall be known and may be cited as the "Long-Term Foster Care Custody Act."

C.30:4C-26.11 Findings, declarations.

2. The Legislature finds and declares that:

a. It is in the public interest to afford every child placed outside of his home by the Division of Youth and Family Services the opportunity for eventual return to his home or placement in an alternative permanent home;

b. If it has been determined that reuniting the child with the natural parents or placing the child for adoption will not serve a child's best interest, the child's best interest may be served through a transfer to long-term foster care custody with the child's foster parent; and

c. It is the purpose of this act to establish conditions and procedures for the transfer of a child to long-term foster care custody.

C.30:4C-26.12 Definitions.

3. As used in this act:

"Child" means a person under the age of 18 years.

"Child placement review board" means the county review board established pursuant to section 8 of P.L.1977, c.424 (C.30:4C-57).

"Custody" means the general right derived from a court order or otherwise to exercise continuing control over the person of the child.

"Division" means the Division of Youth and Family Services in the Department of Human Services.

"Foster parent" means a person other than a natural or adoptive parent with whom a child in the care, custody or guardianship of the division is placed by the division, or with its approval, for temporary care, but shall not include a person with whom a child is placed for the purpose of adoption.

"Guardian" means the person who exercises control over the person and property of a child as established by the order of a court of competent jurisdiction.

"Long-term foster care custody" means the legal status allowing the foster parent the continuing legal right and responsibility to care for the child as defined by court order and division policy until the child becomes 18 years of age.

"Long-term foster parent" means a foster parent to whom custody of the child has been transferred by court order under this act.

"Parent" means the biological, legal or adoptive mother or father of a child.

C.30:4C-26.13 Filing of petition.

4. The division may file a petition seeking long-term foster care custody of a child in the family part of the Chancery Division of the Superior Court. The petition shall be verified and shall show that:

a. The child has reached the age of 12, or there are unique circumstances which make the age of the child irrelevant;

b. Efforts have been made for at least one year by the division to reunite the child with the child's biological family and it has been documented in the case record that the attempts have been unsuccessful;

c. Diligent efforts have been made by the division to place the child for adoption for at least one year and it has been documented in the case record that the attempts have been unsuccessful, or the division has made the determination that adoption is not in the child's best interest; and

d. The child has resided as a foster child in the home of the person seeking long-term foster care custody for at least one year and wishes to remain with his foster parent.

The division shall attach to the long-term foster care custody petition a written agreement signed by the child and the child's foster parent and, where in concurrence, the child's parent, which delineates the conditions of the custody arrangement. The consent of the child's parent is desirable, but not necessary if all other conditions have been met.

C.30:4C-26.14 Summary hearing.

5. The court, within 60 days of the filing of a petition by the division under this act, shall hold a summary hearing upon written notice to the division, the parent or guardian, the foster parent, the child, and the child placement review board. If satisfied that the allegations of the petition are true and the best interest of the child so requires, the court may issue an order as requested. The court may also establish and modify, as necessary, reasonable visitation rights between the child and the parent.

C.30:4C-26.15 Long-term foster care custody.

6. a. Long-term foster care custody shall begin upon order of the court and remain in effect until the child's 18th birthday, unless otherwise terminated by the court. The court may terminate the long-term foster care custody upon the petition of the child, the parent or guardian, the foster parent or the division, if the court finds that the circumstances of the child have substantially changed and the best interest of the child is no longer served

by the long-term foster care custody. The hearing shall be held, upon written notice to the child, the parent or guardian, the foster parent, the division and the child placement review board and these parties shall be given the opportunity to appear before the court.

b. The court shall have continuing jurisdiction to modify or revoke an order for long-term foster care custody.

C.30:4C-26.16 Rights, duties of long-term foster parent.

7. a. Unless modified by court order, a long-term foster parent appointed pursuant to this act has the rights and duties of a foster parent as specified by the division, and, in addition, is authorized to consent to the foster child's surgery and other routine or emergency medical treatment, marriage, entrance into the armed forces, application for a motor vehicle operator's license, application for admission into college and any other activity requiring written parental consent. The long-term foster parent shall inform the division of any written parental consent that the long-term foster parent gives.

b. The long-term foster parent is not authorized to consent to the foster child's adoption or to a name change for the child.

C.30:4C-26.17 Eligibility for services, rate of maintenance.

8. A child placed in long-term foster care custody on petition by the division is eligible to receive the same services and rate of maintenance as any other child in foster care pursuant to section 27 of P.L.1951, c.138 (C.30:4C-27).

C.30:4C-26.18 Rights, responsibility of parent not affected.

9. The transfer of custody to a long-term foster parent shall neither create nor terminate any legal responsibility for the support of the child by the parent, nor shall anything in this act be construed to terminate or limit any rights or benefits of the child, derived from the child's parent, including, but not limited to, rights relating to inheritance, social security and insurance. The transfer of custody to a long-term foster parent shall not terminate the parental rights of the parent.

C.30:4C-26.19 Rules, regulations.

10. The Commissioner of Human Services shall promulgate 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.

11. This act shall take effect immediately.

Approved November 16, 1992.

CHAPTER 140

AN ACT requiring the use of electronic funds transfer for tax payments made by certain taxpayers, supplementing Title 54 of the Revised Statutes.

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

C.54:48-4.1 Tax payments by electronic funds transfer; definitions.

1. a. All tax payments described in subsection b. of this section, other than those payments enumerated in subsection c. of this section, shall be made by electronic funds transfer to such depositories as the State Treasurer shall designate pursuant to section 1 of P.L.1956, c.174 (C.52:18-16.1). A payment by electronic funds transfer shall be deemed to be made on the date the payment is received by the designated depository. The acceptable method of transfer; the method, form and content of the electronic funds transfer message, giving due regard to developing uniform standards for formats among the several states; the circumstances under which an electronic funds transfer shall serve as a substitute for the filing of another form of return; and the means, if any, by which taxpayers will be provided with acknowledgements of payments shall be as prescribed by the Director of the Division of Taxation in the Department of the Treasury.

b. Payments subject to the electronic funds transfer requirement of subsection a. of this section are:

(1) those payments due in the first twelve calendar months for which this section is operative made by a taxpayer that had a prior year liability of $200,000 or more;

(2) those payments due in the thirteenth through twenty-fourth calendar months for which this section is operative made by a taxpayer that had a prior year liability of $100,000 or more;

(3) those payments due in the twenty-fifth through the thirty-sixth calendar months for which this section is operative made by a taxpayer that had a prior year liability of $50,000 or more; and

(4) those payments due in the thirty-seventh calendar month for which this section is operative and thereafter made by a taxpayer that had a prior year liability of $20,000 or more.

c. Subsection a. of this section shall not apply to a payment of estimated tax made pursuant to N.J.S.54A:8-5 or a payment of final taxpayer liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; provided however, that the

restriction of this subsection shall not apply to payment over to the director of taxes withheld pursuant to N.J.S.54A:7-1 or section 1 of P.L.1989, c.328 (C.54A:7-1.1). Subsection a. of this section shall not apply to a payment of the transfer inheritance tax imposed pursuant to R.S.54:33-1 et seq. or to a payment of the estate tax imposed pursuant to R.S.54:38-1 et seq.

d. If the availability of funds in payment of tax required to be made through electronic funds transfer is delayed, and the delay of availability is explained to the satisfaction of the director to be due to reasons beyond the control of the taxpayer, the director shall, notwithstanding any provision of R.S.54:49-11 to the contrary, abate up to the entire amount of penalty or interest that would otherwise be assessed.

e. As used in this section:

"Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account.

"Prior year liability" means the total liability for any tax imposed on, collected by or withheld by the taxpayer in the calendar year or the fiscal or calendar privilege period, as determined under the specific law regarding that tax, ending before the calendar year or fiscal or calendar privilege period for which an electronic funds transfer payment is to be determined to be required pursuant to subsection b. of this section.

2. This act shall take effect immediately but section 1 shall remain inoperative until the first day of the fourth month after enactment.

Approved November 16, 1992.

CHAPTER 141

AN ACT appropriating funds from the Correctional Facilities Construction Fund of 1987 for expansion, renovation and service upgrade of certain correctional facilities.

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

1. There is appropriated to the Department of Corrections from the "Correctional Facilities Construction Fund of 1987," created pursuant to the "Correctional Facilities Construction Bond Act of 1987," P.L.1987, c.178, the sum of $3,000,000 for Statewide ongoing maintenance and emergency renovations.

2. The expenditure of the sum appropriated by this act is subject to the provisions and conditions of P.L.1987, c.178 and any rule or regulation promulgated by the department pursuant thereto.

3. There is also appropriated from the "Correctional Facilities Construction Fund of 1987" such items as may be necessary to meet any expense incurred by the issuing officials under P.L.1987, c.178 for advertising, engraving, printing, clerical, legal or other services necessary to carry out the duties imposed upon them by the provisions of that act.

4. In order to provide flexibility in administering the provisions of this act, the Commissioner of Corrections may apply to the Director of the Division of Budget and Accounting in the Department of the Treasury for permission to transfer a part of any item to any other item within the respective department accounts in the Correctional Facilities Construction Fund. The transfers shall be made in a manner consistent with section 29 of P.L.1987, c.178.

5. This act shall take effect immediately.

Approved November 16, 1992.

CHAPTER 142

AN ACT concerning certain testimony in criminal proceedings and amending P.L.1960, c.52.

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

1. Section 17 of P.L.1960, c.52 (C.2A:84A-17) is amended to read as follows:

C.2A:84A-17 Privilege of accused.

17. Rule 23. Privilege of accused.

(1) Every person has in any criminal action in which he is an accused a right not to be called as a witness and not to testify.

(2) The spouse of the accused in a criminal action shall not testify in such action except to prove the fact of marriage unless (a) such spouse consents, or (b) the accused is charged with an offense against the spouse, a child of the accused or of the spouse, or a child to whom the accused or the spouse stands in the place of a parent, or (c) such spouse is the complainant.

(3) An accused in a criminal action has no privilege to refuse when ordered by the judge, to submit his body to examination or to do any act in the presence of the judge or the trier of the fact, except to refuse to testify.

2. Section 22 of P.L.1960, c.52 (C.2A:84A-22) is amended to read as follows:

C.2A:84A-22 Marital privilege - confidential communications.

22. Rule 28. Marital privilege--Confidential communications.

No person shall disclose any communication made in confidence between such person and his or her spouse unless both shall consent to the disclosure or unless the communication is relevant to an issue in an action between them or in a criminal action or proceeding in which either spouse consents to the disclosure, or in a criminal action or proceeding coming within Rule 23(2). When a spouse is incompetent or deceased, consent to the disclosure may be given for such spouse by the guardian, executor or administrator. The requirement for consent shall not terminate with divorce or separation. A communication between spouses while living separate and apart under a divorce from bed and board shall not be a privileged communication.

3. This act shall take effect immediately and, to the fullest extent consistent with constitutional restrictions, shall apply to all criminal actions regardless of the date on which the offense was committed or the action initiated.

Approved November 17, 1992.

CHAPTER 143

AN ACT concerning emergency medical services, amending R.S.39:5-41 and supplementing Title 26 of the Revised Statutes.

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

C.26:2K-54 Short title.

1. This act shall be known and may be cited as the "Emergency Medical Technician Training Fund Act."

C.26:2K-55 Definitions.

2. As used in this act:

"Commissioner" means the Commissioner of Health.

"Fund" means the "Emergency Medical Technician Training Fund" established pursuant to this act.

"Council" means the State advisory council for basic and intermediate life support services training established pursuant to this act.

C.26:2K-56 "Emergency Medical Technician Training Fund" established.

3. There is established the "Emergency Medical Technician Training Fund" as a nonlapsing, revolving fund. The fund shall be administered by the commissioner or his designee, and shall be credited with monies received pursuant to subsection c. of R.S.39:5-41.

The State Treasurer is the custodian of the fund and all disbursements from the fund shall be made by the treasurer upon vouchers signed by the commissioner or his designee. Monies in the fund shall be used to carry out the provisions of this act, except that no more than 5% of these monies shall be used for administration of the fund in each fiscal year. The fund shall consist of monies as provided for in this act and the interest which is earned on those monies. The monies 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.

C.26:2K-57 Reimbursement of certified agency, organization, entity.

4. The commissioner, in accordance with recommendations adopted by the council, and within the limits of those monies in the fund, shall annually reimburse any private agency, organization or entity which is certified by the commissioner to provide training and testing for volunteer ambulance, first aid and rescue squad personnel who are seeking emergency medical technician-ambulance, or EMT-A, or emergency medical technician-defibril-

lation, or EMT-D, certification or recertification, and for which that entity is not otherwise reimbursed.

The priority for reimbursement from the fund to an agency, organization or entity for training and testing of volunteer ambulance, first aid and rescue squad personnel shall be in the following order: EMT-A certification, EMT-A recertification, EMT-D certification and EMT-D recertification.

C.26:2K-58 Certified persons not charged a fee.

5. An agency, organization or other entity which receives monies from the fund shall not charge a fee to a person who is certified to be a member of, or an applicant to be a member of, a volunteer ambulance, first aid or rescue squad by the chief supervising officer of that squad.

C.26:2K-59 Establishment of State advisory council for basic and intermediate life support services training.

6. a. The commissioner shall establish a State advisory council for basic and intermediate life support services training. The council shall be responsible for: (1) establishing guidelines and making recommendations regarding reimbursement from the fund to entities providing EMT-A or EMT-D testing and training activities, (2) making recommendations for changes in emergency medical services testing and training activities or the creation of new programs as necessary to conform with federal standards, or to improve the quality of emergency medical services delivery, (3) establishing guidelines for the purchase of emergency medical services training equipment, and (4) developing recommendations for the most effective means to recruit emergency medical services volunteers.

b. The council shall consist of 13 members, as follows: the Commissioner of Health, the Superintendent of the Division of State Police in the Department of Law and Public Safety, the Director of the Governor's Office on Volunteerism, the President of the New Jersey State First Aid Council, the chairman of the State mobile intensive care advisory council, and the President of the Medical Transport Association of New Jersey, or their designees, as ex officio members; and seven public members, of which two shall be persons with a demonstrated interest or expertise in emergency medical services who are not health care professionals and two shall be physicians who are medical specialists in areas relating to basic life support services, to be appointed by the Governor, one shall be a representative of the New Jersey Hospital Association, to be appointed by the President thereof, one shall be

a representative of the Medical Society of New Jersey, to be appointed by the President thereof, and one shall be a representative of the New Jersey State Nurses Association, to be appointed by the President thereof.

c. Of the public members first appointed, three shall serve for a term of two years, three shall serve for a term of term of three years and one shall serve for a term of four years. Following the expiration of the original terms, the public members shall serve for a term of four years and are eligible for reappointment. Any vacancy shall be filled in the same manner as the original appointment, for the unexpired term. Public members shall continue to serve until their successors are appointed.

d. The council shall meet at its discretion, but at least quarterly. The public members of the council shall serve without compensation but shall be reimbursed for the reasonable expenses incurred in the performance of their duties, within the limits of funds available to the council.

e. The council shall organize no later than the 60th day after the effective date of this act. The members shall choose a chairman from among themselves and a secretary who need not be a member of the council. The Department of Health shall provide such technical, clerical and administrative support as the council requires to carry out its responsibilities.

7. 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 the municipality wherein the violation occurred, to be used by the 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 complainant is the director, a member of his staff, a member of the State Police, 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.

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. Notwithstanding the provisions of subsections a. and b. of this section, $.50 shall be added to the amount of each fine, penalty and forfeiture imposed and collected under authority of law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State and shall be forwarded by the judge to whom the same are paid to the State Treasurer for deposit in the "Emergency Medical Technician Training Fund" established pursuant to P.L.1992, c.143 (C.26:2K-54 et al.).

8. The commissioner, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of sections 1 through 6 of this act.

9. The State Treasurer shall adopt rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) establishing procedures for the collection of the monies to be deposited in the "Emergency Medical Technician Training Fund" pursuant to subsection c. of R.S.39:5-41.

10. This act shall take effect immediately, except that section 5 shall take effect two years after the effective date of this act.

Approved November 19, 1992.

CHAPTER 144

AN ACT concerning medicare supplement health insurance offered by medical, hospital and health service corporations and amending and supplementing P.L.1982, c.95.

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

C.17:35C-10 Applicability of C.17:35C-1 et seq.

1. Except as otherwise specifically provided:

a. The provisions of P.L.1982, c.95 (C.17:35C-1 et seq.) shall apply to all medicare supplement contracts and subscriber certificates delivered or issued for delivery in this State.

b. The provisions of P.L.1982, c.95 (C.17:35C-1 et seq.) shall not apply to subscriber certificates, including group conversion contracts, provided to medicare eligible persons that are not advertised, marketed, designed primarily as, or otherwise held out to be medicare supplement contracts.

2. Section 1 of P.L.1982, c.95 (C.17:35C-1) is amended to read as follows:

C.17:35C-1 Definitions.

1. For the purposes of this act:

a. "Applicant" means:

(1) In the case of an individual medicare supplement subscriber contract, the person who seeks to contract for service corporation benefits, and

(2) In the case of a group medicare supplement subscriber contract, the person eligible for service corporation benefit coverage.

b. "Certificate" means any certificate issued under an individual or group medicare supplement contract, which certificate has been delivered or issued for delivery in this State.

c. "Commissioner" means the Commissioner of Insurance.

d. "Medicare" means the program established by the "Health Insurance for the Aged Act," Title XVIII of the "Social Security Act," Pub.L.89-97, as then constituted or later amended (42 U.S.C. §1395 et seq.).

e. "Medicare supplement contract" means a group or individual subscriber contract or certificate which is advertised, marketed, designed primarily as, or is otherwise held out to be, a supplement to reimbursements under medicare for the hospital,

medical or surgical expenses of persons eligible for medicare, other than a contract issued pursuant to a contract under 42 U.S.C. §13951 or 42 U.S.C. §1395mm or a contract issued under a demonstration project authorized pursuant to the "Health Insurance for the Aged Act," 42 U.S.C. §1395 et seq. The term does not include a contract issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees or combination thereof or for members or former members, or combination thereof, of the labor organizations.

f. "Service corporation" means any medical service corporation operating pursuant to the provisions of P.L.1940, c.74 (C.17:48A-1 et seq.), any hospital service corporation operating pursuant to the provisions of P.L.1938, c.366 (C.17:48-1 et al.), any health service corporation operating pursuant to the provisions of P.L.1985, c.236 (C.17:48E-1 et al.), or any similar organization which is authorized by law to provide health care services and supplies.

g. "Service corporation contract" means any group or individual subscriber contract issued by a service corporation.

3. Section 3 of P.L.1982, c.95 (C.17:35C-3) is amended to read as follows:

C.17:35C-3 Prohibited provisions.

3. a. No medicare supplement contract shall contain benefits which duplicate any benefits provided by medicare.

b. The commissioner may issue regulations that specify prohibited contract provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair or unfairly discriminatory to any person covered or proposed for coverage under a medicare supplement contract.

4. Section 5 of P.L.1982, c.95 (C.17:35C-5) is amended to read as follows:

C.17:35C-5 Regulations.

5. The commissioner shall promulgate regulations to effectuate and enforce the provisions of P.L.1982, c.95 (C. 17:35C-1 et seq.) and any regulations which are necessary to conform medicare supplement contracts and certificates with federal law. These regulations shall include, but not be limited to:

a. Establishment of minimum standards for benefits, claim payments, marketing and reporting practices and compensation arrangements;

b. Establishment of a uniform methodology for calculating and reporting loss ratios, and requiring refunds or credits if the contracts or certificates do not meet loss ratio requirements;

c. Establishment of a process for filing of all requests for premium increases and rate changes, which may include public hearings as determined appropriate by the commissioner prior to approval of any premium increases;

d. Assurance of access by the public to contract, premium and loss ratio information; and

e. Establishment of standards for Medicare Select contracts and certificates at such time as this State is authorized under federal law to authorize Medicare Select contracts and certificates.

5. Section 6 of P.L.1982, c.95 (C.17:35C-6) is amended to read as follows:

C.17:35C-6 Requirements for medicare supplement contract forms, rates.

6. a. No service corporation shall deliver or issue for delivery to a resident of this State a medicare supplement contract unless it has filed with the commissioner a copy of the contract or certificate and a copy of any application, rider and endorsement for use in connection with the issuance or renewal thereof.

(1) The commissioner may, at any time, notify the service corporation of his disapproval of any form filed pursuant to the provisions of this section on the ground that the form contains provisions which are unjust, unfair, inequitable, misleading, or contrary to law or to the public policy of this State and no service corporation shall use any form in this State which has been disapproved pursuant to this paragraph.

(2) Any disapproval shall be subject to review in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(3) The disapproval or the withdrawal of any form by the commissioner shall state in writing the grounds therefor in such detail as is reasonable to inform the service corporation of the reasons for withdrawal or disapproval.

b. Any service corporation providing medicare supplement benefits in this State shall file annually with the commissioner its rates, rating schedule and supporting documentation demonstrating that it is in compliance with the applicable loss ratio standards

of this State. All filings of rates and rating schedules shall demonstrate that the actual and expected losses in relation to premiums comply with the requirements of P.L.1982, c.95 (C.17:35C-1 et seq.) and any rule or regulation promulgated thereunder.

c. Medicare supplement contracts shall be expected to return to subscribers benefits which are reasonable in relation to the premium charged. The commissioner shall issue regulations to establish minimum standards for loss ratios of medicare supplement contracts on the basis of paid claim experience and written premiums in accordance with accepted actuarial principles and practices.

6. Section 7 of P.L.1982, c.95 (C.17:35C-7) is amended to read as follows:

C.17:35C-7 Outline of coverage.

7. a. In order to provide for full and fair disclosure in the sale of medicare supplement contracts, no medicare supplement contract or certificate shall be delivered or issued for delivery in this State, unless an outline of coverage is delivered to the applicant at the time application is made.

b. The commissioner shall prescribe the format and content of the outline of coverage required by subsection a. of this section. For the purposes of this section, "format" means style, arrangement and overall appearance, including such items as the size, color and prominence of the font used, paper size and weight and the arrangement of text and captions. The outline of coverage shall include:

(1) A description of the principal benefits and coverage provided in the contract;

(2) (Deleted by amendment, P.L.1992, c.144).

(3) A statement of the renewal provisions, including any reservation by the service corporation of a right to change premiums, and disclosure of the existence of any automatic renewal premium increases based on the subscriber's age; and

(4) A statement that the outline of coverage is a summary of the contract issued or applied for and that the contract should be consulted to determine governing contractual provisions.

c. The commissioner may require by regulation the publication of forms and an informational brochure with a standardized format and content, to serve as an aid in the selection of appropriate coverage, if any, by those eligible for medicare, and to aid the consumer in improving his understanding of medicare benefits. Except in the case of direct response solicitation service corpora-

tion contracts, the commissioner may require by regulation that the informational brochure be provided, concurrently with delivery of the outline of coverage, to all prospective subscribers eligible for medicare. With respect to direct response solicitation service corporation contracts, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective subscribers eligible for medicare, but in no event later than the time of contract delivery.

d. The commissioner may promulgate regulations for captions or notice requirements for all service corporation contracts sold to persons eligible for medicare, other than for medicare supplement contracts, to inform those prospective subscribers that the particular service corporation contract is not a medicare supplement contract.

e. The commissioner may further promulgate regulations to govern the full and fair disclosure of the information in connection with the replacement of service corporation contracts by persons eligible for medicare.

7. Section 8 of P.L.1982, c.95 (C.17:35C-8) is amended to read as follows:

C.17:35C-8 30-day examination period; refunds.

8. Medicare supplement contracts or certificates shall have a notice prominently printed on the first page of the contract or certificate or attached thereto stating in substance that the applicant shall have the right to return the contract or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the contract or certificate, the applicant is not satisfied for any reason. Refunds made pursuant to this section shall be made in a timely manner and shall be paid directly to the applicant.

C.17:35C-11 Filing of copy of advertising materials promoting medicare supplement contracts.

8. a. Every service corporation shall file with the Department of Insurance a copy of all advertising materials to be used in promoting medicare supplement contracts to which residents of this State will have access, and through which the service corporation intends, or by implication purports to the reasonable, targeted consumer its intent, to make such contracts available for purchase or enrollment in this State. The requirements of this section shall apply to all advertisements in any medium whether in print or by means of television or radio broadcast. Filings shall be made at

least 30 days prior to the date on which the advertisement is to be used in this State, or made accessible to residents of this State.

b. The commissioner may, in the public interest, promulgate regulations governing medicare supplement contract advertising including, but not limited to, specific filing procedures, standards upon which review may be based, celebrity endorsements, unfair practices and review and disapproval procedures.

c. Notwithstanding the provisions of subsection b. of this section, the commissioner may disapprove any advertisement at any time if he determines that the advertisement misrepresents the product, misleads the targeted consumer, uses a strategy which involves scare tactics, unnecessarily confusing data or representation, false or fraudulent statements or otherwise violates any applicable laws of this State or regulations promulgated thereunder.

C.17:35C-12 Penalties.

9. In addition to any other applicable penalties for violation of the provisions of R.S.17:17-1 et seq., the commissioner may require service corporations violating the provisions of P.L.1982, c.95 (C.17:35C-1 et seq.) to cease marketing any medicare supplement contract or certificate in this State which is related directly or indirectly to the violation, require that service corporation to take such action as is necessary to comply with the provisions of that act, or both.

10. This act shall take effect immediately.

Approved November 19, 1992.

CHAPTER 145

AN ACT concerning the consolidation or regionalization of certain local governmental functions and services, amending P.L.1977, c.435 and supplementing P.L.1973, c.208 (C.40:8A-1 et seq.) and P.L.1952, c.72 (C.40:48B-1 et seq.).

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

1. Section 24 of P.L.1977, c.435 (C.40:43-66.58) is amended to read as follows:

C.40:43-66.58 Recommendations in final report.

24. In its final report the consolidation commission may recommend:

a. That a referendum be held to submit to the registered voters of the participating municipalities the question of whether or not the participating municipalities shall be consolidated into a single new municipality pursuant to the plan of consolidation set forth in the report. In which case, the commission shall also recommend:

(1) The adoption of one of the plans or forms of government authorized under the "Optional Municipal Charter Law," the "commission form of government law," or the "municipal manager form of government law;" or,

(2) That the governing bodies of the participating municipalities shall petition the Legislature, pursuant to Article IV, Section VII, Paragraph 10, of the Constitution, for the enactment of the special charter set forth in the final report of the commission; or,

(3) That the plan or form of government of one of the participating municipalities be retained as the plan or form of government of the consolidated municipality.

b. That the participating municipalities not be consolidated into a single new municipality. In which case, the commission may, if it deems appropriate, make alternative findings and recommendations to the governing bodies of the participating municipalities, in lieu of political consolidation, concerning the consolidation or regionalization of separate municipal services and functions pursuant to any of the statutes of this State that authorize and permit joint action, consolidation or regionalization of municipal services and functions; provided, however, that in the case of a finding or recommendation concerning the consolidation or regionalization of law enforcement services and functions, the joint action, consolidation, or regionalization shall be accomplished in accordance with the provisions of the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et al.) or the "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.). Such alternative findings and recommendations may take either of the following forms:

(1) A recommendation for the consolidation or regionalization of specific functions and services, which may include a designation of which functions or services are to be consolidated or regionalized and a suggested schedule therefor; or,

(2) A recommended schedule for the staged regionalization or consolidation of the functions and services of the participating municipalities over some specific period of time leading to the reconsideration of the question of political consolidation at a later date.

C.40:8A-6.1 Contracts for joint provision of law enforcement services between local units.

2. Whenever two or more local units enter into a contract as provided in P.L.1973, c.208 (C.40:8A-1 et al.) for the joint provision of law enforcement services within their respective jurisdictions, the contract shall recognize and preserve the seniority, tenure, and pension rights of every full time law enforcement officer who is employed by each of the participating local units and who is in good standing at the time the ordinance authorizing the contract is adopted, and no such law enforcement officer shall be terminated except for cause. Nothing herein shall be construed to prevent or prohibit the merged entity from reducing force as provided by law for reasons of economy and efficiency.

To provide for the efficient administration and operation of the joint law enforcement services within the participating local units, the contract may provide for the appointment of a chief law enforcement officer. In such cases, the contract shall provide that any person who is serving as the chief law enforcement officer in one of the participating local units at the time the contract is adopted may elect either:

a. To accept a demotion of no more than one rank without any loss of seniority rights, impairment of tenure, or pension rights; or

b. To retire from service.

If the person elects retirement, he shall not be demoted but shall retain the rank of chief law enforcement officer and shall be given terminal leave for a period of one month for each five year period of past service as a law enforcement officer with the participating local unit. During the terminal leave, the person shall continue to receive full compensation and shall be entitled to all benefits, including any increases in compensation or benefits, that he may have been entitled to if he had remained on active duty.

Whenever the participating local units have adopted or are deemed to have adopted Title 11A of the New Jersey Statutes with regard to the provision of law enforcement services, and the contract provides for the appointment of a chief law enforcement officer, the position of chief law enforcement officer shall be in the career service.

C.40:48B-4.1 Contracts for joint provision of law enforcement services.

3. Whenever the governing bodies of two or more local units enter into a joint contract as provided in P.L.1952, c.72 (C.40:48B-1 et seq.) for the joint operation of law enforcement services within their respective jurisdictions, the joint contract shall recognize and preserve the seniority, tenure, and pension rights of every full time law enforcement officer who is employed by each of the participating local units and who is in good standing at the time the ordinance or resolution, as the case may be, authorizing the contract is adopted, and no such law enforcement officer shall be terminated except for cause; however, for reasons of economy and efficiency the contract may authorize a reduction in force.

Whenever the governing bodies of two or more local units enter into a joint contract as provided in P.L.1952, c.72 (C.40:48B-1 et seq.) for the joint operation of law enforcement services within their respective jurisdictions, and any one of the local units is operating under Title 11A of the New Jersey Statutes at the time of the contract, the other local unit or units shall be deemed to have adopted Title 11A of the New Jersey Statutes with regard to the provision of law enforcement services.

To provide for the efficient administration and operation of the joint law enforcement services within the participating local units, the joint contract may provide for the appointment of a chief law enforcement officer. In such cases, the joint contract shall provide that any person who is serving as the chief law enforcement officer in one of the participating local units at the time the joint contract is adopted may elect either:

a. To accept a demotion of no more than one rank without any loss of seniority rights, impairment of tenure, or pension rights; or

b. To retire from service.

If the person elects retirement, he shall not be demoted but shall retain the rank of chief law enforcement officer and shall be given terminal leave for a period of one month for each five year period of past service as a law enforcement officer with the participating local unit. During the terminal leave, the person shall continue to receive full compensation and shall be entitled to all benefits, including any increases in compensation or benefits, that he may have been entitled to if he had remained on active duty.

Whenever the participating local units have adopted or are deemed to have adopted Title 11A of the New Jersey Statutes with regard to the provision of law enforcement services, and the contract provides

for the appointment of a chief law enforcement officer, the position of chief law enforcement officer shall be in the career service.

C.40:48B-4.2 Merging of bargaining units.

4. Where bargaining units are merged which have contracts negotiated in accordance with the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) in existence, the terms and conditions of the existing contracts shall apply to the rights of the members of the respective bargaining units until a new contract is negotiated, reduced to writing and signed by the parties as provided pursuant to law and regulation promulgated thereunder.

5. This act shall take effect immediately.

Approved November 20, 1992.

CHAPTER 146

AN ACT to strengthen the laws prohibiting discrimination, amending P.L.1945, c.169 and supplementing Title 40 and Title 52 of the Revised Statutes

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

1. Section 3 of P.L.1945, c.169 (C.10:5-3) is amended to read as follows:

C.10:5-3 Findings, declarations.

3. The Legislature finds and declares that practices of discrimination against any of its inhabitants, because of race, creed, color, national origin, ancestry, age, sex, affectional or sexual orientation, marital status, familial status, liability for service in the Armed Forces of the United States, or nationality, are matters of concern to the government of the State, and that such discrimination threatens not only the rights and proper privileges of the inhabitants of the State but menaces the institutions and foundation of a free democratic State; provided, however, that nothing in this expression of policy prevents the making of legitimate dis-

tinctions between citizens and aliens when required by federal law or otherwise necessary to promote the national interest.

The Legislature further declares its opposition to such practices of discrimination when directed against any person by reason of the race, creed, color, national origin, ancestry, age, sex, affectional or sexual orientation, marital status, liability for service in the Armed Forces of the United States, or nationality of that person or that person's spouse, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers, in order that the economic prosperity and general welfare of the inhabitants of the State may be protected and ensured.

The Legislature further finds that because of discrimination, people suffer personal hardships, and the State suffers a grievous harm. The personal hardships include: economic loss; time loss; physical and emotional stress; and in some cases severe emotional trauma, illness, homelessness or other irreparable harm resulting from the strain of employment controversies; relocation, search and moving difficulties; anxiety caused by lack of information, uncertainty, and resultant planning difficulty; career, education, family and social disruption; and adjustment problems, which particularly impact on those protected by this act. Such harms have, under the common law, given rise to legal remedies, including compensatory and punitive damages. The Legislature intends that such damages be available to all persons protected by this act and that this act shall be liberally construed in combination with other protections available under the laws of this State.

2. Section 4 of P.L.1945, c.169 (C.10:5-4) is amended to read as follows:

C.10:5-4 Obtaining employment, accommodations and privileges without discrimination; civil right.

4. All persons shall have the opportunity to obtain employment, and to obtain all the accommodations, advantages, facilities, and privileges of any place of public accommodation, publicly assisted housing accommodation, and other real property without discrimination because of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, or sex, subject only to conditions and limitations applicable alike to all persons. This opportunity is recognized as and declared to be a civil right.

3. Section 2 of P.L.1972, c.114 (C.10:5-4.1) is amended to read as follows:

C.10:5-4.1 Construction of act.

2. All of the provisions of the act to which this act is a supplement shall be construed to prohibit any unlawful discrimination against any person because such person is or has been at any time handicapped or any unlawful employment practice against such person, unless the nature and extent of the handicap reasonably precludes the performance of the particular employment.

It shall be unlawful discrimination under the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) to discriminate against any buyer or renter because of the handicap of a person residing in or intending to reside in a dwelling after it is sold, rented or made available or because of any person associated with the buyer or renter.

4. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as follows:

C.10:5-5 Definitions.

5. As used in this act, unless a different meaning clearly appears from the context:

a. "Person" includes one or more individuals, partnerships, associations, organizations, labor organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and fiduciaries.

b. "Employment agency" includes any person undertaking to procure employees or opportunities for others to work.

c. "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

d. "Unlawful employment practice" and "unlawful discrimination" include only those unlawful practices and acts specified in section 11 of this act.

e. "Employer" includes all persons as defined in subsection a. of this section unless otherwise specifically exempt under another section of this act, and includes the State, any political or civil subdivision thereof, and all public officers, agencies, boards or bodies.

f. "Employee" does not include any individual employed in the domestic service of any person.

g. "Liability for service in the Armed Forces of the United States" means subject to being ordered as an individual or member of an organized unit into active service in the Armed Forces of the United States by reason of membership in the National Guard, naval militia or a reserve component of the Armed Forces of the United States, or subject to being inducted into such armed forces through a system of national selective service.

h. "Division" means the "Division on Civil Rights" created by this act.

i. "Attorney General" means the Attorney General of the State of New Jersey or his representative or designee.

j. "Commission" means the Commission on Civil Rights created by this act.

k. "Director" means the Director of the Division on Civil Rights.

l. "A place of public accommodation" shall include, but not be limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer camp, day camp, or resort camp, whether for entertainment of transient guests or accommodation of those seeking health, recreation or rest; any producer, manufacturer, wholesaler, distributor, retail shop, store, establishment, or concession dealing with goods or services of any kind; any restaurant, eating house, or place where food is sold for consumption on the premises; any place maintained for the sale of ice cream, ice and fruit preparations or their derivatives, soda water or confections, or where any beverages of any kind are retailed for consumption on the premises; any garage, any public conveyance operated on land or water, or in the air, any stations and terminals thereof; any bathhouse, boardwalk, or seashore accommodation; any auditorium, meeting place, or hall; any theatre, motion-picture house, music hall, roof garden, skating rink, swimming pool, amusement and recreation park, fair, bowling alley, gymnasium, shooting gallery, billiard and pool parlor, or other place of amusement; any comfort station; any dispensary, clinic or hospital; any public library; any kindergarten, primary and secondary school, trade or business school, high school, academy, college and university, or any educational institution under the supervision of the State Board of Education, or the Commissioner of Education of the State of New Jersey. Nothing herein contained shall be construed to include or to apply to any institution, bona fide club, or place of accommodation, which is in its nature distinctly private; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian insti-

tution, and the right of a natural parent or one in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed; nor shall anything herein contained be construed to bar any private secondary or post secondary school from using in good faith criteria other than race, creed, color, national origin, ancestry or affectional or sexual orientation in the admission of students.

m. "A publicly assisted housing accommodation" shall include all housing built with public funds or public assistance pursuant to P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303, P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184, and all housing financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof.

n. The term "real property" includes real estate, lands, tenements and hereditaments, corporeal and incorporeal, and leaseholds, provided, however, that, except as to publicly assisted housing accommodations, the provisions of this act shall not apply to the rental: (1) of a single apartment or flat in a two-family dwelling, the other occupancy unit of which is occupied by the owner as a residence or the household of the owner's family at the time of such rental; or (2) of a room or rooms to another person or persons by the owner or occupant of a one-family dwelling occupied by the owner or occupant as a residence or the household of the owner's or occupant's family at the time of such rental. Nothing herein contained shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, in the sale, lease or rental of real property, from limiting admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained. Nor does any provision under this act regarding discrimination on the basis of familial status apply with respect to housing for older persons.

o. "Real estate broker" includes a person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of promise or reasonable expectation thereof, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase, or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate, or solicits for prospective purchasers or assists or directs in the procuring of prospects or the negotiation or closing

of any transaction which does or is contemplated to result in the sale, exchange, leasing, renting or auctioning of any real estate, or negotiates, or offers or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon or transfer of any real estate for others; or any person who, for pecuniary gain or expectation of pecuniary gain conducts a public or private competitive sale of lands or any interest in lands. In the sale of lots, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

p. "Real estate salesperson" includes any person who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed by and operates under the supervision of a licensed real estate broker to sell or offer to sell, buy or offer to buy or negotiate the purchase, sale or exchange of real estate, or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate, or to lease or rent, or offer to lease or rent any real estate for others, or to collect rents for the use of real estate, or to solicit for prospective purchasers or lessees of real estate, or who is employed by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise to sell real estate, or any parts thereof, in lots or other parcels.

"Handicapped" means suffering from physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide dog, wheelchair, or other remedial appliance or device, or from any mental, psychological or developmental disability resulting from anatomical, psychological, physiological or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by

accepted clinical or laboratory diagnostic techniques. Handicapped shall also mean suffering from AIDS or HIV infection.

r. "Blind person" means any individual whose central visual acuity does not exceed 20/200 in the better eye with correcting lens or whose visual acuity is better than 20/200 if accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

s. "Guide dog" means a dog used to assist deaf persons or which is fitted with a special harness so as to be suitable as an aid to the mobility of a blind person, and is used by a blind person who has satisfactorily completed a specific course of training in the use of such a dog, and has been trained by an organization generally recognized by agencies involved in the rehabilitation of the blind or deaf as reputable and competent to provide dogs with training of this type.

t. "Guide or service dog trainer" means any person who is employed by an organization generally recognized by agencies involved in the rehabilitation of the blind, handicapped or deaf as reputable and competent to provide dogs with training, and who is actually involved in the training process.

u. "Housing accommodation" means any publicly assisted housing accommodation or any real property, or portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence or sleeping place of one or more persons, but shall not include any single family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

v. "Public facility" means any place of public accommodation and any street, highway, sidewalk, walkway, public building, and any other place or structure to which the general public is regularly, normally or customarily permitted or invited.

w. "Deaf person" means any person whose hearing is so severely impaired that the person is unable to hear and understand normal conversational speech through the unaided ear alone, and who must depend primarily on supportive device or visual communication such as writing, lip reading, sign language, and gestures.

x. "Atypical hereditary cellular or blood trait" means sickle cell trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic fibrosis trait.

y. "Sickle cell trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin S (sickle

hemoglobin) as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin S or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal proportions by standard chemical and physical analytic tests.

z. "Hemoglobin C trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin C as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin C or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in normal proportions by standard chemical and physical analytic tests.

aa. "Thalassemia trait" means the presence of the thalassemia gene which in combination with another similar gene results in the chronic hereditary disease Cooley's anemia.

bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene which in combination with another similar gene results in the chronic hereditary disease Tay-Sachs.

cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis gene which in combination with another similar gene results in the chronic hereditary disease cystic fibrosis.

dd. "Service dog" means any dog individually trained to a handicapped person's requirements including, but not limited to minimal protection work, rescue work, pulling a wheelchair or retrieving dropped items.

ee. "Qualified Medicaid applicant" means an individual who is a qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

ff. "AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control of the United States Public Health Service.

gg. "HIV infection" means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.

hh. "Affectional or sexual orientation" means male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, having a history thereof or being perceived, presumed or identified by others as having such an orientation.

ii. "Heterosexuality" means affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the other gender.

jj. "Homosexuality" means affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the same gender.

kk. "Bisexuality" means affectional, emotional or physical attraction or behavior which is directed towards persons of either gender.

ll. "Familial status" means being the natural parent of a child, the adoptive parent of a child, the foster parent of a child, having a "parent and child relationship" with a child as defined by State law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child, or any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

mm. "Housing for older persons" means housing:

(1) provided under any State or federal program that the Attorney General determines is specifically designed and operated to assist elderly persons (as defined in the State or federal program); or

(2) intended for, and solely occupied by persons 62 years of age or older; or

(3) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Attorney General shall adopt regulations which require at least the following factors:

(a) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(b) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

(c) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

Housing shall not fail to meet the requirements for housing for older persons by reason of: persons residing in such housing as of March 12, 1989 not meeting the age requirements of this subsection, provided that new occupants of such housing meet the age requirements of this subsection; or unoccupied units, pro-

vided that such units are reserved for occupancy by persons who meet the age requirements of this subsection.

5. Section 6 of P.L.1945, c.169 (C.10:5-6) is amended to read as follows:

C.10:5-6 Division on Civil Rights created; powers.

6. There is created in the Department of Law and Public Safety a division known as "The Division on Civil Rights" with power to prevent and eliminate discrimination in the manner prohibited by this act against persons because of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, or sex or because of their liability for service in the Armed Forces of the United States, by employers, labor organizations, employment agencies or other persons and to take other actions against discrimination because of race, creed, color, national origin, ancestry, marital status, sex, familial status or age or because of their liability for service in the Armed Forces of the United States, as herein provided; and the division created hereunder is given general jurisdiction and authority for such purposes.

6. Section 8 of P.L.1945, c.169 (C.10:5-8) is amended to read as follows:

C.10:5-8 Attorney General's powers and duties.

8. The Attorney General shall:

a. Exercise all powers of the division not vested in the commission.

b. Administer the work of the division.

c. Organize the division into sections, which shall include but not be limited to a section which shall receive, investigate, and act upon complaints alleging discrimination against persons because of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, or sex or because of their liability for service in the Armed Forces of the United States; and another which shall, in order to eliminate prejudice and to further good will among the various racial and religious and nationality groups in this State, study, recommend, prepare and implement, in cooperation with such other departments of the State Government or any other agencies, groups or entities both public and private, such educational and human relations programs as are consonant with the objectives of this act; and prescribe the organization of said sections and the duties of his subordinates and assistants.

d. Appoint a Director of the Division on Civil Rights, who shall act for the Attorney General, in the Attorney General's place and with the Attorney General's powers, which appointment shall be subject to the approval of the commission and the Governor, a deputy director and such assistant directors, field representatives and assistants as may be necessary for the proper administration of the division and fix their compensation within the limits of available appropriations. The director, deputy director, assistant directors, field representatives and assistants shall not be subject to the Civil Service Act and shall be removable by the Attorney General at will.

e. Appoint such clerical force and employees as the Attorney General may deem necessary and fix their duties, all of whom shall be subject to the Civil Service Act.

f. Maintain liaison with local and State officials and agencies concerned with matters related to the work of the division.

g. Adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this act.

h. Conduct investigations, receive complaints and conduct hearings thereon other than those complaints received and hearings held pursuant to the provisions of this act.

i. In connection with any investigation or hearing held pursuant to the provisions of this act, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person, under oath, and, in connection therewith, require the production for examination of any books or papers relating to any subject matter under investigation or in question by the division and conduct such discovery procedures which may include the taking of interrogatories and oral depositions as shall be deemed necessary by the Attorney General in any investigation. The Attorney General may make rules as to the issuance of subpoenas by the director. The failure of any witness when duly subpoenaed to attend, give testimony, or produce evidence shall be punishable by the Superior Court of New Jersey in the same manner as such failure is punishable by such court in a case therein pending.

j. Issue such publications and such results of investigations and research tending to promote good will and to minimize or eliminate discrimination because of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status or sex, as the commission shall direct, subject to available appropriations.

k. Render each year to the Governor and Legislature a full written report of all the activities of the division.

l. Appoint, subject to the approval of the commission, a panel of not more than five hearing examiners, each of whom shall be duly licensed to practice law in this State for a period of at least five years, and each to serve for a term of one year and until his successor is appointed, any one of whom the director may designate in his place to conduct any hearing and recommend findings of fact and conclusions of law. The hearing examiners shall receive such compensation as may be determined by the Attorney General, subject to available appropriations.

7. Section 1 of P.L.1954, c.198 (C.10:5-9.1) is amended to read as follows:

C.10:5-9.1 Enforcement of laws against discrimination in public housing and real property.

1. The Division on Civil Rights in the Department of Law and Public Safety shall enforce the laws of this State against discrimination in housing built with public funds or public assistance, pursuant to any law, and in real property, as defined in the law hereby supplemented, because of race, religious principles, color, national origin, ancestry, marital status, affectional or sexual orientation, familial status or sex. The said laws shall be so enforced in the manner prescribed in the act to which this act is a supplement.

8. Section 9 of P.L.1945, c.169 (C.10:5-10) is amended to read as follows:

C.10:5-10 Commission's powers and duties; local commissions.

9. The commission shall:

a. Consult with and advise the Attorney General with respect to the work of the division.

b. Survey and study the operations of the division.

c. Report to the Governor and the Legislature with respect to such matters relating to the work of the division and at such times as it may deem in the public interest.

The mayors or chief executive officers of the municipalities in the State may appoint local commissions on civil rights to aid in effectuating the purposes of this act. Such local commissions shall be composed of representative citizens serving without compensation. Such commissions shall attempt to foster through community effort or otherwise, good will, cooperation and concil-

iation among the groups and elements of the inhabitants of the community, and they may be empowered by the local governing bodies to make recommendations to them for the development of policies and procedures in general and for programs of formal and informal education that will aid in eliminating all types of discrimination based on race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status or sex.

9. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to read as follows:

C.10:5-12 Unlawful employment practices; discrimination.

11. It shall be an unlawful employment practice, or, as the case may be, an unlawful discrimination:

a. For an employer, because of the race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, sex or atypical hereditary cellular or blood trait of any individual, or because of the liability for service in the Armed Forces of the United States or the nationality of any individual, to refuse to hire or employ or to bar or to discharge or require to retire, unless justified by lawful considerations other than age, from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment; provided, however, it shall not be an unlawful employment practice to refuse to accept for employment an applicant who has received a notice of induction or orders to report for active duty in the armed forces; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification, reasonably necessary to the normal operation of the particular business or enterprise; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment or to promote any person over 70 years of age; provided further that it shall not be an unlawful employment practice for a club exclusively social or fraternal to use club membership as a uniform qualification for employment, or for a religious association or organization to utilize religious affiliation as a uniform qualification in the employment of clergy, religious teachers or other employees engaged in the religious activities of the association or organization, or in following the tenets of its religion in establishing and

utilizing criteria for employment of an employee; provided further, that it shall not be an unlawful employment practice to require the retirement of any employee who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policy-making position, if that employee is entitled to an immediate non-forfeitable annual retirement benefit from a pension, profit sharing, savings or deferred retirement plan, or any combination of those plans, of the employer of that employee which equals in the aggregate at least $27,000.00; and provided further that an employer may restrict employment to citizens of the United States where such restriction is required by federal law or is otherwise necessary to protect the national interest.

For the purposes of this subsection, a "bona fide executive" is a top level employee who exercises substantial executive authority over a significant number of employees and a large volume of business. A "high policy-making position" is a position in which a person plays a significant role in developing policy and in recommending the implementation thereof.

b. For a labor organization, because of the race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation or sex of any individual, or because of the liability for service in the Armed Forces of the United States or nationality of any individual, to exclude or to expel from its membership such individual or to discriminate in any way against any of its members, against any applicant for, or individual included in, any apprentice or other training program or against any employer or any individual employed by an employer; provided, however, that nothing herein contained shall be construed to bar a labor organization from excluding from its apprentice or other training programs any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of the particular apprentice or other training program.

c. For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment, or to make an inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation or sex or liability of any applicant for employment for service in the Armed Forces of the United States, or any intent to

make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

d. For any person to take reprisals against any person because that person has opposed any practices or acts forbidden under this act or because that person has filed a complaint, testified or assisted in any proceeding under this act or to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this act.

e. For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or to attempt to do so.

f. For any owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation directly or indirectly to refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any person in the furnishing thereof, or directly or indirectly to publish, circulate, issue, display, post or mail any written or printed communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, or privileges of any such place will be refused, withheld from, or denied to any person on account of the race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality of such person, or that the patronage or custom thereat of any person of any particular race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality is unwelcome, objectionable or not acceptable, desired or solicited, and the production of any such written or printed communication, notice or advertisement, purporting to relate to any such place and to be made by any owner, lessee, proprietor, superintendent or manager thereof, shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained herein shall be construed to bar any place of public accommodation which is in its nature reasonably restricted exclusively to individuals of one sex, and which shall include but not be limited to any summer camp, day camp, or resort camp, bathhouse, dressing room, swimming pool, gymnasium, comfort station, dispensary, clinic or hospital, or school or educational institution which is restricted exclusively to individuals of one sex, from refusing, withholding from or denying to any individual of the opposite sex any of the accommodations, advantages, facilities or privileges thereof on the basis of sex; provided further, that the foregoing limitation shall not apply to any restaurant as defined in R.S.33:1-1 or place where alcoholic beverages are served.

g. For the owner, lessee, sublessee, assignee or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, lease, assign, or sublease any real property or part or portion thereof, or any agent or employee of any of these:

(1) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, familial status or nationality of such person or group of persons;

(2) To discriminate against any person or group of persons because of the race, creed, color, national origin, marital status, sex, affectional or sexual orientation or familial status of such person or group of persons in the terms, conditions or privileges of the sale, rental or lease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith; or

(3) To print, publish, circulate, issue, display, post or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment or sublease of any real property or part or portion thereof, or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property, or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, familial status or nationality, or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied by individuals of one sex to any individual of the exclusively opposite sex on the basis of sex.

h. For any person, including but not limited to, any real estate broker, real estate salesperson, or employee or agent thereof:

(1) To refuse to sell, rent, assign, lease or sublease, or offer for sale, rental, lease, assignment, or sublease any real property or part or portion thereof to any person or group of persons or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any real property or part or portion thereof to any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of such person or group of persons, or to represent that any real property or portion thereof is not available for inspection, sale, rental, lease, assignment, or sublease when in fact it is so available, or otherwise to deny or withhold any real property or any part or portion of facilities thereof to or from any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of such person or group of persons;

(2) To discriminate against any person because of his race, creed, color, national origin, ancestry, marital status, familial status, sex or affectional or sexual orientation in the terms, conditions or privileges of the sale, rental, lease, assignment or sublease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith; or

(3) To print, publish, circulate, issue, display, post, or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection h., shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in

a dwelling or residential facility which is planned exclusively for and occupied exclusively by individuals of one sex to any individual of the opposite sex on the basis of sex.

i. For any person, bank, banking organization, mortgage company, insurance company or other financial institution, lender or credit institution to whom application is made for any loan or extension of credit including but not limited to an application for financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any real property or part or portion thereof or any agent or employee thereof:

(1) To discriminate against any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality of such person or group of persons or of the prospective occupants or tenants of such real property or part or portion thereof, in the granting, withholding, extending, modifying or renewing, or in the fixing of the rates, terms, conditions or provisions of any such loan, extension of credit or financial assistance or in the extension of services in connection therewith; or

(2) To use any form of application for such loan, extension of credit or financial assistance or to make record or inquiry in connection with applications for any such loan, extension of credit or financial assistance which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality or any intent to make any such limitation, specification or discrimination; unless otherwise required by law or regulation to retain or use such information; or

(3) To discriminate on the basis of familial status in any manner described in paragraph (1) or (2) of this subsection with respect to any real property.

j. For any person whose activities are included within the scope of this act to refuse to post or display such notices concerning the rights or responsibilities of persons affected by this act as the Attorney General may by regulation require.

k. For any real estate broker, real estate salesperson or employee or agent thereof or any other individual, corporation, partnership, or organization, for the purpose of inducing a transaction for the sale or rental of real property from which transaction such person or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color,

national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including, but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

l. For any person to refuse to buy from, sell to, lease from or to, license, contract with, or trade with, provide goods, services or information to, or otherwise do business with any other person on the basis of the race, creed, color, national origin, ancestry, age, sex, affectional or sexual orientation, marital status, liability for service in the Armed Forces of the United States, or nationality of such other person or of such other person's spouse, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers. This subsection shall not prohibit refusals or other actions (1) pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or (2) made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

m. For any person to:

(1) Grant or accept any letter of credit or other document which evidences the transfer of funds or credit, or enter into any contract for the exchange of goods or services, where the letter of credit, contract, or other document contains any provisions requiring any person to discriminate against or to certify that he, she or it has not dealt with any other person on the basis of the race, creed, color, national origin, ancestry, age, sex, affectional or sexual orientation, marital status, liability for service in the Armed Forces of the United States, or nationality of such other person or of such other person's spouse, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers.

(2) Refuse to grant or accept any letter of credit or other document which evidences the transfer of funds or credit, or refuse to enter into any contract for the exchange of goods or services, on the ground that it does not contain such a discriminatory provision or certification.

The provisions of this subsection shall not apply to any letter of credit, contract, or other document which contains any provision pertaining to employee-employer collective bargaining, a labor dispute

or an unfair labor practice, or made in connection with the protest of unlawful discrimination or an unlawful employment practice, if the other provisions of such letter of credit, contract; or other document do not otherwise violate the provisions of this subsection.

n. For any person to aid, abet, incite, compel, coerce, or induce the doing of any act forbidden by subsections l. and m. of section 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to do so. Such prohibited conduct shall include, but not be limited to:

(1) Buying from, selling to, leasing from or to, licensing, contracting with, trading with, providing goods, services, or information to, or otherwise doing business with any person because that person does, or agrees or attempts to do, any such act or any act prohibited by this subsection n.; or

(2) Boycotting, commercially blacklisting or refusing to buy from, sell to, lease from or to, license, contract with, provide goods, services or information to, or otherwise do business with any person because that person has not done or refuses to do any such act or any act prohibited by this subsection n.; provided that this subsection n. shall not prohibit refusals or other actions either pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

10. Section 13 of P.L.1945, c.169 (C.10:5-14) is amended to read as follows:

C.10:5-14 Investigation of complaint; Attorney General's duties.

13. After the filing of any complaint, the Attorney General shall cause prompt investigation to be made in connection therewith and advise the complainant of the results thereof. If the Attorney General shall determine after such investigation that probable cause exists for crediting the allegations of the complaint, the Attorney General shall immediately endeavor to eliminate the unlawful employment practice or the unlawful discrimination complained of by conference, conciliation and persuasion during a period terminating not later than 45 days from the date of the finding of probable cause. Neither the Attorney General nor any officer or employee of the division shall disclose any conversation between the Attorney General or a representative and the respondent or a representative at such conference, except that the Attorney General and any officer or employee may disclose the terms of a settlement offer to the complainant or other aggrieved person on whose behalf the complaint was filed.

C.10:5-12.4 Failure to use barrier free housing standards, unlawful discrimination.

11. A failure to design and construct any multi-family dwelling of four units or more in accordance with barrier free standards promulgated by the Commissioner of Community Affairs pursuant to section 5 of P.L.1975, c.217 (C.52:27D-123) and section 2 of P.L.1971, c.269 (C.52:32-5) shall be an unlawful discrimination. The Commissioner of Community Affairs shall ensure that standards established meet or exceed the standards established under the federal "Fair Housing Amendments Act of 1988," Pub. L.100-430. Whenever the Attorney General receives a complaint alleging an unlawful discrimination pursuant to this section, the Attorney General shall refer the complaint to the Commissioner of Community Affairs for a determination and report as to whether there is a violation of such standards. Following receipt of the report, a complaint alleging an unlawful discrimination pursuant to this section shall be investigated and prosecuted in accordance with the provisions of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.). Nothing in this section shall be construed to limit any enforcement authority of the Commissioner of Community Affairs or the Attorney General otherwise provided by law. Nothing in the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and P.L.1971, c.269 (C.52:32-4 et seq.) shall be deemed to limit the powers of the Attorney General under this act. The Attorney General and the Commissioner of Community Affairs shall adopt regulations to effectuate the purposes of this section.

C.10:5-12.5 Regulation of land use, housing, unlawful discrimination.

12. a. It shall be an unlawful discrimination for a municipality, county or other local civil or political subdivision of the State of New Jersey, or an officer, employee, or agent thereof, to exercise the power to regulate land use or housing in a manner that discriminates on the basis of race, creed, color, national origin, ancestry, marital status, familial status, sex, nationality or handicap.

b. Notwithstanding the provisions of section 12 of P.L.1945, c.169 (C.10:5-13) any person claiming to be aggrieved by an unlawful discrimination under this section shall enforce this section by private right of action in Superior Court. This section shall not apply to discrimination in housing owned or managed by a municipality, county or other local civil or political subdivision of the State of New Jersey where such discrimination is otherwise prohibited by section 11 of P.L.1945, c.169 (C.10:5-12).

C.10:5-9.2 Division on Civil Rights qualified as "certified agency."

13. The provisions of this amendatory and supplementary act, P.L.1992, c.146 (C.10:5-12.4 et al.), are intended to permit the Division on Civil Rights in the Department of Law and Public Safety to qualify as a "certified agency" within the meaning of the Federal Fair Housing Amendments Act, Pub.L. 100-430 (42 U.S.C.§3610 (f)), and shall be construed as consistent with that purpose. Nothing in this amendatory and supplementary act, P.L.1992, c.146 (C.10:5-12.4 et al.), shall be construed to permit conduct prohibited by the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), prior to the effective date of this act, nor is it intended to be construed to prohibit conduct now permitted.

14. This act shall take effect immediately.

Approved November 20, 1992.

CHAPTER 147

AN ACT concerning underground storage tanks used for storing heating oil, and amending P.L.1976, c.141 and P.L.1986, c.102.

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

1. Section 3 of P.L.1976, c.141 (C.58:10-23.11b) is amended to read as follows:

C.58:10-23.11b Definitions.

3. Unless the context clearly indicates otherwise, the following terms shall have the following meanings:

a. "Administrator" means the chief executive of the New Jersey Spill Compensation Fund;

b. "Barrel" means 42 United States gallons or 159.09 liters or an appropriate equivalent measure set by the director for hazardous substances which are other than fluid or which are not commonly measured by the barrel;

c. "Board" means a board of arbitration convened by the administrator to settle disputed disbursements from the fund;

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

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

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

g. "Director" means the Director of the Division of Taxation in the Department of the Treasury;

h. "Discharge" means any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous substances into the waters or onto the lands of the State, or into waters outside the jurisdiction of the State when damage may result to the lands, waters or natural resources within the jurisdiction of the State;

i. "Fair market value" means the invoice price of the hazardous substances transferred, including transportation charges; but where no price is so fixed, "fair market value" shall mean the market price as of the close of the nearest day to the transfer, paid for similar hazardous substances, as shall be determined by the taxpayer pursuant to rules of the director;

j. "Fund" means the New Jersey Spill Compensation Fund;

k. "Hazardous substances" means the "environmental hazardous substances" on the environmental hazardous substance list adopted by the department pursuant to section 4 of P.L.1983, c.315 (C.34:5A-4); such elements and compounds, including petroleum products, which are defined as such by the department, after public hearing, and which shall be consistent to the maximum extent possible with, and which shall include, the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 311 of the federal Water Pollution Control Act Amendments of 1972, Pub.L.92-500, as amended by the Clean Water Act of 1977, Pub.L.95-217 (33

U.S.C. §1251 et seq.); the list of toxic pollutants designated by Congress or the EPA pursuant to section 307 of that act; and the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 101 of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," Pub.L.96-510 (42 U.S.C. §9601 et seq.); provided, however, that sewage and sewage sludge shall not be considered as hazardous substances for the purposes of this act;

l. "Major facility" includes, but is not limited to, any refinery, storage or transfer terminal, pipeline, deep-water port, drilling platform or any appurtenance related to any of the preceding that is used or is capable of being used to refine, produce, store, handle, transfer, process or transport hazardous substances. A vessel shall be considered a major facility only when hazardous substances are transferred between vessels.

A facility shall not be considered a major facility for the purpose of this act unless it has total combined aboveground or buried storage capacity of:

(1) 20,000 gallons or more for hazardous substances which are other than petroleum or petroleum products, or

(2) 200,000 gallons or more for hazardous substances of all kinds.

In determining whether a facility is a major facility for the purposes of P.L.1976, c.141 (C.58:10-23.11 et seq.), any underground storage tank at the facility used solely to store heating oil for on-site consumption shall not be considered when determining the combined storage capacity of the facility.

For the purposes of this definition, "storage capacity" shall mean only that total combined capacity which is dedicated to, used for or intended to be used for storage of hazardous substances of all kinds. Where appropriate to the nature of the facility, storage capacity may be determined by the intended or actual use of open land or unenclosed space as well as by the capacities of tanks or other enclosed storage spaces;

m. "Natural resources" means all land, fish, shellfish, wildlife, biota, air, waters and other such resources owned, managed, held in trust or otherwise controlled by the State;

n. "Owner" or "operator" means, with respect to a vessel, any person owning, operating or chartering by demise such vessel; with respect to any major facility, any person owning such facility, or operating it by lease, contract or other form of agreement; with respect to abandoned or derelict major facilities, the person

who owned or operated such facility immediately prior to such abandonment, or the owner at the time of discharge;

o. "Person" means public or private corporations, companies, associations, societies, firms, partnerships, joint stock companies, individuals, the United States, the State of New Jersey and any of its political subdivisions or agents;

p. "Petroleum" or "petroleum products" means oil or petroleum of any kind and in any form, including, but not limited to, oil, petroleum, gasoline, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils, and substances or additives to be utilized in the refining or blending of crude petroleum or petroleum stock in this State; however, any compound designated by specific chemical name on the list of hazardous substances adopted by the department pursuant to subsection 3k. shall not be considered petroleum or a petroleum product for the purposes of this act, unless such compound is to be utilized in the refining or blending of crude petroleum or petroleum stock in this State;

q. "Taxpayer" means the owner or operator of a major facility subject to the tax provisions of this act;

r. "Tax period" means every calendar month on the basis of which the taxpayer is required to report under this act;

s. "Transfer" means onloading or offloading between major facilities and vessels, or vessels and major facilities, and from vessel to vessel or major facility to major facility, except for fueling or refueling operations and except that with regard to the movement of hazardous substances other than petroleum, it shall also include any onloading of or offloading from a major facility;

t. "Vessel" means every description of watercraft or other contrivance that is practically capable of being used as a means of commercial transportation of hazardous substances upon the water, whether or not self-propelled;

u. "Waters" means the ocean and its estuaries to the seaward limit of the State's jurisdiction, all springs, streams and bodies of surface or groundwater, whether natural or artificial, within the boundaries of this State;

v. "Act of God" means an act exclusively occasioned by an unanticipated, grave natural disaster without the interference of any human agency;

w. "Emergency response action" means those activities conducted by a local unit to clean up, remove, prevent, contain, or mitigate a discharge that poses an immediate threat to the environment or to the public health, safety, or welfare;

x. "Local unit" means any county or municipality, or any agency or other instrumentality thereof, or a duly incorporated volunteer fire, ambulance, first aid, emergency, or rescue company or squad.

2. Section 11 of P.L.1986, c.102 (C.58:10A-31) is amended to read as follows:

C.58:10A-31 Rules, regulations.

11. The commissioner may adopt, pursuant to the "Administrative Procedure Act," any rules and regulations in addition to those required pursuant to this act, necessary to carry out the provisions of this act, including rules and regulations imposing fees for the processing of initial registrations pursuant to section 3 of this act and for any renewal thereof, and for processing permits required pursuant to section 4 of this act.

Registration fees shall be established for subsequent registrations and shall not exceed the estimated yearly cost of implementing the provisions of this act. The commissioner may consider the size, contents and the location of the underground storage tanks in establishing these fees. The fee that may be imposed upon the owner or operator of a facility which comprises only two or more tanks used to store heating oil for on-site consumption in a residential building, where no individual tank has a capacity of more than 2,000 gallons, may not exceed $100 for that facility for an initial registration or a renewal thereof. These fees shall be deposited in the General Fund. The Legislature shall annually appropriate to the department an amount equivalent to the amount anticipated to be collected as fees charged under this section for the purposes of administering the provisions of this act.

3. This act shall take effect immediately.

Approved November 20, 1992.

CHAPTER 148

AN ACT concerning the realty transfer fee and the dedication and appropriation of certain revenues therefrom, supplementing Title 13 of the Revised Statutes, amending and supplementing P.L.1968, c.49 and amending P.L.1975, c.176.

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

C.13:19-16.1 "Shore Protection Fund" created.

1. a. There is created in the Department of the Treasury a special non-lapsing fund to be known as the "Shore Protection Fund." The monies in the fund are dedicated and shall only be used to carry out the purposes enumerated in subsection b. of this section. The fund shall be credited with all revenues collected and deposited in the fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8), all interest received from the investment of monies in the fund, and any monies which, from time to time, may otherwise become available for the purposes of the fund. Pending the use thereof pursuant to the provisions of subsection b. of this section, the 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 shall be credited to the fund for use as set forth in this act for other monies in the fund.

b. Monies deposited in the "Shore Protection Fund" shall be used for shore protection projects associated with the protection, stabilization, restoration or maintenance of the shore, including monitoring studies and land acquisition, consistent with the New Jersey Shore Master Plan prepared pursuant to section 5 of P.L.1978, c.157, and may include the nonfederal share of any State-federal project, provided however that the Commissioner of Environmental Protection may, pursuant to appropriations made by law, allocate monies deposited in the fund for shore protection projects of an emergency nature, in the event of storm, stress of weather or similar act of God.

C.46:15-10.2 Required provisions of annual appropriations act.

2. a. The annual appropriations act for each State fiscal year shall, without other conditions, limitations or restrictions on the following:

(1) credit amounts paid to the State Treasurer, if any, in payment of fees collected pursuant to section 3 of P.L.1968, c.49 (C.46:15-7), to the "Shore Protection Fund" created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), and the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320), pursuant to the requirements of section 4 of P.L.1968, c.49 (C.46:15-8);

(2) appropriate the balance of the "Shore Protection Fund" created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), for the purposes of that fund; and

(3) appropriate the balance of the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320), for the purposes of that fund.

b. If the requirements of subsection a. of this section are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate any of the requirements of subsection a. of this section, the Director of the Division of Budget and Accounting in the Department of the Treasury shall, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto, that violates any of the requirements of subsection a. of this section, certify to the Director of the Division of Taxation that the requirements of subsection a. of this section have not been met.

3. Section 3 of P.L.1968, c.49 (C.46:15-7) is amended to read as follows:

C.46:15-7 Realty transfer fees.

3. In addition to the recording fees imposed by section 2 of P.L.1965, c.123 (C.22A:4-4.1), a fee is imposed upon grantors, at the rate of $1.75 for each $500.00 of consideration or fractional part thereof recited in the deed; provided however, that on and after the tenth day following a certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2), the fee imposed shall be $0.50 for each $500.00 of consideration or fractional part thereof recited in the deed, which fee shall be collected by the county recording officer at the time the deed is offered for recording. For each $500.00 of consideration or fractional part thereof recited in the deed in excess of $150,000.00 an additional fee is imposed of $0.75; provided however, that on and after the tenth day following a certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2), no such fee shall be imposed.

Every deed subject to the additional fee required by this act, which is in fact recorded, shall be conclusively deemed to have been entitled to recording, notwithstanding that the amount of the

consideration shall have been incorrectly stated, or that the correct amount of such additional fee, if any, shall not have been paid, and no such defect shall in any way affect or impair the validity of the title conveyed or render the same unmarketable; but the person or persons required to pay said additional fee at the time of recording shall be and remain liable to the county recording officer for the payment of the proper amount thereof.

4. Section 4 of P.L.1968, c.49 (C.46:15-8) is amended to read as follows:

C.46:15-8 County, State sharing of fee proceeds.

4. The proceeds of the fees collected by the county recording officer, as authorized by this act, shall be accounted for and remitted to the county treasurer. An amount equal to 28.6% of the proceeds from the first $1.75 for each $500.00 of consideration or fractional part thereof recited in the deed so collected shall be retained by the county treasurer for the use of the county and the balance shall be paid to the State Treasurer for the use of the State; provided however, that on and after the tenth day following a certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2), 100.0% of the proceeds from the first $0.50 for each $500.00 of consideration or fractional part thereof recited in the deed so collected shall be retained by the county treasurer for the use of the county and no amount shall be paid to the State Treasurer for the use of the State. Payments shall be made to the State Treasurer on the tenth day of each month following the month of collection. Amounts, not in excess of $15,000,000, paid during the State fiscal year to the State Treasurer from the payment of fees collected by the county recording officer other than the additional fee of $0.75 for each $500.00 of consideration or fractional part thereof recited in the deed in excess of $150,000.00 shall be credited to the "Shore Protection Fund" created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), in the manner established under that section. All amounts paid to the State Treasurer in payment of the additional fee of $0.75 for each $500.00 of consideration or fractional part thereof recited in the deed in excess of $150,000.00 shall be credited to the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), in the manner established under section 20 thereof (C.52:27D-320).

5. Section 4 of P.L.1975, c.176 (C.46:15-10.1) is amended to read as follows:

C.46:15-10.1 Partial fee exemptions.

4. a. The following transfers of title to real property shall be exempt from payment of $1.25 per $500.00 of consideration or fractional part thereof of the fee imposed upon grantors by this act:

(1) The sale of any one- or two-family residential premises which are owned and occupied by a senior citizen, blind person, or disabled person who is the seller in such transaction; provided, however, that except in the instance of a husband and wife no exemption shall be allowed if the property being sold is jointly owned and one or more of the owners is not a senior citizen, blind person, or disabled person.

(2) The sale of low and moderate income housing.

b. Transfers of title to real property upon which there is new construction shall be exempt from payment of $1.00 for each $500.00 or fractional part thereof not in excess of $150,000.00.

c. The director shall promulgate rules, regulations and forms of certification or otherwise necessary to carry out the provisions of this section. No transfer shall be eligible for more than one exemption under this section. All fees collected on transfers subject to exemption under subsection a. of this section shall be remitted to the county treasurer for the use of the county. An amount equal to 66 2/3% of the proceeds from the fee imposed upon the consideration not in excess of $150,000.00 for transfers of real property upon which there is new construction, and an amount equal to 20% of the proceeds of the $2.50 fee imposed upon each $500.00 of consideration or fractional part thereof in excess of $150,000.00 for transfers of real property upon which there is new construction, shall be remitted to the county treasurer for the use of the county.

d. The balance of the fees collected on transfers subject to exemption under subsection b. of this section shall be remitted to the State Treasurer and shall be credited to the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), to be spent in the manner established under section 20 thereof (C.52:27D-320).

e. Subsections a. through d. of this section shall be without effect on and after the tenth day following a certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2).

6. Section 7 of P.L.1968, c.49 (C.46:15-11) is amended to read as follows:

C.46:15-11 Rules and regulations.

7. a. The Director of the Division of Taxation of the Department of the Treasury may prescribe such rules and regulations as the director may deem necessary to carry out the purposes of this act.

b. Any person aggrieved by any action of the Director of the Division of Taxation or county recording officer under P.L.1968, c.49 (C.46:15-5 et seq.), may appeal therefrom to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

c. The Director of the Division of Taxation shall, no later than five days after certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2), that the requirements of subsection a. of section 2 of P.L.1992, c.148 (C.46:15-10.2), have not been met or have been violated by an amendment or supplement to the annual appropriations act, notify the county recording officers and county treasurers of the several counties of such certification.

7. This act shall take effect immediately, section 2 shall apply to annual appropriations acts for fiscal years beginning after the enactment of this act and sections 1, 3, 4, 5 and 6 shall remain inoperative until July 1, 1993.

Approved November 20, 1992.

CHAPTER 149

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, 1993 and regulating the disbursement thereof," passed June 30, 1992 (P.L.1992, c.40).

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.1992, c.40, there are appropriated out of the General Fund the following sums for the purposes specified:

GENERAL FUND
STATE AID
22 DEPARTMENT OF COMMUNITY AFFAIRS
40 Community Development and Environmental Management
41 Community Development Management

04-8030 Local Government Services		$5,072,257
State Aid:		
Supplemental municipal property tax relief act hold-harmless formula aid	($4,903,810)	
Municipal aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) - hold-harmless aid.....	(103,784)	
Supplemental municipal property tax relief act-additional municipal aid - hold-harmless aid.....	(64,663)	

The amount hereinabove for Supplemental municipal property tax relief act hold-harmless formula aid shall be distributed by the Director of the Division of Local Government Services in the Department of Community Affairs, to those municipalities that will receive less Supplemental municipal property tax relief act-formula aid in State fiscal year 1993, based on the distribution pursuant to P.L.1991, c.63 (C.52:27D-118.32 et seq.) of the amount appropriated by P.L.1992, c.40, than they received in State fiscal year 1992, in amounts necessary to provide the same dollar amount of aid that was received by those municipalities in State fiscal year 1992. The director shall certify amounts to be distributed to each municipality from the Supplemental municipal property tax relief act hold-harmless formula aid appropriation and shall notify, within five business days of the effective date of this supplemental appropriation, each municipality of the amount of Supplemental municipal property tax relief act hold-harmless formula aid it will receive. Any municipality that has been notified that it will receive funds pursuant to this supplemental appropriation may anticipate the receipt of the amount of Supplemental municipal property tax relief act hold-harmless formula aid that shall be certified to it by the director and may file any amendment or correction in its local budget that may be required to properly reflect that State aid. Notwithstanding section 9 of P.L.1991, c.63 (C.52:27D-118.40) or any other law, rule or regulation to the contrary, funds

received by a municipality pursuant to this supplemental appropriation may be used during the current local budget year, subject to the limits on final appropriations pursuant to P.L.1976, c.68 (C.40A:40-45.1 et seq.), for any lawful purposes deemed appropriate by the municipal governing body. The director shall distribute the Supplemental municipal property tax relief act hold-harmless formula aid authorized by this act at the same time as the Supplemental municipal property tax relief act formula aid is distributed.

The amounts hereinabove for Municipal aid - hold-harmless aid and Supplemental municipal property tax relief act-additional municipal aid - hold-harmless aid shall be distributed by the Director of the Division of Local Government Services in the Department of Community Affairs, to any municipality that will receive less Municipal aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) and less Supplemental municipal property tax relief act-additional municipal aid pursuant to P.L.1991, c.63 (C.52:27D-118.32 et seq.) in State fiscal year 1993, based on the distribution of amounts appropriated by P.L.1992, c.40, than it received in State fiscal year 1992, in an amount necessary to provide the same dollar amount of aid that was received by that municipality in State fiscal year 1992. The director shall certify amounts to be distributed to each municipality from the Municipal aid - hold-harmless aid and Supplemental municipal property tax relief act-additional municipal aid - hold-harmless aid appropriations and shall notify, within five business days of the effective date of these supplemental appropriations, each municipality of the amount of Municipal aid - hold-harmless aid and Supplemental municipal property tax relief act-additional municipal aid - hold-harmless aid it will receive. Any municipality that has been notified that it will receive funds pursuant to these supplemental appropriations may anticipate the receipt of the amounts of Municipal aid - hold-harmless aid and Supplemental municipal property tax relief act-additional municipal aid - hold-harmless aid that shall be certified to it by the director and may file any amendment or correction in its local budget that may be required to properly reflect that State aid. The director shall distribute the Municipal aid - hold-harmless aid and Supplemental municipal property tax relief act-additional municipal aid - hold-harmless aid authorized by this act at or subsequent to the time as the Municipal aid and Supplemental municipal property tax relief act-additional municipal aid is distributed respectively.

2. The following provision is added in Section 1 of P.L.1992, c.40 (on page 165 of Senate Bill No. 1000(1R)), to read as follows:

PROPERTY TAX RELIEF FUND
STATE AID
22 DEPARTMENT OF COMMUNITY AFFAIRS
40 Community Development and Environmental Management
41 Community Development Management--State Aid

On or before February 15, 1993, the Director of the Division of Local Government Services in the Department of Community Affairs shall determine the amount of Supplemental municipal property tax relief act-formula aid to which each municipality is entitled in State fiscal year 1994 pursuant to P.L.1991, c.63 (C.52:27D-118.32 et seq.), and shall so notify each municipality.

3. The following provision is added in Section 1 of P.L.1992, c.40 (on page 36 of Senate Bill No. 1000(1R)), to read as follows:

GENERAL FUND
DIRECT STATE SERVICES
42 DEPARTMENT OF ENVIRONMENTAL PROTECTION AND ENERGY
40 Community Development and Environmental Management
42 Natural Resource Management

Notwithstanding the provisions of section 3 of P.L.1991, c.427 (C.13:1D-9.3) or any other law, rule or regulation to the contrary, the Commissioner of the Department of Environmental Protection and Energy may transfer or credit to the Division of Parks and Forestry an amount not to exceed $750,000 from savings achieved in fee-supported programs, excluding NJPDES, of the Department of Environmental Protection and Energy during Fiscal Year 1993 as a result of personnel vacancies and employee furlough programs, which amount shall be utilized by the Division of Parks and Forestry for the support of the programs administered by the division and for the purpose of ensuring that public access is maintained to State recreational facilities, including State parks and forests and public beaches, and that no such facilities are closed due to a lack of operating funds.

4. This act shall take effect immediately.

Approved November 23, 1992, override of the Governor's line-item veto passed on January 25, 1993 (see Assembly Concurrent Resolution No. 15 of 1992).

CHAPTER 150

AN ACT concerning litter abatement and the taxation of litter-generating products, and amending P.L.1985, c.533 and P.L.1986, c.187.

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

1. Section 6 of P.L.1985, c.533 (C.13:1E-99.1) is amended to read as follows:

C.13:1E-99.1 Tax on sales of litter-generating products.

6. a. There is levied upon each person engaged in business in the State as a manufacturer, wholesaler, or distributor of litter-generating products a tax of 3/100 of 1% (.0003) on sales of those products within the State, and each person engaged in business in the State as a retailer of litter-generating products a tax of 2.25/100 of 1% (.000225) on sales of those products within the State, except any retailer with less than $250,000.00 in annual retail sales of litter-generating products is exempt from this tax. A sale by a wholesaler or distributor to another wholesaler or distributor, a sale by a company to another company owned wholly by the same individuals or companies, or a sale by a wholesaler or distributor owned cooperatively by retailers to those retailers is not subject to tax under this act. For the purposes of this act, "retailer" includes restaurants one of the principal activities of which consists of selling for consumption off the premises of the restaurant a meal or food prepared and ready to be eaten.

The tax on the sale of litter-generating products imposed by this subsection shall expire December 31, 1995. However, this expiration shall not affect any obligation, lien or duty to pay taxes which may be due with respect to the imposition of any levy, or interest or penalties which may accrue by virtue of any assessment, which may be made with respect to taxes levied for any taxable year or part of a taxable year, prior to January 1, 1996, nor shall this expiration affect the legal authority to assess and collect the taxes which may be due and payable under section 6 of P.L.1985, c.533 (C.13:1E-99.1), as the case may be, together with such interest and penalties as would accrue thereon under section 6 of P.L.1985, c.533 (C.13:1E-99.1), nor shall this expiration invalidate any assessment or affect any proceeding for the enforcement thereof.

b. Every person subject to the tax imposed pursuant to this act shall file with the director a certificate of registration on a form

prescribed by the director. Any person who is registered under any law administered by the division or who is subject to and files returns under any of these laws shall not be required to comply with the provisions of this subsection.

c. Every person subject to this tax shall, on or before March 15 of each year, prepare and file a return, under oath, for the preceding calendar year with the director on forms and containing any information as the director shall prescribe. The return shall indicate the dollar value of the sales within the State of litter-generating products and at the same time the person shall pay the full amount of tax due.

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 whatever information may be available. Notice of the determination shall be given to the taxpayer liable for the payment of the tax. The determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 30 days after receiving notice of the determination, shall apply to the director for a hearing, or unless the director on his own motion shall redetermine the same. After the 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 tax 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 director determines that the failure to comply with any provision of this section was excusable under the circumstances, he may remit any part of the penalty as shall be appropriate under the 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 by this section, the director may:

(1) Delegate to any officer or employee of his division those powers and duties as he may deem necessary to carry out efficiently the provisions of this section, and the person or persons to whom the powers have been delegated shall possess and may exercise all of the powers and perform all of the duties delegated by the director;

(2) Prescribe and distribute all necessary forms for the implementation of this section; and

(3) Adopt any rules and regulations necessary for the implementation of this act.

h. The tax imposed by this section shall be governed in all respects by the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., unless otherwise provided by a specific provision of this section.

2. 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 non-lapsing, 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, all available moneys in the Clean Communities Account shall be appropriated annually solely for the following purposes and no others:

a. 5% of the estimated annual balance of the account shall be used for a State program of litter pickup and removal, of public education and information relating to litter abatement 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;

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;

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;

e. The Department of Environmental Protection shall develop model municipal and county litter control programs. A model county or municipal litter control program shall provide that funds distributed from the Clean Communities Account to a county or municipality shall be used solely to supplement existing litter pickup and removal activities, and that that portion of the litter picked up with State aid made available pursuant to this subsection which is recyclable shall be recycled.

(1) To be eligible for State aid under this section, a municipality or county must certify to the Department of Environmental Protection the adoption of one of the programs. Upon certification by the municipality or county of the enactment of an ordinance or resolution or regional plan establishing one of the model programs, the department shall distribute the State aid based upon the percentage distribution specified in this section subject to the appropriation made therefor. Failure by a municipality or county to certify to the department the adoption by resolution, ordinance, or regional plan, the required model program by a date to be determined by the department shall result in that municipality's or county's State aid being added to the total amount to be allocated among all eligible recipients during that year.

(2) Every county and municipality shall submit an annual report to the Department of Environmental Protection on the

implementation of the model program and the expenditure of funds. Failure to submit a report or submission of an unsatisfactory report shall result in a denial of future funds and an obligation to return the funds received.

(3) 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. 5% of the estimated annual balance of the account shall be used by the department for State administrative expenses and a State public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior;

g. The department shall annually submit a report to the Governor and the Legislature detailing the administration of and disbursements made from the Clean Communities Account during the previous calendar year, including the uses and expenditure of moneys appropriated to the department pursuant to subsections a. and f. of this section.

3. Section 7 of P.L.1986, c.187 (C.13:1E-99.8) is amended to read as follows:

C.13:1E-99.8 Additional duties.

7. In addition to the duties and responsibilities imposed pursuant to P.L.1985, c.533 (C.13:1E-99.1 et al.) and P.L.1989, c.108, the Department of Environmental Protection shall:

a. Coordinate the various industry and business organizations seeking to aid in the antilitter effort;

b. Conduct periodic litter surveys or random inspections in various parts of the State to ensure the satisfactory implementation of the model county and municipal litter control programs required pursuant to section 7 of P.L.1985, c.533 (C.13:1E-99.2);

c. Encourage and cooperate with all local voluntary and government antilitter campaigns attempting to focus public attention on the State litter pickup and removal program;

d. Investigate the availability of, and apply for, funds available from any private or public source to be used in the model county and municipal litter control programs;

e. Investigate the successful methods of litter pickup and removal programs in other states or jurisdictions, encourage the use of litter receptacles, and evaluate their possible incorporation into the New Jersey litter pickup and removal program.

4. Section 8 of P.L.1986, c.187 (C.13:1E-99.9) is amended to read as follows:

C.13:1E-99.9 Report on model county and municipal litter control programs.

8. The department shall report to the Governor and the Legislature on the success of the model county and municipal litter control programs in reducing litter in New Jersey not later than May 31 of each year.

5. This act shall take effect immediately, and shall be retroactive to December 30, 1991.

Approved November 24, 1992.

CHAPTER 151

AN ACT concerning fluid milk products and amending P.L.1964, c.62.

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

1. Section 23 of P.L.1964, c.62 (C.24:10-57.23) is amended to read as follows:

C.24:10-57.23 Container regulations.

23. Containers of milk, certified milk, Vitamin D milk, homogenized milk, low fat milk, protein fortified low fat milk, skim milk, protein fortified skim milk, nonfat milk, protein fortified nonfat milk, flavored milks and dairy drinks, buttermilk, cultured buttermilk, yogurt, eggnog, creams, half-and-half and all other fluid milk products designated by the department shall be marked with the name and address of the processor or the pasteurizing plant number as assigned by the department or the state of origin and the name and address of the distributor. All containers of fluid milk products, including those mentioned above, intended for sale to consumers, (except for those products which are sterilized and packaged in hermetically sealed containers), shall be marked with a legend "NOT TO BE SOLD AFTER" , or "SELL BY" , or any other clearly understandable legend approved by the department, followed or accompanied by the first three letters of the month where possible, but in no instance less than two letters, or numeri-

cal designation approved by the department to designate the month and the day of the month which shall be a date established by the processor and which shall be based on consideration of wholesomeness and consumer palatability of the product. If two letters are used the letters MR shall mean MARCH and MY shall mean MAY; JN shall mean JUNE and JL shall mean JULY. No fluid milk product listed in this section shall be sold or offered for sale after 11:59 p.m. of the date appearing on the containers so marked.

The processor, prior to determining the date beyond which any such fluid milk product may not be sold or offered for sale, shall notify the department of the intended "shelf-life expiration date" selected by him for such fluid milk product intended for sale. All data and material used by the processor or manufacturer in his determination of this date shall be made available to the commissioner upon request. If the data and material submitted does not, in the opinion of the commissioner, justify the "shelf-life expiration date", the commissioner shall prohibit the sale of the product until such time as satisfactory data is supplied or until a new "shelf-life expiration date" consistent with the data is applied to the product.

The department shall periodically review the keeping quality of milk and milk products by scientific shelf-life tests, recognizing the different methods of pasteurization, processing and packaging, to determine that shelf-life expiration dates stated on the containers assure the consumer of acceptable quality milk and milk products when kept under normal storage conditions. Samples for shelf-life evaluation will be obtained at the processing plant, from delivery trucks or from retail outlets. The temperature of the sample at the time of collection shall be officially recorded by the collector. Nothing herein contained shall be construed to prohibit the department from taking special samples for analysis and making special tests in order to assure all milk and milk products comply with the minimum standards of freshness, quality and palatability. In the event the department determines a processor's or a manufacturer's shelf-life for a given product is improper, the department shall immediately take such samples as are necessary for full and complete recheck of the shelf-life of the product. If the full and complete recheck confirms that the shelf-life of the product is improper, the department shall serve written notice on the processor or manufacturer and the processor or manufacturer immediately upon receipt of such notice shall alter the shelf-life expiration date of the product to comply with the department findings. Compliance shall be with the next process-

ing of the product after receipt of such department notice. This rule does not apply to containers of fluid milk products which are not to be sold in the State of New Jersey.

2. This act shall take effect immediately.

Approved November 24, 1992.

CHAPTER 152

AN ACT concerning immunity for certain emergency personnel and amending P.L.1987, c.116.

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

1. Section 7 of P.L.1987, c.116 (C.30:4-27.7) is amended to read as follows:

C.30:4-27.7 Immunity from liability.

7. a. A law enforcement officer, screening service or short-term care facility designated staff person or their respective employers, acting in good faith pursuant to this act who takes reasonable steps to assess, take custody of, detain or transport an individual for the purposes of mental health assessment or treatment is immune from civil and criminal liability.

b. An emergency services or medical transport person or their respective employers, acting in good faith pursuant to this act and pursuant to the direction of a person designated in subsection a. of this section, who takes reasonable steps to take custody of, detain or transport an individual for the purpose of mental health assessment or treatment is immune from civil and criminal liability.

For the purposes of this subsection, "emergency services or medical transport person" means a member of a first aid, ambulance, rescue squad or fire department, whether paid or volunteer, auxiliary police officer or paramedic.

2. This act shall take effect immediately.

Approved November 25, 1992.

CHAPTER 153

AN ACT concerning the use of protective helmets by motorcyclists and amending P.L.1967, c.237.

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

1. Section 6 of P.L.1967, c.237 (C.39:3-76.7) is amended to read as follows:

C.39:3-76.7 Protective helmets.

6. a. No person shall operate or ride upon a motorcycle unless he wears a securely fitted protective helmet of a size proper for that person and of a type approved by the director. Such a helmet must be equipped with either a neck or chin strap and be reflectorized on both sides thereof. The director is authorized and empowered to adopt rules and regulations covering the types of helmets and the specifications therefor and to establish and maintain a list of approved helmets which meet the specifications as established hereunder. For the purposes of this section, motorcycle shall not include any three-wheeled motor vehicle equipped with a single cab with glazing enclosing the occupant, seats similar to those of a passenger vehicle or truck, seat belts and automotive steering.

b. The director shall not assess motor vehicle points for the failure of a motorcycle operator or rider to wear a protective helmet.

2. This act shall take effect immediately.

Approved November 25, 1992.

CHAPTER 154

AN ACT concerning special registration plates and supplementing chapter 3 of Title 39 of the Revised Statues.

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

C.39:3-27.45 Special license plates for Silver Star medal holders.

1. a. Upon application of any person who is the holder of a Silver Star medal as certified on the applicant's DD-214 form or on a Certificate of Release or Discharge from Active Duty, the direc-

tor shall issue, for the motor vehicle owned or leased by the person, distinctive plates bearing a design approved by the director in addition to the registration number and other markings or identification prescribed by law. The plates shall bear the words "Silver Star" and depict the Silver Star emblem. There shall be no cost to the applicant for these special plates other than the fees otherwise prescribed by law for the registration of motor vehicles.

b. The surviving spouse of a former holder of the Silver Star who is eligible to operate a motor vehicle in this State under the provision of R.S.39:3-10 may retain the special license plates obtained by the deceased spouse pursuant to this section for display on a motor vehicle registered to the surviving spouse under the provisions of R.S.39:3-4.

c. The director shall promulgate rules and regulations governing the issuance and use of these registration plates.

2. This act shall become effective on the first day of the fifth month after enactment.

Approved November 25, 1992.

CHAPTER 155

AN ACT concerning programs for certain pre-school children and amending P.L.1981, c.415.

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

1. Section 3 of P.L.1981, c.415 (C.18A:46-6.2) is amended to read as follows:

C.18A:46-6.2 Programs for children below age 3.

3. The Department of Health in conjunction with the Departments of Education and Human Services shall provide, within the limits of funds appropriated to the Department of Health for these purposes, suitable programs for children below the age of 3 to prepare such children for the programs to be provided at age 3 pursuant to N.J.S.18A:46-13. Such services shall be provided according to rules promulgated by the Commissioner of Health after consultation with the Departments of Education and Human Services.

2. This act shall take effect on July 1, 1993.

Approved November 25, 1992.

CHAPTER 156

AN ACT concerning parole revocation and conditions and amending P.L.1979, c.441.

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

1. Section 15 of P.L.1979, c.441 (C.30:4-123.59) is amended to read as follows:

C.30:4-123.59 Parolee supervision; conditions.

15. a. Each parolee shall at all times remain in the legal custody of the Commissioner of Corrections, except that the commissioner, after providing notice to the Attorney General, may consent to the supervision of a parolee by the federal government pursuant to the Witness Security Reform Act, Pub.L.98-473 (18 U.S.C.§ 3251 et seq.). A parolee, except those under the Witness Security Reform Act, shall remain under the supervision of the Bureau of Parole of the Department of Corrections in accordance with the rules of the board.

b. Each parolee shall agree, as evidenced by his signature to abide by specific conditions of parole established by the appropriate board panel which shall be enumerated in writing in a certificate of parole and shall be given to the parolee upon release. Such conditions shall include, among other things, a requirement that the parolee conduct himself in society in compliance with all laws and refrain from committing any crime, a requirement that the parolee will not own or possess any firearm as defined in subsection f. of N.J.S.2C:39-1 or any other weapon enumerated in subsection r. of N.J.S.2C:39-1, a requirement that the parolee refrain from the use, possession or distribution of a controlled dangerous substance, controlled substance analog or imitation controlled dangerous substance as defined in N.J.S.2C:35-2 and N.J.S.2C:35-11, a requirement that the parolee obtain permission from his parole officer for any change in his residence, and a requirement that the parolee report at reasonable intervals to an assigned parole officer. In addition, based on prior history of the parolee, the member or board panel certifying parole release pursuant to section 11 may impose any other specific conditions of parole deemed reasonable in order to reduce the likelihood of recurrence of criminal behavior. Such special conditions may include, among other things, a requirement that the parolee make

full or partial restitution, the amount of which restitution shall be set by the sentencing court upon request of the board.

c. The appropriate board panel may in writing relieve a parolee of any parole conditions, and may permit a parolee to reside outside the State pursuant to the provisions of the Uniform Act for Out-of-State Parolee Supervision (N.J.S.2A:168-14 et seq.), the Interstate Compact on Juveniles, P.L.1955, c.55 (C.9:23-1 to 9:23-4), and, with the consent of the Commissioner of the Department of Corrections after providing notice to the Attorney General, the federal Witness Security Reform Act, if satisfied that such change will not result in a substantial likelihood that the parolee will commit an offense which would be a crime under the laws of this State. The appropriate board panel may revoke such permission, except in the case of a parolee under the Witness Security Reform Act, or reinstate relieved parole conditions for any period of time during which a parolee is under its jurisdiction.

d. The appropriate board panel may parole an inmate to any residential facility funded in whole or in part by the State if the inmate would not otherwise be released pursuant to section 9 without such placement. But if the residential facility provides treatment for mental illness or mental retardation, the board panel only may parole the inmate to the facility pursuant to the laws and admissions policies that otherwise govern the admission of persons to that facility, and the facility shall have the authority to discharge the inmate according to the laws and policies that otherwise govern the discharge of persons from the facility, on 10 days' prior notice to the board panel. The board panel shall acknowledge receipt of this notice in writing prior to the discharge. Upon receipt of the notice the board panel shall resume jurisdiction over the inmate.

e. The assigned parole officer shall provide assistance to the parolee in obtaining employment, education or vocational training or in meeting other obligations.

f. The board panel on juvenile commitments and the assigned parole officer shall insure that the least restrictive available alternative is used for any juvenile parolee.

g. If the board has granted parole to any inmate from a State correctional facility and the court has imposed a fine on such inmate, the appropriate board panel shall release such inmate on condition that he make specified fine payments to the Bureau of Parole. For violation of such conditions, or for violation of a spe-

cial condition requiring restitution, parole may be revoked only for refusal or failure to make a good faith effort to make such payment.

h. Upon collection of the fine the same shall be paid over by the Department of Corrections to the State Treasury.

2. Section 16 of P.L.1979, c.441 (C.30:4-123.60) is amended to read as follows:

C.30:4-123.60 Violation of parole conditions.

16. a. Any parolee who violates a condition of parole may be subject to an order pursuant to section 17 of this act providing for one or more of the following: (1) That he be required to conform to one or more additional conditions of parole; (2) That he forfeit all or a part of commutation time credits granted pursuant to R.S.30:4-140.

b. Any parolee who has seriously or persistently violated the conditions of his parole, may have his parole revoked and may be returned to custody pursuant to sections 18 and 19 of this act. The board shall be notified immediately upon the arrest or indictment of a parolee. The board shall not revoke parole on the basis of new criminal charges which have not resulted in a disposition at the trial level except that upon application by the prosecuting authority or the Chief of the Bureau of Parole, the chairman of the board or his designee may at any time detain the parolee and commence revocation proceedings pursuant to sections 18 and 19 of this act when he determines that the new charges against the parolee are of a serious nature and it appears that the parolee otherwise poses a danger to the public safety. In such case, a parolee shall be informed that, if he testifies at the revocation proceedings, his testimony and the evidence derived therefrom shall not be used against him in a subsequent criminal prosecution.

c. Any parolee who is convicted of a crime committed while on parole shall have his parole revoked and shall be returned to custody unless the parolee demonstrates, by clear and convincing evidence at a hearing pursuant to section 19 of this act, that good cause exists why he should not be returned to confinement.

3. This act shall take effect immediately.

Approved November 25, 1992.

CHAPTER 157

AN ACT concerning the acquisition of farmland preservation easements and other interests in real property by installment purchase agreements, amending P.L.1971, c.199 and P.L. 1983, c.32, and amending and supplementing P.L.1989, c.30.

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

1. Section 1 of P.L.1989, c.30 (C.40:12-16) is amended to read as follows:

C.40:12-16 Acquisition of open space areas and farmland; definitions.

1. The governing body of any county in which the voters of the county have approved, in a general or special election, a proposition authorizing the acquisition of lands for conservation as open space or as farmland, may annually raise by taxation, including for purpose of debt service payments on indebtedness issued for the acquisition of open space or farmland, a sum not to exceed the amount or rate set forth in the proposition approved by the voters, for the acquisition of land or water areas, and any existing improvements thereon, within the county for conservation as open space or as farmland. Amounts raised by taxation hereunder shall be deposited in a county open space and farmland preservation trust fund and shall be used exclusively for the acquisition of open space or farmland. Separate accounts may be created within the county open space and farmland preservation trust fund for the deposit of revenue to be expended for the acquisition of open space areas and for the deposit of revenue to be expended for the acquisition of farmland. Selection of open space for acquisition shall be in accordance with a park, recreational and open space plan prepared and adopted by the county. Revenue to be expended for the acquisition of farmland may be expended pursuant to a farmland preservation plan prepared and adopted by the county or pursuant to the provisions of the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et al.) or any other law enacted for the purpose of preserving farmland.

Whenever the county shall determine that it is necessary that any public utility facilities such as tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances of any public utility, as defined in R.S.48:2-13, which are now, or hereafter may be, located in, on, along, over or under any open space acquired by the county, should be removed from such area,

the public utility owning or operating such facilities shall relocate or remove the same in accordance with the open space plan prepared and adopted by the county; except that the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights acquired to accomplish such relocation or removal, less the cost of any lands or any rights of the public utility paid to the public utility in connection with the relocation or removal of such property, shall be ascertained and paid by the county as a part of the cost of the acquisition. In case of any such relocation or removal of facilities, as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location.

As used in this act:

"Acquisition" means the securing of a fee simple absolute or a lesser interest in land or water areas, including easements restricting development, by gift, purchase, devise, installment purchase agreement, or condemnation.

"Farmland" means land actively devoted to agricultural or horticultural use that is valued, assessed and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

"Open space" means land or water areas to be retained in a largely natural or undeveloped state, for purposes of, among other things, providing parkland or green spaces, protecting ecologically sensitive areas, preserving flora and wildlife, or protecting or preserving areas of scenic, historic and cultural value, while at the same time affording, whenever practicable, public outdoor recreational opportunities for the county's residents. "Open space" may include a recreational area such as a golf course if the acquisition subserves the objective of this act of protecting a largely undeveloped area from future development.

2. Section 2 of P.L.1989, c.30 (C.40:12-17) is amended to read as follows:

C.40:12-17 County preservation trust.

2. Land or water areas, and any improvements thereon, acquired pursuant to this act shall be held in a county open space

and farmland preservation trust and shall be used exclusively for purposes authorized under this act.

Upon a finding that the purposes of this act might otherwise be better served or that an open space or farmland area is required for another public use, which finding shall be set forth in a resolution adopted by the governing body of the county, the governing body may convey, through sale, exchange or other disposition, title to, or a lesser interest in, an open space or farmland area acquired under this act and described in the resolution, provided the governing body shall replace any open space or farmland conveyed under this section by land or water areas at least equal in size to the open space or farmland area conveyed, and any monies derived from the conveyance shall be deposited in the county open space and farmland preservation trust fund for use in the acquisition of open space or farmland. Conveyance shall be made in accordance with the "Local Lands and Buildings Law," P.L.1971, c.199 (C.40A:12-1 et seq.). In the event of conveyance by exchange, the land or water area to be transferred to the county open space and farmland preservation trust shall be at least equal in value to that of the property conveyed from the trust.

3. Section 3 of P.L.1989, c.30 (C.40:12-18) is amended to read as follows:

C.40:12-18 Apportionment of taxes for local levy.

3. Amounts raised by taxation for the acquisition of open space or farmland pursuant to this act shall be apportioned by the county board of taxation among the municipalities within the county in accordance with R.S.54:4-49. The amounts so apportioned shall be assessed, levied and collected in the same manner and at the same time as other county taxes. The tax collected hereunder shall be referred to as the "County Open Space and Farmland Preservation Trust Fund Tax."

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

C.40A:12-2 Definitions.

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

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

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

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

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

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

(f) "Personal property" shall mean any personal property necessary and incidental to the furnishing, refurnishing or refurbishing of a building.

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

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

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

5. Section 5 of P.L.1971, c.199 (C.40A:12-5) is amended to read as follows:

C.40A:12-5 Additional powers.

5. (a) Any county, by resolution, or any municipality, by ordinance, may provide for the acquisition of any real property, capital improvement, or personal property:

(1) By purchase, gift, devise, lease, exchange, condemnation, or installment purchase agreement;

(2) Subject to lawful conditions, restrictions or limitations as to its use by the county or municipality, provided the governing body accepts such lawful conditions, restrictions or limitations. When any county or municipality shall have acquired any real property, capital improvement or personal property upon any lawful condition, restriction or limitation, it is hereby authorized to take such steps as may be necessary and proper to the compliance by the county or municipality with such lawful conditions, restrictions or limitations;

(3) Whether the acquisition of any real property is by lease, purchase, installment purchase agreement or exchange, the governing body may require the construction or repair of any capital improvement as a condition of acquisition.

(b) To the extent that the acquisition is by an installment purchase agreement, the obligation of the county or municipality shall be valid and binding for the term thereof which shall not be greater than 40 years and shall not be otherwise subject to annual appropriation, and the authorization of such obligation shall not be subject to any of the provisions of the "Local Bond Law," (N.J.S.40A:2-1 et seq.), except that

(1) the repayment schedule of the principal shall be consistent with the requirements of N.J.S.40A:2-26 et seq., unless otherwise approved by the Local Finance Board within the Division of Local Government Services in the Department of Community Affairs,

(2) a supplemental debt statement reflecting the principal sum of the installment purchase agreement shall be filed consistent with the provisions of N.J.S.40A:2-10; and

(3) to the extent that such supplemental debt statement reflects debt in excess of the debt limitations imposed on counties or municipalities, as appropriate, by N.J.S.40A:2-6 and not otherwise within the exceptions contained in N.J.S.40A:2-7, the county or municipality must obtain the approval of the Local Finance Board.

(c) Any county or municipality having acquired any real property, capital improvement or personal property or any real estate or interest therein, which acquisition or estate or interest shall have become unsuited or inconvenient for the use for which it was acquired, may, at any time convert a portion or the whole thereof to any other public use unless otherwise provided by law or by the terms of acquisition.

(d) Whenever the governing body of any county or municipality to which there has been conveyed any real property, capital improvement, or personal property subject to such lawful conditions, restrictions or limitations shall by ordinance, in the case of a municipality, and by resolution, in the case of a county, determine that said real property, capital improvement or personal property can no longer be used advantageously for the purposes for which the same were acquired by the county or municipality, said county or municipality may, by ordinance or resolution, authorize the sale or exchange pursuant to section 13 of this act of the interest of the county or municipality in said real property, capital improvement or personal property.

Whenever the county or municipality, by resolution or ordinance, as the case may be, determines that property, which has been acquired by purchase, gift, devise, lease, exchange or otherwise for a nominal or no consideration for a specific purpose, or subject to lawful conditions, restrictions or limitations as to its use, can no longer be used for the purposes for which acquired, it may offer or reconvey said property to the original grantor or his heirs for a similar or no consideration, prior to other disposition pursuant to section 13 of this act.

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

C.4:1C-32 Conveyance of assessment 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 and the board 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:

(1) If a schedule of installments is agreed upon, the State Comptroller shall retain in the fund , or the governing body shall retain, an amount of money sufficient to pay the landowner pursuant to the schedule;

(2) The landowner shall receive annually interest on any unpaid balance remaining after the date of settlement. The interest shall accrue at a rate established in the installment contract.

C.40:12-16.1 Adoption of prioritized list of eligible farmland.

7. The county agriculture development board of a county in which the voters of the county have approved, in a general or special election, a proposition authorizing the acquisition of lands for conservation as open space or as farmland pursuant to P.L.1989, c.30 (C.40:12-16 et seq.) shall, pursuant to the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), adopt a prioritized list of farmland eligible for acquisition of development easements thereon by installment purchase agreements pursuant to the provisions of P.L.1992, c.157 (C.40:12-16.1 et al.) if the county intends to acquire development easements on farmland in that manner. The governing body of the county shall annually appropriate from the county open space and farmland preservation trust fund such amounts as it may deem necessary to finance the acquisition of development easements on farmland within that county by installment purchase agreement.

8. This act shall take effect immediately and shall retrospectively apply to any county whose voters have approved a proposition to acquire open space or farmland prior to the effective date of this act.

Approved November 25, 1992.

CHAPTER 158

AN ACT concerning immunity for school employees who report instances of possible drug abuse and amending P.L.1987, c.387 and P.L.1971, c.414.

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

1. Section 6 of P.L.1987, c.387 (C.18A:40A-13) is amended to read as follows:

C.18A:40A-13 Immunity for personnel.

6. No action of any kind in any court of competent jurisdiction shall lie against any teaching staff member, including a substance awareness coordinator, any school nurse or other educational personnel, medical inspector, examining physician or any other officer, agent or any employee of the board of education or personnel of the emergency room of a hospital because of any action taken by virtue of the provisions of this act, provided the skill and care given is that ordinarily required and exercised by other such teaching staff members, nurses, educational personnel, medical inspectors, physicians or other officers, agents, or any employees of the board of education or emergency room personnel.

2. Section 7 of P.L.1987, c.387 (C.18A:40A-14) is amended to read as follows:

C.18A:40A-14 Civil immunity for reporting.

7. Any teacher, guidance counselor, school psychologist, school nurse, substance awareness coordinator or other educational or noneducational personnel, employed by or in any of the public or private schools of this State, who in good faith reports a pupil to the principal or his designee or to the medical inspector or school physician or school nurse in an attempt to help such pupil cure his abuse of substances as defined in section 2 of this act, shall not be liable in civil damages as a result of making any such report.

Nothing in this section is intended to preclude the protections provided in section 2 of P.L.1971, c.414 (C.2A:62A-4) or otherwise provided by law.

3. Section 2 of P.L.1971, c.414 (C.2A:62A-4) is amended to read as follows:

C.2A:62A-4 School personnel not liable for civil damages under certain circumstances.

2. Any teacher, guidance counselor, psychologist, registered nurse or other educational or noneducational personnel employed by or in any of the public or private schools of this State who in good faith reports a person to the principal or his designee or to

the medical inspector or school physician or school nurse in an attempt to help such person cure his dependency upon or illegal use of controlled dangerous substances as defined in P.L.1970, chapter 226, section 2 (C.24:21-2), or such chemical or chemical compound as defined in P.L.1965, chapter 41, section 1 (C.2A:170-25.9), shall not be liable in civil damages as a result of making any such report.

4. This act shall take effect immediately.

Approved November 25, 1992.

CHAPTER 159

AN ACT concerning the school election and budget calendar and revising 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:14-2 is amended to read as follows:

Annual school elections; time of holding.

18A:14-2. An annual school election shall be held in each type II local district, on the third Tuesday in April. Whenever such date falls on a legal holiday the election shall be held on the following day.

2. Section 21 of P.L.1990, c.52 (C.18A:7D-26) is amended to read as follows:

C.18A:7D-26 Notification of maximum amount of aid payable.

21. Annually, within seven days following the transmittal of the budget message to the Legislature by the Governor pursuant to section 11 of P.L. 1944, c. 112 (C. 52:27B-20), the commissioner shall notify each district of the maximum amount of aid payable to the district under the provisions of P.L.1990, c.52 (C.18A:7D-1 et al.) in the succeeding year and shall notify each district that is subject to the provisions of section 85 of P.L.1990, c.52 (C.18A:7D-28) of the district's maximum permissible local levy budget for the succeeding year. The actual aid payment to each district shall be determined after the district's budget is adopted.

3. Section 22 of P.L.1990, c.52 (C.18A:7D-27) is amended to read as follows:

C.18A:7D-27 Proposed budgets to commissioner.

22. Annually, on or before March 8, local boards of education shall submit to the commissioner a copy of their proposed budgets for the next school year. The commissioner shall review each item of appropriation within the current expense and capital outlay budgets and shall determine the adequacy of the budgets with regard to the annual reports submitted pursuant to section 11 of P.L.1975, c.212 (C.18A:7A-11) and such other criteria as may be established by the State board.

4. Section 12 of P.L.1968, c.253 (C.18A:6-62) is amended to read as follows:

C.18A:6-62 Annual budget; preparation, adoption, funding.

12. The representative assembly shall annually, on or before March 8, adopt a budget for the ensuing fiscal year, which shall contain the estimated cost of providing each service or program, and submit such budget within three days of adoption to the county superintendent for approval.

By January 15 prior to the adoption of the budget the board shall notify each member board of education of the fees to be charged for each service and program for the ensuing school year and of the method by which the commission expenses shall be funded.

The commission expenses may be paid from one or more of the following sources:

a. unappropriated balances from the prebudget year;

b. anticipated surpluses to be generated by fees for programs or services;

c. payments by member districts;

d. anticipated miscellaneous revenues.

If payments shall be made by member districts to pay for all or part of the commission expenses, each member district's share shall be determined as the proportion which the total public school enrollment in the school district on the last school day prior to October 16 of the year in which the budget is made bears to the total public school enrollment for all member districts on the last school day prior to October 16 or in any other manner agreed to by two-thirds of the members of the representative assembly. Payment of the member district's share of the commission expense, when so determined, shall be an obligation of a

member school district, and payments shall be made during the school year for which such budget shall have been made in a manner determined by the representative assembly.

5. Section 15 of P.L.1987, c.399 (C.18A:7A-48) is amended to read as follows:

C.18A:7A-48 Elections.

15. At the April school election in the fourth year following the creation of a State-operated school district, nine board members shall be elected from among the 15 appointed board members, three to serve a one year term, three to serve a two year term, and three to serve a three year term. If there are not nine members from the 15 appointed members who are willing to run for election, the commissioner shall retain the right to appoint the remaining members of the board. Following the election of the board, the State district superintendent may bring matters before the board for a vote; however the State district superintendent shall retain veto power until such time as the State board determines that local control should be reestablished. In each subsequent year, three board members will be elected from the community at large.

6. Section 17 of P.L.1987, c.399 (C.18A:7A-50) is amended to read as follows:

C.18A:7A-50 Budget, development, presentation.

17. The State district superintendent of a State-operated school district shall develop a budget on or before the fourth Tuesday in March and shall present this budget to the board of education to elicit the board's comments and recommendations. This budget shall conform in all respects with the requirements of chapter 22 of Title 18A of the New Jersey Statutes and shall be subject to the limitations on spending by local school districts otherwise required by P.L.1990, c.52 (C.18A:7D-1 et al.).

7. Section 18 of P.L.1987, c.399 (C.18A:7A-51) is amended to read as follows:

C.18A:7A-51 Public hearing.

18. Upon the preparation of its budget, the State district superintendent shall fix a date, place and time for the holding of a public hearing upon the budget and the amounts of money necessary to be appropriated for the use of the public schools for the ensuing school year, and the various items and purposes for

which the same are to be appropriated, which hearing shall be held between the fourth Tuesday in March and April 8. Notice of the hearing, contents of the notice and the format and purpose of the hearing shall be as provided in N.J.S.18A:22-11, N.J.S.18A:22-12 and N.J.S.18A:22-13.

8. Section 19 of P.L.1987, c.399 (C.18A:7A-52) is amended to read as follows:

C.18A:7A-52 Determination of amount of appropriation for following school year.

19. a. After the public hearing provided for by section 18 of this amendatory and supplementary act but not later than April 8, the State district superintendent shall fix and determine the amount of money necessary to be appropriated for the ensuing school year and shall certify the amounts to be raised by special district tax for school purposes as well as the sum necessary for interest and debt redemption, if any, to the county board of taxation 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. Within 15 days after the certification by the State district superintendent, the governing body of the municipality or municipalities comprising the district shall notify the State district superintendent of its intent to appeal to the commissioner the amount determined to be necessary to be appropriated for each item appearing in the proposed budget. The commissioner, upon receipt of the appeal from the governing body of the municipality or municipalities comprising the district and upon completion of the hearing process, shall determine the amount necessary for the district to provide a thorough and efficient educational program including the implementation of the plan to correct deficiencies.

b. Notwithstanding that the State-operated district shall receive State education aid for its budget as prepared by the State district superintendent and as approved by the commissioner pursuant to subsection a. of this section, the governing body of the municipality or municipalities comprising the district may apply to the Director of the Division of Local Government Services in the Department of Community Affairs for a determination that the local share of revenues needed to support the district's budget results in an unreasonable tax burden. The director's findings of an unreasonable tax burden in a State-operated school district may be based on the overall school, county and municipal tax

rates including any overlapping obligation of the community, cash deficit, insufficient percentage of tax collections, insufficient collection of other revenues, overanticipation of the revenues of prior years, nonliquidation of interfund transfers, reliance on emergency authorizations, continual rollover of tax anticipation notes, or other factors indicating a constrained ability to raise sufficient revenues to meet its budgetary requirements. In addition, the director's review may include but need not be limited to an analysis of the ratable base of the community, the per capita income of the residents of the district and the percentage of residents on a fixed income, cash reserves and receivables of the district including the availability of any deferred tax, the ability of the community to dispose of property for which no public purpose is anticipated and all other current revenue raising capacity including procedures for collection which may permit greater anticipation of revenue.

c. Based upon his review, the director shall certify the amount of revenues which can be raised locally to support the budget of the State-operated district. Any difference between the amount which the director certifies and the total amount of local revenues required by the budget approved by the commissioner shall be paid by the State in the fiscal year in which the expenditures are made, subject to the availability of appropriations.

9. N.J.S.18A:13-8 is amended to read as follows:

Boards of education of regional districts; membership; apportionment.

18A:13-8. The board of education of a regional district shall consist of nine members unless it consists of more than nine constituent districts, in which case the membership shall be the same as the number of constituent districts, plus one. If there are nine or less constituent districts, the members of the board of education of the regional district shall be apportioned by the county superintendent or county superintendents of the county or counties in which the constituent districts are situate, among said districts as nearly as may be according to the number of their inhabitants except that each constituent district shall have at least one member.

In making the apportionment of the membership of a regional board of education among the several school districts uniting to create a regional school district having nine or less constituent districts, as required by section 18A:13-36, there shall be subtracted from the number of inhabitants of a constituent school district, as shown by the last federal census officially promul-

gated in this State, the number of such inhabitants who according to the records of the Federal Bureau of the Census were patients in, or inmates of, any State or federal hospital or prison, or who are military personnel stationed at, or civilians residing within the limits of, any United States Army, Navy or Air Force installation, located in such constituent school district.

If there are more than nine constituent districts, the members on the board shall be apportioned among the constituent districts and the weight of their votes in all proceedings of the board shall be determined by the appropriate county superintendent or superintendents through the following procedure:

a. The number of inhabitants of each constituent district shall be determined as shown by the last federal census officially promulgated in this State.

b. A representative ratio shall be calculated by adding the number of inhabitants of all constituent districts and dividing the sum by the board size.

c. All constituent districts shall be listed in ascending order of their number of inhabitants. If the first constituent district in said list has a number of inhabitants which is less than the representative ratio, it shall be combined with the constituent district contiguous to it having the smallest number of inhabitants. This process shall be repeated for each successively larger constituent district or combination of constituent districts until all remaining constituent districts or combinations of constituent districts shall have a number of inhabitants equal to, or exceeding the representative ratio. The districts formed in this manner shall be known as representative districts.

d. There shall be established a priority list according to the method of equal proportions for the apportionment of the members of the regional district board of education among the representative districts.

e. The members of the regional district board of education shall be apportioned among the representative districts according to the method of equal proportions, and where a representative district is composed of more than one constituent district, members shall be elected at large from within the representative district.

f. The number of inhabitants of each representative district shall be divided by the number of members assigned to that district to find the number of inhabitants per members.

g. The vote to be cast by each member of the regional district board of education in all proceedings of the board shall be determined by dividing the number of inhabitants per member in the

representative district from which the member is elected by the representative ratio for the regional district, and rounding off the quotient to the nearest tenth of a full vote.

Wherever any statute or bylaw of the board requires decision in any matter by vote of a majority of the board members, or of the members present, this shall be interpreted as meaning a majority of the weighted votes of all members, or of the members present, as the case may be.

h. Whenever the above reapportionment procedure is used for a regional district having more than nine constituent districts, the terms of office of all incumbent board of education members shall terminate on the day on which the annual organization meeting of the board is held pursuant to N.J.S.18A:13-12 following certification by the county superintendent of the representative districts and the number of members to be elected from each; provided, that if the reapportionment results in any representative district retaining its former boundaries and the same number of board members, that the members elected from such a district shall serve the full term for which they were elected. All other board members shall be elected in an election to be held on the third Tuesday in April at least 60 days following certification by the county superintendent for initial terms of office to be designated in advance by the county superintendent so that, as nearly as possible, one-third of the board shall be elected in each future year, to serve for three-year terms, and where a representative district has more than one member, their terms of office shall terminate in different years.

If any constituent district is a consolidated district, or a district composed of two or more municipalities, and

a. The original district is a limited purpose regional district and such constituent district has such population that it is entitled to have apportioned to it a number of members equal to or greater than the number of districts making up such constituent district, or

b. The regional district is an all purpose district,

the membership of the regional board of education from such district shall be apportioned, and from time to time reapportioned, and the members from the district shall be elected, as their respective terms expire, in the same manner as though each of the municipalities making up such constituent district were constituent districts of the regional district.

10. N.J.S.18A:13-10 is amended to read as follows:

Annual elections.

18A:13-10. The board of education of each regional district shall provide for the holding of an annual school election for the regional district on the third Tuesday in April.

At such election there shall be elected for terms of three years, beginning on any day of the first or second week following such election, the members of the regional boards of education to succeed those members of the board whose terms shall expire in that year, except as is in this chapter provided for the election of the first elected members of the board.

11. N.J.S.18A:13-19 is amended to read as follows:

Procedure following school budget rejection.

18A:13-19. If the voters reject any of the items submitted at the annual election, within two days thereafter the board of education of the regional district shall certify to the governing body of each municipality, included within the regional district, the item or items so rejected, and such governing bodies, after consultation with the board, and no later than May 14 shall determine the amount or amounts which they deem necessary to provide a thorough and efficient system of schools in the regional district for the ensuing school year and cause the same to be certified by the respective municipal clerks to the board of education of the regional district.

12. N.J.S.18A:22-7 is amended to read as follows:

Budgets; preparation.

18A:22-7. The board of education of every school district having a board of school estimate shall prepare and deliver to each member of the board of school estimate, on or before the fourth Tuesday in March in each year, and the board of education of every other school district shall prepare a budget for the school district for the ensuing year, on or before the fourth Tuesday in March.

13. N.J.S.18A:22-10 is amended to read as follows:

Fixing date, etc., for public hearing.

18A:22-10. Upon the preparation of its budget, each board of education shall fix a date, place and time for the holding of a public hearing upon said budget and the amounts of money necessary to be appropriated for the use of the public schools for the ensuing school year and the various items and purposes for which the same are to be appropriated. In districts having a board of school estimate, the hear-

ing shall be held before the board of school estimate between the fourth Tuesday in March and April 8 and in districts having no board of school estimate the hearing shall be held before the board of education between the fourth Tuesday in March and April 8.

14. N.J.S.18A:22-14 is amended to read as follows:

Board of school estimate of type I district to determine appropriation amount.

18A:22-14. At or after said public hearing but not later than April 8, the board of school estimate of a type I district shall fix and determine by official action taken at a public meeting of the board the amount of money necessary to be appropriated for the use of the public schools in the district for the ensuing school year, exclusive of the amount which shall have been apportioned to it by the commissioner, and shall make two certificates of such amount signed by at least three members of the board, one of which shall be delivered to the board of education and the other to the governing body of the district.

Within 15 days after receiving such certificate the board of education shall notify the board of school estimate and governing body of the district if it intends to appeal to the commissioner the board of school estimate's determination as to the amount of money necessary to be appropriated for the use of the public schools of the district for the ensuing school year.

15. N.J.S.18A:22-26 is amended to read as follows:

Board of school estimate of type II district to determine appropriation amount.

18A:22-26. At or after said public hearing but not later than April 8, the board of school estimate of a type II district having a board of school estimate shall fix and determine by a recorded roll call majority vote of its full membership the amount of money necessary to be appropriated for the use of the public schools in such district for the ensuing school year, exclusive of the amount which shall be apportioned to it by the commissioner for said year and shall make a certificate of such amount signed by at least a majority of all members of such board, which shall be delivered to the board of education and a copy thereof, certified under oath to be correct and true by the secretary of the board of school estimate, shall be delivered to the county board of taxation on or before April 15 in each year and a duplicate of such certificate shall be delivered to the board or governing body of each of the municipalities within the territorial limits of the

district having the power to make appropriations of money raised by taxation in the municipalities or political subdivisions and to the county superintendent of schools and such amount shall be assessed, levied and raised under the procedure and in the manner provided by law for the levying and raising of special school taxes voted to be raised at an annual or special election of the legal voters in type II districts and shall be paid to the treasurer of school moneys of the district for such purposes.

Within 15 days after receiving such certificate the board of education shall notify the board of school estimate and governing body of each municipality within the territorial limits of the school district if it intends to appeal to the commissioner the board of school estimate's determination as to the amount of money necessary to be appropriated for the use of the public schools of the district for the ensuing school year.

16. N.J.S.18A:22-37 is amended to read as follows:

Determination by municipalities.

18A:22-37. If the voters reject any of the items submitted at the annual school election, the board of education shall deliver the proposed school budget to the governing body of the municipality, or of each of the municipalities included in the district within two days thereafter. The governing body of the municipality, or of each of the municipalities, included in the district shall, after consultation with the board, and by May 14, determine the amount which, in the judgment of said body or bodies, is necessary to be appropriated, for each item appearing in such budget, to provide a thorough and efficient system of schools in the district, and certify to the county board of taxation the totals of the amount so determined to be necessary for each of the following:

a. Current expenses of schools;

b. Vocational evening schools or classes;

c. Evening schools or classes for foreign-born residents;

d. Appropriations to capital reserve fund; or

e. Any capital project, the cost whereof is to be paid directly from taxes, which amounts shall be included in the taxes to be assessed, levied and collected in such municipality or municipalities for such purposes.

Within 15 days after the governing body of the municipality or of each of the municipalities included in the district shall make such certification to the county board of taxation, the board of education shall notify such governing body or bodies if it intends

to appeal to the commissioner the amounts which said body or bodies determined to be necessary to be appropriated for each item appearing in the proposed school budget.

17. Section 1 of P.L.1975, c.132 (C.18A:27-3.1) is amended to read as follows:

C.18A:27-3.1 Evaluation of nontenured teaching staff.

1. Every board of education in this State shall cause each nontenure teaching staff member employed by it to be observed and evaluated in the performance of her or his duties at least three times during each school year but not less than once during each semester. Said evaluations are to take place before May 16 each year. The evaluations may cover that period between May 16 of one year and May 16 of the succeeding year excepting in the case of the first year of employment where the three evaluations must have been completed prior to May 16. The number of required observations and evaluations may be reduced proportionately when an individual teaching staff member's term of service is less than one academic year. Each evaluation shall be followed by a conference between that teaching staff member and his or her superior or superiors. The purpose of this procedure is to recommend as to reemployment, identify any deficiencies, extend assistance for their correction and improve professional competence.

18. Section 1 of P.L.1971, c.436 (C.18A:27-10) is amended to read as follows:

C.18A:27-10 Written offer or notice to nontenure teachers.

1. On or before May 31 in each year, every board of education in this State shall give to each nontenure teaching staff member continuously employed by it since the preceding September 30 either

a. A written offer of a contract for employment for the next succeeding year providing for at least the same terms and conditions of employment but with such increases in salary as may be required by law or policies of the board of education, or

b. A written notice that such employment will not be offered.

19. Section 12 of P.L.1971, c.271 (C.18A:46-40) is amended to read as follows:

C.18A:46-40 Itemized statement of current expenses.

12. On or before the fourth Tuesday in March in each year the board of education of a county special services school district shall prepare and deliver to each member of the board of school

estimate an itemized statement of the amount of money estimated to be necessary for the current expenses of and for repairing and furnishing schools or building of the county special services school district for the ensuing school year.

20. Section 13 of P.L.1971, c.271 (C.18A:46-41) is amended to read as follows:

C.18A:46-41 Appropriation for current expenses.

13. a. Between the fourth Tuesday in March and April 8 in each year the board of school estimate shall fix and determine by official action taken at a public meeting of the board the amount of money necessary to be appropriated for the use of the county special services school district for the ensuing school year.

b. The board of school estimate shall, on or before the last named date, make two certificates of the amount, signed by at least three of its members, one of which certificates shall be delivered to the board of education of the county special services school district and the other to the board of chosen freeholders of the county.

c. The board of chosen freeholders shall, upon receipt of the certificate, appropriate, in the same manner as other appropriations are made by it, the amount so certified, and the amount shall be assessed, levied, and collected in the same manner as moneys appropriated for other purposes in the county are assessed, levied, and collected, unless such amount is to be raised as otherwise hereinafter provided in this act.

21. N.J.S.18A:54-28 is amended to read as follows:

Estimate by board of education.

18A:54-28. On or before the fourth Tuesday in March in each year the board of education of a county vocational school district shall prepare and deliver to each member of the board of school estimate an itemized statement of the amount of money estimated to be necessary for the current expenses of and for repairing and furnishing schools or buildings of the county vocational school district for the ensuing school year.

22. N.J.S.18A:54-29 is amended to read as follows:

Fixing and determining amounts necessary to be raised.

18A:54-29. Between the fourth Tuesday in March and April 8 in each year the board of school estimate shall fix and determine by action taken at a public meeting of the board the amount of money

necessary to be appropriated for the use of the county vocational school district for the ensuing school year exclusive of the amount to be received from the State as provided in section 18A:54-32.

23. R.S.54:4-45 is amended to read as follows:

Certified statement of amount of moneys appropriated for school purposes.

54:4-45. The clerk or other proper officer of each school district in which the annual appropriations for school purposes to be raised by taxation, are voted by the inhabitants of the school district, shall, on or before May 14 in each year, transmit to the county board of taxation a certified statement of the amount of moneys appropriated for school purposes, which shall include interest to be paid, principal payments of indebtedness, and sinking fund requirements for the school year for which such appropriations are made, to be raised by taxation in the school district.

24. R.S.54:4-52 is amended to read as follows:

Table of aggregates for county; prepared by county board.

54:4-52. The county board of taxation shall, on or before May 15, fill out a table of aggregates copied from the duplicates of the several assessors and the certifications of the Director of the Division of Taxation relating to second-class railroad property, and enumerating the following items:

(1) The total number of acres and lots assessed;

(2) The value of the land assessed;

(3) The value of the improvements thereon assessed;

(4) The total value of the land and improvements assessed, including:

a. Second-class railroad property;

b. All other real property.

(5) The value of the personal property assessed, stating in separate columns:

a. Value of household goods and chattels assessed;

b. Value of farm stock and machinery assessed;

c. Value of stocks in trade, materials used in manufacture and other personal property assessed under section 54:4-11;

d. Value of all other tangible personal property used in business assessed.

(6) Deductions allowed, stated in separate columns:

a. Household goods and other exemptions under the provisions of section 54:4-3.16 of this Title;

b. Property exempted under section 54:4-3.12 of this Title.

(7) The net valuation taxable;

(8) Amounts deducted under the provisions of sections 54:4-49 and 54:4-53 of this Title or any other similar law (adjustments resulting from prior appeals);

(9) Amounts added under any of the laws mentioned in subdivision 8 of this section (like adjustments);

(10) Amounts added for equalization under the provisions of sections 54:3-17 to 54:3-19 of this Title;

(11) Amounts deducted for equalization under the provisions of sections 54:3-17 to 54:3-19 of this Title;

(12) Net valuation on which county, State and State school taxes are apportioned;

(13) The number of polls assessed;

(14) The amount of dog taxes assessed;

(15) The property exempt from taxation under the following special classifications:

a. Public school property;

b. Other school property;

c. Public property;

d. Church and charitable property;

e. Cemeteries and graveyards;

f. Other exemptions not included in foregoing classifications subdivided showing exemptions of real property and exemptions of personal property;

g. The total amount of exempt property.

(16) State road tax;

(17) State school tax;

(18) County taxes apportioned, exclusive of bank stock taxes;

(19) Local taxes to be raised, exclusive of bank stock taxes, subdivided as follows:

a. District school tax;

b. Other local taxes.

(20) Total amount of miscellaneous revenues, including surplus revenue appropriated, for the support of the taxing district budget;

(21) District court taxes;

(22) Library tax;

(23) Bank stock taxes due taxing district;

(24) Tax rate for local taxing purposes to be known as general tax rate to apply per $100.00 of valuation.

The county board of taxation shall revise the table of aggregates on or before September 10 to include the tax rate for local taxing purposes for municipalities having adopted the State fiscal year.

In addition to the above such other matters may be added, or such changes in the foregoing items may be made, as may from time to time be directed by the Director of the Division of Taxation. The forms for filling out tables of aggregates shall be prescribed by the director and sent by him to the county treasurers of the several counties to be by them transmitted to the county board of taxation. Such table of aggregates shall be correctly added by columns and shall be signed by the members of the county board of taxation and shall within three days thereafter be transmitted to the county treasurer who shall file the same and forthwith cause it to be printed in its entirety and shall transmit certified copy of same to the Director of the Division of Taxation, the State Auditor, the Director of the Division of Local Government Services in the Department of Community Affairs, the clerk of the board of freeholders, and the clerk of each municipality in the county.

25. R.S.54:4-55 is amended to read as follows:

Corrected duplicates returned to taxing districts; lists remain on record.

54:4-55. The county board of taxation shall, on or before May 27 in each year, and, in municipalities operating on the State fiscal year, again on or before November 1, cause the corrected, revised and completed duplicates, certified by it to be a true record of the taxes assessed, to be delivered to the collectors of the various taxing districts in the county, and the tax lists shall remain in the office of the board as a public record. Thereafter neither the assessor nor the collector shall make or cause to be made any change or alteration in the tax duplicate except as may be provided by law.

26. This act shall take effect immediately.

Approved November 30, 1992.

CHAPTER 160

AN ACT providing for health care system reform and revising parts of the statutory law.

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

C.26:2H-18.51 Findings, declarations.

1. The Legislature finds and declares that:

a. It is of paramount public interest for the State to take all necessary and appropriate actions to ensure access to and the provision of high quality and cost-effective hospital care to its citizens.

b. The highly regulated system under which acute care hospitals have been forced to operate in New Jersey since the enactment of P.L.1978, c.83 was intended to control health care costs and promote the efficient and effective delivery of health care; however, because health care costs have continued to increase at an alarming rate, the State clearly needs to eliminate the current Diagnosis Related Group (DRG) rate setting methodology it initiated in 1980 and move in the direction of a deregulated hospital reimbursement system which will provide hospitals with a truly competitive market environment and strong incentives to offer only those services which meet the demands of health care purchasers and consumers.

c. Access to quality health care shall not be denied to residents of this State because of their inability to pay for the care; there are many residents of this State who cannot afford to pay for needed hospital care and in order to ensure that these persons have equal access to hospital care, it is necessary to provide disproportionate share hospitals with a charity care subsidy supported by a broad-based funding mechanism.

d. In order to provide financial support to those hospitals with a disproportionately large number of Medicare patients, it is also necessary to provide for a Medicare hospital subsidy, also supported by a broad-based funding mechanism, as a temporary means to distribute payments to disproportionate share hospitals which experience a significant shortfall in their revenues due to the difference between the hospital's actual rates for health care services and the rates paid by the Medicare program for those services.

e. There is a need to continue this State's current system of providing disproportionate share payments to hospitals in the State, and in order to ensure continuity of these payments, this act establishes the Health Care Subsidy Fund.

f. In order to ensure a smooth transition to a new, deregulated hospital reimbursement system that significantly alters the State's policy towards the delivery of health care, it is necessary to establish an independent commission which is not tied to past practices of hospital rate regulation.

C.26:2H-18.52 Definitions.

2. As used in sections 1 through 17 of this act:

"Administrator" means the administrator of the Heath Care Subsidy Fund appointed by the New Jersey Essential Health Services Commission.

"Charity care" means care provided at disproportionate share hospitals that may be eligible for a charity care subsidy pursuant to this act.

"Charity care subsidy" means the component of the disproportionate share payment that is attributable to care provided at a disproportionate share hospital to persons unable to pay for that care, as provided in this act.

"Commission" means the New Jersey Essential Health Services Commission established pursuant to section 4 of this act.

"Disproportionate share hospital" means a hospital designated by the Commissioner of Human Services pursuant to Pub.L.89-97 (42 U.S.C.§1396a et seq.) and Pub.L.102-234.

"Disproportionate share payment" means those payments made by the Division of Medical Assistance and Health Services in the Department of Human Services to hospitals defined as disproportionate share hospitals by the Commissioner of Human Services in accordance with federal laws and regulations applicable to hospitals serving a disproportionate number of low income patients.

"Fund" means the Health Care Subsidy Fund in the New Jersey Essential Health Services Commission established pursuant to section 8 of this act.

"Hospital" means a general acute care hospital licensed by the Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et al.).

"Medicaid" means the New Jersey Medical Assistance and Health Services Program in the Department of Human Services established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

"Medicare" means the program established pursuant to Pub.L.89-97 (42 U.S.C. §1395 et seq.).

"Other uncompensated care" means all costs not reimbursed by hospital payers excluding charity care, graduate medical education, discounts, bad debt and reduction in Medicaid payments.

"Poverty level" means the official poverty level based on family size established and adjusted under Section 673(2) of Subtitle B, the "Community Services Block Grant Act," Pub.L. 97-35 (42 U.S.C. §9902(2)).

"Preliminary cost base" means the preliminary cost base defined in section 2 of P.L.1971, c.136 (C.26:2H-2), as determined by the Hospital Rate Setting Commission.

C.26:2H-18.53 Revenue cap.

3. a. For the period January 1, 1993 to December 31, 1993, hereinafter referred to as the "transition year," the Hospital Rate Setting Commission shall establish a revenue cap for each hospital whose rates had been established prior to this period by the Hospital Rate Setting Commission under the diagnosis related group methodology pursuant to P.L.1978, c.83. The Hospital Rate Setting Commission shall establish the revenue cap effective January 1, 1993.

The revenue cap shall establish the maximum amount a hospital may collect in revenues in 1993 from all payers, but shall not include payments from the fund. The revenue cap shall be based upon the same financial elements used to prepare the preliminary cost base for 1992, but shall not include any amounts provided in 1992 for a subsidy to Blue Cross and Blue Shield of New Jersey, Inc. and for patient appeals. The revenue cap shall include:

(1) a component for a hospital's bad debt as determined by the hospital's payment for bad debt from the New Jersey Health Care Trust Fund in 1992 pursuant to P.L.1991, c.187 (C.26:2H-18.24 et al.), but the total amount allowed for bad debt plus the amount a hospital is eligible to receive from the fund for its charity care subsidy shall not exceed the total amount of uncompensated care payments the hospital received in 1992 from the New Jersey Health Care Trust Fund;

(2) the hospital specific amount agreed to by a hospital and the Hospital Rate Setting Commission pursuant to the 1990 voluntary settlement program (N.J.A.C.8:31B-3.65); and

(3) an amount to be determined by the Hospital Rate Setting Commission which represents a hospital's share of the total outstanding reconciliation amounts as of December 31, 1992, including any reasonably projected reconciliation amounts for calendar year 1992, which total amount shall be adjusted so that a hospital's revenue cap does not exceed the hospital's preliminary cost base for 1992.

A hospital shall continue to provide any public health services which were formerly supported by grant funds but whose costs were included in that hospital's preliminary cost base for 1992 and shall provide for its regional hemophilia center and regional maternal and child health consortia, as applicable.

b. The department shall provide for an audit of a hospital's revenues for 1993 in a time frame established by the department.

c. A hospital whose revenues exceeded its revenue cap during 1993 shall be liable to a civil penalty of payment of an amount not to exceed 1.5 times the amount of revenue in excess of the revenue cap.

The civil penalty provided for in this section shall be recovered in an administrative proceeding held pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C. 52:14B-1 et seq.). Any monies recovered pursuant to this penalty shall be deposited in the fund.

d. In order to minimize the disruption in the transition year, any discounts negotiated between hospitals and non-governmental third party payers shall reflect cost savings resulting from the efficient use of resources and not merely cost shifts from one payer to another. The final rate shall be mutually agreeable to both parties.

e. In the event that the revenues collected by a hospital during the transition year are insufficient, the State shall not be liable for any deficiency.

C.26:2H-18.54 New Jersey Essential Health Services Commission.

4. a. There is established in the Executive Branch of the State Government, the New Jersey Essential Health Services Commission. 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, 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 Commissioners of Health, Human Services and Insurance, or their designees, who shall serve ex officio and eight public members to be appointed by the Governor with the advice and consent of the Senate, no more than four of whom shall be of the same political party. Three of the public members shall have expertise in the area of hospital financing, three of the public members shall have experience in the delivery of health care services or in health insurance, and two of the public members shall be health care consumers and not health care providers. To the extent possible, the public members shall be representative of the various geographic regions of the State.

c. The Governor shall appoint the public members within 60 days of the effective date of this act.

d. The term of office of each public member shall be three years, except that of the members first appointed two shall be appointed for a term of one year, three for a term of two years and three for a term of three years. A vacancy shall be filled for an unexpired term in the manner provided for the original appointment. A member may be removed from office by the Governor, for good cause.

e. The members of the commission shall annually elect a chairman and a vice-chairman from among the public 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.

f. A majority of members of the commission shall constitute a quorum and no action of the commission shall be taken except upon the vote of a majority of the members present.

g. The public members of the commission shall receive compensation of $150 per day for their services and shall be entitled to reimbursement for reasonable expenses incurred in the performance of their duties.

C.26:2H-18.55 Duties of commission.

5. The commission shall:

a. Administer the fund and establish a mechanism to allocate monies received from the Commissioner of Labor pursuant to section 29 of P.L.1992, c.160 (C.43:21-7b) to the appropriate accounts in the fund as specified in this act;

b. Establish eligibility determination and claims processing systems for the charity care component of the disproportionate share subsidy, including the development of uniform forms for determining eligibility and submitting claims. The commission may contract with a private claims administrator or processor for the purpose of processing hospital claims for charity care pursuant to this act;

c. Establish a schedule of payments for reimbursement of the charity care component of the disproportionate share payment for services provided to emergency room patients who do not require those services on an emergency basis;

d. Develop and provide for the implementation by January 1, 1994 of the New Jersey SHIELD program pursuant to section 15 of this act;

e. Study and, if feasible, establish hospital cost and outcome reports to provide assistance to consumers of health care in this State in making prudent health care choices;

f. Compile demographic information on recipients of, and types of services paid for by, the charity care component of the disproportionate share payment and include a summary of this information in the commission's annual report to the Governor and Legislature. The demographic information shall include, at a minimum, the recipient's age, sex, marital status, employment status, type of health insurance coverage, if any, and if the recipient is a child under 18 years of age who does not have health

insurance coverage or a married person who does not have health insurance coverage, whether the child's parent or the married person's spouse, as the case may be, has health insurance;

g. Review the level of hospital charges and assess their appropriateness in relation to hospitals in neighboring states;

h. Review and assess the adequacy of Medicare hospital reimbursement rates as established by the federal government;

i. Review and assess the level of Medicaid reimbursement rates for physicians and other health care providers with the purpose of encouraging their increased participation in less costly and more appropriate methods of treatment, particularly, preventive care services and managed care;

j. Assess adherence by third party payers and hospitals to recognized fair market contracting standards and recommend to the Governor and Legislature whenever the commission deems appropriate, safeguards to prevent unfair or discriminatory contracting or pricing policies;

k. Ensure that charity care services financed pursuant to this act are provided in the most appropriate and cost effective manner and assess the feasibility of shifting services received by hospital charity care patients to a managed care system;

l. Encourage the use of centralized data storage and transmission technology that utilizes personal and image identification systems as well as identity verification technology for the purposes of enabling a hospital to access medical history, insurance information and other personal information, as appropriate;

m. Review and examine medical malpractice reform initiatives, including but not limited to, mediation programs and practice protocols established by the United States Agency for Health Care Policy and Research and include any recommendations for legislative action the commission deems appropriate for implementing the use of such reform initiatives in the commission's annual report to the Governor and the Legislature;

n. Consult with the Health Care Facilities Financing Authority on the development of a program to establish a hospital bond reserve fund;

o. Take such other actions to provide for efficient and effective health care financing as the commission deems necessary and appropriate pursuant to this act; and

p. Report annually to the Governor and the Legislature by November 1 of each year on the status of the fund and the activities of the commission, and include in the report any recommendations for legislative action the commission deems appropriate.

C.26:2H-18.56 Authority of commission.

6. The commission is authorized to:

a. Maintain offices at such places within the State as it may designate;

b. Employ an executive director with a professional background in the area of health care financing 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 of the New Jersey Statutes. The executive director shall serve as secretary to the commission and shall carry out its policies under the direction of the chairman;

c. Apply for and accept any grant of money from the federal government for which the commission may be eligible;

d. 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;

e. Accept gifts, grants and bequests of funds from individuals, foundations, corporations, governmental agencies and other organizations and institutions in compliance with the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.);

f. Invest monies collected by the fund, as appropriate, in investments approved by the Division of Investment in the Department of the Treasury; and

g. Adopt rules and regulations necessary to carry out its assigned duties pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.26:2H-18.57 Assessment of per adjusted admission charge.

7. Effective January 1, 1994, the Department of Health shall assess each hospital a per adjusted admission charge of $10.00.

Of the revenues raised by the assessment, $5.00 per adjusted admission shall be used by the commission to fund its administrative costs and $5.00 per adjusted admission shall be used by the Department of Health for administrative costs related to health planning.

C.26:2H-18.58 Health Care Subsidy Fund.

8. There is established the Health Care Subsidy Fund in the New Jersey Essential Health Services Commission.

a. The fund shall be comprised of revenues from employee and employer contributions made pursuant to section 29 of P.L.1992, c.160 (C.43:21-7b), revenues from the hospital assessment made pursuant to section 12 of this act, revenues from

interest and penalties collected pursuant to this act and revenues from such other sources as the Legislature shall determine. Interest earned on the monies in the fund shall be credited to the fund.

The fund shall be a nonlapsing fund dedicated for use by the State to: (1) distribute charity care and other uncompensated care disproportionate share payments to hospitals, and provide subsidies for the New Jersey SHIELD program established pursuant to section 15 of this act; and (2) provide financial assistance for hospitals and other health care initiatives and hospital bond assistance.

b. The fund shall be administered by a person appointed by the commission.

The administrator of the fund is responsible for overseeing and coordinating the collection and reimbursement of fund monies. The administrator is responsible for promptly informing the commission if monies are not or are not reasonably expected to be collected or disbursed or if the fund's reserve as established in subsection c. of this section falls below the required level.

c. The fund shall maintain a reserve in an amount not to exceed $20 million. The commission shall adopt rules and regulations to govern the use of the reserve and to ensure the integrity of the fund, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. The administrator shall establish separate accounts for the charity care component of the disproportionate share hospital subsidy, other uncompensated care component of the disproportionate share hospital subsidy, hospital and other health care initiatives and bond assistance funding and the payments for subsidies for insurance premiums to provide care in disproportionate share hospitals, known as the New Jersey SHIELD subsidy account, respectively.

C.26:2H-18.59 Allocation of funds.

9. a. The commission shall allocate such funds as specified in this section to the charity care component of the disproportionate share hospital subsidy account. Such funds as may be necessary shall be transferred by the commission from the fund to the Division of Medical Assistance and Health Services in the Department of Human Services for approved disproportionate share payments to hospitals.

b. For the period January 1, 1993 to December 31, 1993, the commission shall allocate $500 million to the charity care component of the disproportionate share hospital subsidy account. The Department of Health shall recommend the amount that the Division of Medical Assistance and Health Services shall pay to an

eligible hospital on a provisional, monthly basis pursuant to paragraphs (1) and (2) of this subsection. The department shall also advise the commission and each eligible hospital of the amount a hospital is entitled to receive.

(1) The department shall determine if a hospital is eligible to receive a charity care subsidy in 1993 based on the following:

$$\frac{\text{Hospital Specific Approved Uncompensated Care-1991}}{\text{Hospital Specific Preliminary Cost Base-1992}} = \text{Hospital Specific \% Uncompensated Care (\%UC)}$$

A hospital is eligible for a charity care subsidy in 1993 if, upon establishing a rank order of the %UC for all hospitals, the hospital is among the 80% of hospitals with the highest %UC.

(2) The maximum amount of the charity care subsidy an eligible hospital may receive in 1993 shall be based on the following:

$$\frac{\text{Hospital Specific Approved Uncompensated Care-1991}}{\text{Total approved Uncompensated Care All Eligible Hospitals-1991}} \times \$500 \text{ million} = \text{Maximum Amount of Hospital Specific Charity Care Subsidy for 1993}$$

(3) A hospital shall be required to submit all claims for charity care cost reimbursement, as well as demographic information about the persons who qualify for charity care, to the department in a manner and time frame specified by the Commissioner of Health, in order to continue to be eligible for a charity care subsidy in 1993 and in subsequent years.

The demographic information shall include the recipient's age, sex, marital status, employment status, type of health insurance coverage, if any, and if the recipient is a child under 18 years of age who does not have health insurance coverage or a married person who does not have health insurance coverage, whether the child's parent or the married person's spouse, as the case may be, has health insurance.

(4) A hospital shall be reimbursed for the cost of eligible charity care at the same rate paid to that hospital by the Medicaid program; except that charity care services provided to emergency room patients who do not require those services on an emergency basis

shall be reimbursed at a rate appropriate for primary care, according to a schedule of payments developed by the commission.

(5) The department shall provide for an audit of a hospital's charity care for 1993 within a time frame established by the department.

c. Beginning January 1, 1994, a hospital shall receive disproportionate share payments from the Division of Medical Assistance and Health Services based on the amount of charity care submitted to the commission or its designated agent, in a form and manner specified by the commission. The commission or its designated agent shall review and process all charity care claims and notify the Division of Medical Assistance and Health Services of the amount it shall pay to each hospital on a monthly basis based on actual services rendered.

(1) A hospital that chooses to receive charity care subsidy payments shall notify the commission by November 30 preceding the year in which the subsidy is to be received and provide the commission with any information required by the commission to establish the hospital's maximum subsidy allotment for the next year.

The maximum charity care subsidy allotment a hospital may receive in a year shall be based on the following:

$$\frac{\text{Hospital Specific Approved Charity Care for Previous Year}}{\text{Total Approved Charity Care All Eligible Hospitals for Previous Year}} \times \text{Total Amount of Charity Care Subsidy for Year} = \text{Maximum Hospital Specific Charity Care Subsidy Allotment for Year}$$

In 1994, the total amount of charity care subsidy shall be $450 million, in 1995, it shall be $400 million, in 1996, it shall be $350 million, and in 1997 and each year thereafter, it shall be $300 million; except that, the commission may adjust the annual allotments, by regulation and in accordance with the availability of monies in other accounts in the fund, if necessary to ensure access to hospital care for indigent persons.

(2) If the commission is not able to fully implement the charity care claims processing system by January 1, 1994, the commission shall continue to make provisional disproportionate share payments to hospitals, through the Division of Medical Assistance and Health Services, based on the charity care costs

incurred by all hospitals in 1993, until such time as the commission is able to implement the claims processing system.

(3) A hospital shall be reimbursed for the cost of eligible charity care at the same rate paid to that hospital by the Medicaid program; except that charity care services provided to emergency room patients who do not require those services on an emergency basis shall be reimbursed at a rate appropriate for primary care, according to a schedule of payments developed by the commission.

(4) A hospital shall submit demographic information about the persons who qualify for charity care to the commission in a manner and time frame specified by the commission, in order to receive its charity care subsidy.

The demographic information shall include the recipient's age, sex, marital status, employment status, type of health insurance coverage, if any, and if the recipient is a child under 18 years of age who does not have health insurance coverage or a married person who does not have health insurance coverage, whether the child's parent or the married person's spouse, as the case may be, has health insurance.

d. A hospital which does not receive a charity care subsidy pursuant to this act shall submit to the commission on a quarterly basis, the following demographic information about individuals to whom it provides uncompensated care: the individual's age, sex, marital status, employment status, type of health insurance coverage, if any, and if the individual is a child under 18 years of age who does not have health insurance coverage or a married person who does not have health insurance coverage, whether the child's parent or the married person's spouse, as the case may be, has health insurance.

C.26:2H-18.60 Uniform charity care eligibility and reimbursement claim form.

10. a. The commission shall establish a uniform charity care eligibility and reimbursement claim form that a hospital shall be required to use in order to receive reimbursement for charity care under this act.

b. A person whose individual or, if applicable, family gross income is less than or equal to 300% of the poverty level shall be eligible for charity care or reduced charge charity care for necessary health care services provided at a hospital.

The commission shall establish:

(1) the maximum level of income at which a person is eligible for full charity care;

(2) a sliding scale based on income which specifies the percentage of hospital charges for which a person who is eligible for reduced charity care is responsible; and

(3) assets eligibility criteria for full charity care and reduced charge charity care, respectively.

C.26:2H-18.61 Distribution of monies for other uncompensated care.

11. a. The monies in the other uncompensated care component of the disproportionate share hospital subsidy account shall be distributed to eligible hospitals in accordance with the formulas provided in subsections b. and c. of this section. In 1993, the fund shall distribute $100 million in subsidies to eligible hospitals; in 1994, the fund shall distribute $67 million to eligible hospitals; and in 1995, the fund shall distribute $33 million to eligible hospitals.

Such funds as may be necessary shall be transferred by the commission from the fund to the Division of Medical Assistance and Health Services in the Department of Human Services for payment to disproportionate share hospitals.

b. The determination of whether a hospital is eligible to receive a subsidy shall be based on the following:

$$\frac{\text{Hospital Specific Other Uncompensated Care for Year}}{\text{Hospital Specific Revenue for Year}} = \text{Hospital Specific \% Other Uncompensated Care (\%OUC)}$$

A hospital is eligible for a subsidy if, upon establishing a rank order of the %OUC for all hospitals:

(1) in 1993, the hospital is among the 45% of hospitals with the highest %OUC;

(2) in 1994, the hospital is among the 30% of hospitals with the highest %OUC; and

(3) in 1995, the hospital is among the 15% of hospitals with the highest %OUC.

c. The amount of the subsidy an eligible hospital shall receive shall be based on the following:

$$\frac{\text{Hospital Specific Other Uncompensated Care for Year}}{\text{Total Other Uncompensated Care for All Eligible Hospitals for Year}} \times \text{Total Amount of Subsidy Allocated for the Year} = \text{Hospital Specific Subsidy for the Year}$$

In 1993, the formulas shall use 1991 Hospital Specific Other Uncompensated Care and Total Other Uncompensated Care for All Eligible Hospitals, and a hospital's 1992 preliminary cost base established pursuant to section 18 of P.L.1971, c.136 (C.26:2H-18), for "Hospital Specific Revenue for Year."

In 1994 and 1995, the formulas shall use 1992 Hospital Specific Other Uncompensated Care and Total Other Uncompensated Care for All Eligible Hospitals, and a hospital's 1993 revenue cap established pursuant to section 3 of this act for "Hospital Specific Revenue for Year."

d. The commission shall notify the Division of Medical Assistance and Health Services of the amount of Other Uncompensated Care hospital subsidy payment to be included in the disproportionate share payment to each eligible hospital.

C.26:2H-18.62 Purposes of hospital and other health care initiatives and bond assistance accounts.

12. a. The monies in the hospital and other health care initiatives and bond assistance account are appropriated for the purposes specified in this subsection.

(1) Establishment of a hospital bond reserve fund in consultation with the Health Care Facilities Financing Authority; and

(2) Establishment of a program which will assist hospitals and other health care facilities in the underwriting of innovative and necessary health care services and provide funding for public or private health care programs, which may include any program funded pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.47), as determined by the commission.

The commission shall develop equitable regulations regarding eligibility for and access to the financial assistance, within six months of the effective date of this act.

b. Such funds as may be necessary shall be transferred by the commission from the fund to the Division of Medical Assistance and Health Services in the Department of Human Services for payment to disproportionate share hospitals.

c. Notwithstanding any law to the contrary, each hospital whose revenue cap is established by the Hospital Rate Setting Commission in 1993 pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.) shall pay .53% of its approved revenue base for 1992, as that base was established by the Hospital Rate Setting Commission pursuant to P.L.1978, c.83, to the commission for deposit in the Health Care Subsidy Fund. The hospital shall make monthly

payments to the commission beginning July 1, 1993, except that the total amount paid into the Health Care Subsidy Fund plus interest shall not exceed $40 million per year. The commission shall determine the manner in which the payments shall be made.

d. The monies paid by the hospitals shall be credited to the hospital and other health care initiatives and bond assistance account.

C.26:2H-18.63 Civil penalties for false statement, misrepresentation.

13. a. A person who makes a false statement or misrepresentation of a material fact in order to qualify for charity care benefits to which he is not entitled under this act, and a hospital or an employee thereof in the course of his employment who makes a false statement or misrepresentation of a material fact in order to receive disproportionate share hospital subsidy payments to which the hospital is not entitled under this act, shall be liable to civil penalties of:

(1) payment of interest on the amount of the excess charity care benefits or subsidy payments at the maximum legal rate in effect on the date the benefits were provided to the person or payment was made to the hospital, for the period from the date upon which benefits were provided or payment was made to the date upon which repayment is made to the commission; and

(2) payment of an amount not to exceed three times the amount of the excess charity care benefit or subsidy payment.

b. A hospital which, without intent to violate this act, obtains a subsidy payment in excess of the amount to which it is entitled, shall be liable to a civil penalty of payment of interest on the amount of the excess payment at the maximum legal rate in effect on the date the payment was made to the hospital, from the date upon which payment was made to the date upon which repayment is made to the commission, except that a hospital shall not be liable to the civil penalty when an excess subsidy payment is obtained by the hospital as a result of an error made by the commission, as determined by the commission.

c. All interest and civil penalties provided for in this section shall be recovered in an administrative proceeding held pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. In order to satisfy any recovery claim asserted against a hospital under this section, whether or not that claim has been the subject of final agency adjudication, the commission is authorized to withhold subsidy payments otherwise payable under this act to the hospital.

C.26:2H-18.64 Denial of admission on ability to pay; penalty.

14. No hospital shall deny any admission or appropriate service to a patient on the basis of that patient's ability to pay or source of payment.

A hospital which violates this section shall be liable to a civil penalty of $10,000 for each violation. The penalty shall be sued for and recovered pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq. and shall be deposited in the fund.

C.26:2H-18.65 Establishment of New Jersey SHIELD program.

15. There is established in the New Jersey Essential Health Services Commission the New Jersey SHIELD program. The purpose of the program is to provide subsidies for health benefits coverage, in order to provide for health care which shall be delivered in disproportionate share hospitals and by other community-based health care providers for working people and those temporarily unemployed, based on a sliding income scale with modest copayments. The program shall include the provision of early preventive and primary care to help reduce costs for families and individuals.

The commission shall contract with health insurance carriers, health maintenance organizations and other appropriate entities in the State to administer the program.

C.26:2H-18.66 Allocation to New Jersey SHIELD subsidy account.

16. The New Jersey SHIELD subsidy account shall be allocated $50 million in 1994, $100 million in 1995, $150 million in 1996 and $200 million in 1997 and each year thereafter.

C.26:2H-18.67 Establishment, maintenance of cooperative working relationship.

17. The commission and the Department of Health shall each take such actions as are necessary to establish and maintain a cooperative working relationship on all matters of mutual concern pursuant to this act which shall include the sharing of relevant information related to the development, coordination, implementation and assessment of Statewide health care policy.

C.17B:27A-1 Filing of paid hospital expense claims; definitions.

18. a. Every carrier issuing health benefits plans in this State shall file its paid hospital expense claims paid by January 30, 1993 and by January 30, 1994, respectively, in accordance with the following:

(1) A carrier issuing individual health benefits plans shall file with the board created pursuant to P.L.1992, c.161 (C.17B:27A-2 et al.) and with the Commissioner of Insurance the aggregate hospital expense claims paid for the calendar year 1992 which are attributable to its policies or contracts for individual health benefits plans.

(2) A carrier issuing small employer or small group health benefits plans shall file with the board created pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.) and with the Commissioner of Insurance the aggregate hospital expense claims paid for the calendar year 1992 which are attributable to its policies or contracts for small employer or small group health benefits plans.

(3) A carrier issuing group health benefits plans other than small employer or small group health benefits plans shall file with the Commissioner of Insurance the aggregate hospital expense claims paid for the calendar year 1992 which are attributable to its policies or contracts for group health benefits plans.

b. (1) In formulating policy or contract rates for calendar year 1993, a carrier shall take into account any modifications in exposure for hospital expenses which may be brought about by the changes in billing procedures established pursuant to the provisions of P.L.1992, c.160 (C.26:2H-18.51 et al.), and shall modify its premiums accordingly as is appropriate to reflect those modifications.

(2) No later than March 1, 1994, the board created pursuant to P.L.1992, c.161 (C.17B:27A-2 et al.), the board created pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.), and the Commissioner of Insurance shall determine if any premium modifications made in accordance with this subsection accurately reflect any differential in claims paid for hospital expenses between calendar years 1992 and 1993 which are attributable to the changes in hospital billing procedures pursuant to the provisions of P.L.1992, c.160 (C.26:2H-18.51 et al.), as opposed to any differential in expenses which may be caused by changes in utilization, cost, and morbidity normally used in trending. To the extent that further modifications may need to be made in the premium level as a result of the changes in loss experience reflected by any extraordinary differential between the claims paid in 1992 and 1993, the boards and the Commissioner of Insurance shall require that rates be modified accordingly.

c. For the purposes of this section:

(1) "Carrier" means an insurance company, health service corporation or health maintenance organization authorized to issue health benefits plans in this State;

(2) "Health benefits plans" means a hospital and medical expense insurance policy; health service corporation contract; or health maintenance organization subscriber contract delivered or issued for delivery in this State;

(3) "Hospital expenses" means any charges billed by, and payable directly by, a carrier to a hospital.

C.26:2H-7a Exemptions from certificate of need requirement.

19. Notwithstanding the provisions of section 7 of P.L.1971, c.136 (C.26:2H-7) to the contrary, the following are exempt from the certificate of need requirement:

Community-based primary care centers;

Outpatient drug and alcohol services;

Ambulance and invalid coach services;

Mental health services which are non-bed related outpatient services;

Changes in residential health care facility services;

Mandatory renovations to existing facilities;

Mandatory replacement of fixed or moveable equipment;

Transfer of ownership interest except in the case of an acute care hospital, or a long-term care facility in which the owner does not satisfy the Department of Health's review of the owner's prior operating experience as well as any requirements established by the federal government pursuant to Titles XVIII and XIX of the Social Security Act;

Change of site for approved certificate of need within the same county;

Relocation or replacement of a health care facility within the same county, except for an acute care hospital;

Continuing care retirement communities authorized pursuant to P.L.1986, c.103 (C.52:27D-330 et seq.);

Acquisition by a hospital of a magnetic resonance imager that is already in operation in the State by another health care provider or entity;

Adult day health care facilities;

Pediatric day health care facilities; and

Chronic renal dialysis facilities.

C.26:2H-7b Hospitals exempt from certificate of need requirement.

20. Notwithstanding the provisions of section 7 of P.L.1971, c.136 (C.26:2H-7) to the contrary, a hospital shall be exempt from the certificate of need requirement if the total project or purchase cost does not exceed 5% of that hospital's operating revenues for the year in which the project or purchase is undertaken. Except that, this exemption shall not apply to the initiation or expansion of any health care service as provided in section 2 of P.L.1971, c.136 (C.26:2H-2), which includes a health care service that is the subject of a health planning regulation adopted by the Department of Health; the expansion of a hospital's physical plant; or the construction of a new health care facility.

21. Section 1 of P.L.1971, c.136 (C. 26:2H-1) is amended to read as follows:

C.26:2H-1 Declaration of public policy.

1. It is hereby declared to be the public policy of the State that hospital and related health care services of the highest quality, of demonstrated need, efficiently provided and properly utilized at a reasonable cost are of vital concern to the public health. In order to provide for the protection and promotion of the health of the inhabitants of the State, the State Department of Health shall have the central responsibility for the development and administration of the State's policy with respect to health planning, hospital and related health care services and health care facility cost containment programs, and all public and private institutions, whether State, county, municipal, incorporated or not incorporated, serving principally as residential health care facilities, nursing or maternity homes or as facilities for the prevention, diagnosis, or treatment of human disease, pain, injury, deformity or physical condition, shall be subject to the provisions of this act.

22. Section 2 of P.L.1971, c.136 (C.26:2H-2) is amended to read as follows:

C.26:2H-2 Definitions.

2. The following words or phrases, as used in this act, shall have the following meanings, unless the context otherwise requires:

a. "Health care facility" means the facility or institution whether public or private, engaged principally in providing services for health maintenance organizations, diagnosis of treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, home health care agency, residential health care facility and bioanalytical laboratory (except as specifically excluded hereunder) or central services facility serving one or more such institutions but excluding institutions that provide healing solely by prayer and excluding such bioanalytical laboratories as are independently owned and operated, and are not owned, operated, managed or controlled, in whole or in part, directly or indirectly by any one or more health care facilities,

and the predominant source of business of which is not by contract with health care facilities within the State of New Jersey and which solicit or accept specimens and operate predominantly in interstate commerce.

b. "Health care service" means the preadmission, outpatient, inpatient and postdischarge care provided in or by a health care facility, and such other items or services as are necessary for such care, which are provided by or under the supervision of a physician for the purpose of health maintenance organizations, diagnosis or treatment of human disease, pain, injury, disability, deformity or physical condition, including, but not limited to, nursing service, home care nursing and other paramedical service, ambulance service, service provided by an intern, resident in training or physician whose compensation is provided through agreement with a health care facility, laboratory service, medical social service, drugs, biologicals, supplies, appliances, equipment, bed and board, but excluding services provided by a physician in his private practice, except as provided in section 7 of P.L.1971, c.136 (C.26:2H-7), or by practitioners of healing solely by prayer, and services provided first aid, rescue and ambulance squads as defined in the "New Jersey Highway Safety Act of 1971," P.L.1971, c.351 (C.27:5F-1 et seq.).

c. "Construction" means the erection, building, or substantial acquisition, alteration, reconstruction, improvement, renovation, extension or modification of a health care facility, including its equipment, the inspection and supervision thereof; and the studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary thereto.

d. "Board" means the Health Care Administration Board established pursuant to this act.

e. "Commission" means the Hospital Rate Setting Commission established pursuant to this act.

f. "Government agency" means a department, board, bureau, division, office, agency, public benefit or other corporation, or any other unit, however described, of the State or political subdivision thereof.

g. (Deleted by amendment, P.L.1991, c.187).

h. (Deleted by amendment, P.L.1991, c.187).

i. "Department" means the State Department of Health.

j. "Commissioner" means the State Commissioner of Health.

k. "Preliminary cost base" means that proportion of a hospital's current cost which may reasonably be required to be reimbursed to a properly utilized hospital for the efficient and effective delivery of appropriate and necessary health care services of high quality required by such hospital's mix of patients.

The preliminary cost base initially may include costs identified by the commissioner and approved or adjusted by the commission as being in excess of that proportion of a hospital's current costs identified above, which excess costs shall be eliminated in a timely and reasonable manner prior to certification of the revenue base. The preliminary cost base shall be established in accordance with regulations proposed by the commissioner and approved by the board.

l. (Deleted by amendment, P.L.1992, c.160).

m. "Provider of health care" means an individual (1) who is a direct provider of health care service in that the individual's primary activity is the provision of health care services to individuals or the administration of health care facilities in which such care is provided and, when required by State law, the individual has received professional training in the provision of such services or in such administration and is licensed or certified for such provision or administration; or (2) who is an indirect provider of health care in that the individual (a) holds a fiduciary position with, or has a fiduciary interest in, any entity described in subparagraph b(ii) or subparagraph b(iv); provided, however, that a member of the governing body of a county or any elected official shall not be deemed to be a provider of health care unless he is a member of the board of trustees of a health care facility or a member of a board, committee or body with authority similar to that of a board of trustees, or unless he participates in the direct administration of a health care facility; or (b) received, either directly or through his spouse, more than one-tenth of his gross annual income for any one or more of the following:

(i) Fees or other compensation for research into or instruction in the provision of health care services;

(ii) Entities engaged in the provision of health care services or in research or instruction in the provision of health care services;

(iii)Producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care services;

(iv)Entities engaged in producing drugs or such other articles.

n. "Private long-term health care facility" means a nursing home, skilled nursing home or intermediate care facility presently in operation and licensed as such prior to the adoption of the 1967 Life Safety Code by the State Department of Health in 1972 and which has a maximum 50-bed capacity and which does not accommodate Medicare or Medicaid patients.

o. "Local advisory board" means an independent, private non-profit corporation which is not a health care facility, a subsidiary thereof or an affiliated corporation of a health care facility, that is designated by the Commissioner of Health to serve as the regional health planning agency for a designated region in the State.

p. "State Health Planning Board" means the board established pursuant to section 33 of P.L.1991, c.187 (C.26:2H-5.7) to prepare and review the State Health Plan and to conduct certificate of need review activities.

23. Section 5 of P.L.1978, c.83 (C. 26:2H-4.1) is amended to read as follows:

C.26:2H-4.1 Establishment of Hospital Rate Setting Commission.

5. a. There is hereby established in the State Department of Health a Hospital Rate Setting Commission which shall consist of five members who shall be appointed by the Governor with the advice and consent of the Senate for terms of four years. Of the appointees added pursuant to P.L.1991, c.187 (C.26:2H-18.24 et al.), one shall serve for a term of two years and one for a term of three years. No member shall be eligible for appointment for more than two full consecutive terms. Three of the members appointed by the Governor shall be consumers of health care services who are not providers of health care services, one shall represent either business or organized labor as a purchaser of health care services and one shall have experience in hospital administration or finance, but shall not be an employee of a hospital. The commission shall annually select a chairman from among its members. Three members of the commission shall constitute a quorum and no action of the commission shall be taken except upon the affirmative vote of a majority of its members.

The members of the commission shall each receive compensation at $150.00 per day. The commission members shall also be entitled to reasonable expenses incurred in the performance of their duties. Any such member may be removed from office by the Governor, for good cause shown. Any vacancy occurring in the membership of the commission for any cause shall be filled in the same manner as the original appointment but for the unexpired term only. A member shall otherwise continue to serve after expiration of his term until a new appointment is made.

The commission shall select an executive secretary and the commissioner shall provide to the commission such clerical staff, supplies and equipment as may be necessary for it to faithfully discharge its duties.

The commission shall be established and its members appointed by January 1, 1979.

b. The commissioner shall determine the order in which hospitals shall have their preliminary cost base and appropriate schedule of rates approved by the commission. The commissioner shall propose and the commission approve or adjust the preliminary cost base, and the commission shall approve an appropriate schedule of rates for all hospitals by January 1, 1983. The schedule of rates shall be reasonable and sufficient to provide the revenue requirements of the preliminary cost base and shall be adjusted from time to time, as appropriate, to reach the certified revenue base.

The commission shall certify the revenue cap pursuant to section 3 of P.L.1992, c.160 (C.26:2H-18.53) and shall perform such other duties as are specified elsewhere in P.L.1978, c.83.

A hospital shall continue to be reimbursed under the rate setting system in effect on the day preceding the effective date of P.L.1978, c.83, except as said system is amended by regulation, until the commission approves the hospital's preliminary cost base.

24. Section 7 of P.L.1971, c.136 (C.26:2H-7) is amended to read as follows:

C.26:2H-7 Certificate of need required for construction, expansion of health care facility.

7. No health care facility shall be constructed or expanded, and no new health care service shall be instituted after the effective date of P.L.1971, c.136 (C.26:2H-1 et seq.) except upon application for and receipt of a certificate of need as provided by P.L.1971, c.136 (C.26:2H-1 et seq.). No agency of the State or of any county or municipal government shall approve any grant of funds for, or issue any license to, a health care facility which is constructed or expanded, or which institutes a new health care service, in violation of the provisions of P.L.1971, c.136 (C.26:2H-1 et seq.).

Except as provided in sections 19 and 20 of P.L.1992, c.160 (C.26:2H-7a and C.26:2H-7b), the provisions of this section shall apply to:

a. The initiation of any health care service as provided in section 2 of P.L.1971, c.136 (C.26:2H-2);

b. The initiation by any person of a health care service which is the subject of a health planning regulation adopted by the Department of Health;

c. The purchase by any person of major moveable equipment whose total cost is over $1 million;

d. The expenditure by a licensed health care facility of over $1 million for modernization or renovation of its physical plant, or for construction of a new health care facility; and

e. The modernization, renovation or construction of a facility by any person, whose total project cost exceeds $1 million, if the facility-type is the subject of a health planning regulation adopted by the Department of Health.

The commissioner may periodically increase the monetary thresholds established in this section, by regulation, to reflect inflationary increases in the costs of health care equipment or construction.

For the purposes of this section, "health care service" shall include any service which is the subject of a health planning regulation adopted by the Department of Health, and "person" shall include a corporation, company, association, society, firm, partnership and joint stock company, as well as an individual.

A physician who initiates a health care service which is the subject of a health planning regulation or purchases major moveable equipment pursuant to subsection b. or c. of this section, may apply to the commissioner for a waiver of the certificate of need requirement if: the equipment or health care service is such an essential, fundamental and integral component of the physician's practice specialty, that the physician would be unable to practice his specialty according to the acceptable medical standards of that specialty without the health care service or equipment; the physician bills at least 75% of his total amount of charges in the practice specialty which uses the health care service or equipment; and the health care service or equipment is not otherwise available and accessible to patients, pursuant to standards established by the commissioner, by regulation. The commissioner shall make a determination about whether to grant or deny the waiver, within 120 days from the date the request for the waiver is received by the commissioner and shall so notify the physician who requested the waiver. If the request is denied, the commissioner shall include in that notification the reason for the denial. If the request is denied, the initiation of a health care service or the purchase of major moveable equipment shall be subject to the certificate of need requirements pursuant to this section.

A health maintenance organization which furnishes at least basic comprehensive care health services on a prepaid basis to enrollees either through providers employed by the health maintenance organi-

zation or through a medical group or groups which contract directly with the health maintenance organization, which initiates a health care service, or modernizes, renovates or constructs a health care facility pursuant to subsection a., b., d. or e. of this section, may apply to the commissioner for a waiver of the certificate of need requirement if: the initiation of the health care service or the modernization, renovation or construction is in the best interests of State health planning; and the health maintenance organization is in compliance with the provisions of P.L.1973, c.337 (C.26:2J-1 et seq.) and complies with the provisions of subsection d. of section 3 of P.L.1973, c.337 (C.26:2J-3) regarding notification to the commissioner. The commissioner shall make a determination about whether to grant or deny the waiver within 45 days from the date the request for the waiver is received by the commissioner and shall so notify the health maintenance organization. If the request for a waiver is denied on the basis that the request would not be in the best interests of State health planning, the commissioner shall state in that notification the reason why the request would not be in the best interests of State health planning. If the request for a waiver is denied, the health maintenance organization's initiation of a health care service or modernization, renovation or construction project shall be subject to the certificate of need requirements pursuant to this section.

The requirement to obtain a certificate of need for major moveable equipment pursuant to subsection c. of this section shall not apply if a contract to purchase that equipment was entered into prior to July 1, 1991.

25. Section 18 of P.L.1971, c.136 (C.26:2H-18) is amended to read as follows:

C.26:2H-18 License, authorization required for receipt of reimbursement, grant-in-aid.

18. a. No government agency and no health service corporation organized under the laws of the State and no other purchasers of health care services shall purchase, pay for or make reimbursement or grant-in-aid for any health care service provided by a health care facility unless at the time the service was provided, the health care facility possessed a valid license or was otherwise authorized to provide such service.

b. (Deleted by amendment, P.L.1992, c.160).

c. Payment by government agencies other than those made through the "New Jersey Medical Assistance and Health Services

Act," P.L.1968, c.413 (C.30:4D-1 et seq.), and payment by health service corporations organized under the laws of this State for health services provided by health care facilities other than hospitals shall be at reasonable rates set by the commissioner based on financial elements approved by him; provided, however, that nothing herein shall be construed to prohibit the Commissioner of Human Services from contracting with the commissioner for the setting of rates by which health care facilities other than hospitals are reimbursed pursuant to the "New Jersey Medical Assistance and Health Services Act," P.L.1968, c.413 (C.30:4D-1 et seq.). Rates of payment by health service corporations organized under the laws of this State for health care services provided by a health care facility other than hospitals shall be set in consultation with the Commissioner of Insurance.

d. (Deleted by amendment, P.L.1992, c.160).

e. To establish and maintain a fair and equitable system for determining such payments, the commissioner shall require each health care facility to report such financial, statistical and patient information as may be required, in accordance with a uniform system of reporting established by him. The commissioner may propose regulations for approval by the board which assess penalties for failure to report such information within such time as may be prescribed therein.

26. Section 9 of P.L.1991, c.187 (C.26:2H-18.32) is amended to read as follows:

C.26:2H-18.32 Designation of hospitals where county welfare agency employee will be stationed to determine Medicaid eligibility.

9. The Commissioner of Health, in consultation with the Commissioner of Human Services, shall designate those hospitals at which an employee from the county welfare agency shall be stationed, on either a full or part-time basis, as appropriate, to perform eligibility determinations for the Medicaid program pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

A designated hospital shall reimburse the county welfare agency for the nonfederal share of costs associated with the county welfare agency employee, as certified by the Commissioner of Human Services. The Commissioner of Human Services shall bill the hospital quarterly for the nonfederal share of costs and reimburse the county welfare agency upon receipt of payment from the hospital.

27. Section 86 of P.L.1991, c.187 is amended to read as follows:

86. This act shall take effect on the 30th day after enactment, except that sections 1 through 26, inclusive, shall take effect on July 1, 1991, sections 1 through 8 and 11 through 24, inclusive, and section 26 shall expire on December 31, 1992, section 29 shall take effect on the 120th day after enactment, sections 31 and 32 shall take effect on January 1, 1992 and sections 50, 52, 54, 56 and 58 shall take effect on the 90th day after enactment.

C.43:21-7a Definitions.

28. As used in sections 28 through 34 of this act:

"Commissioner" means the Commissioner of Labor or his designee.

"Department" means the Department of Labor.

"Employee" means a person who performs services for remuneration for an employer.

"Employer" means an employer as defined in subsection (h) of R.S.43:21-19.

"Fund" means the "Health Care Subsidy Fund" established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58).

"Taxable wages" means wages as determined in accordance with paragraph (3) of subsection (b) of R.S.43:21-7.

"Total wages" means wages as defined in subsection (o) of R.S.43:21-19.

C.43:21-7b Contributions to Health Care Subsidy Fund.

29. a. Beginning January 1, 1993 until December 31, 1995, except as provided pursuant to subsection b. of this section, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.6% of the employee's taxable wages.

Also beginning on January 1, 1993 until December 31, 1995, except as provided pursuant to subsection b. of this section, each employer shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to the amount that the employer's contribution to the unemployment compensation fund is decreased pursuant to subparagraph (H) of paragraph (5) of subsection (c) of R.S.43:21-7.

b. If the unemployment compensation fund reserve ratio, as determined pursuant to paragraph (5) of subsection (c) of R.S.43:21-7, decreases to a level of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, the provisions of subsection a. of this section shall cease to be in effect as of July 1 of that calendar year and each employer who would be subject to making the contributions pursuant to subsection a. of this section

if that subsection were in effect shall, beginning on July 1 of that calendar year, contribute to the fund an amount equal to 0.62% of the total wages paid by the employer and shall continue to contribute that amount until December 31, 1995.

c. If the total amount of contributions to the fund pursuant to this section during the calendar year 1993 exceeds $600 million, all contributions which exceed $600 million shall be deposited in the unemployment compensation fund. If the total amount of contributions to the fund pursuant to this section during calendar year 1994 or calendar year 1995 exceeds $500 million, all contributions which exceed $500 million shall be deposited in the unemployment compensation fund.

d. All necessary administrative costs related to the collection of contributions pursuant to this section shall be paid from the contributions.

C.43:21-7c Employer obligations.

30. Notwithstanding the provisions of any other law to the contrary, each employer shall: withhold in trust the amount of all workers' contributions from their wages at the time wages are paid, show the deduction on the payroll records, furnish the evidence thereof and permit any inspection of the records as prescribed by the commissioner, and transmit all workers' contributions and other contributions due from the employer pursuant to this act to the fund in a manner and at the times that the commissioner, in consultation with the Essential Health Services Commission established pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.), prescribes. Interest and any expense to the department of recovery may be assessed by the commissioner on payments not made within the prescribed due dates at the same rate as provided for pursuant to paragraph (1) of subsection (a) of R.S.43:21-14. If any employer fails to deduct the contributions of any workers at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding payroll period, the employer shall be solely liable for those contributions.

C.43:21-7d Failure to make report.

31. If an employer fails to make any report or permit any inspection required by the commissioner to implement the provisions of this act, an estimate shall be made regarding the liability of the employer from information available and the employer shall be assessed for any amount due, including the amount that was withheld or that should have been withheld from its employees for deposit into the fund. Also, if, after an examination of any report

filed, a deficiency is discovered with respect to the taxable wages reported, the employer shall be assessed the amount of any determined deficiency. Additional remedies through the court may be established by the commissioner, including the charging of any expenses incurred by the department in recovering the assessment.

C.43:21-7e Entitlement to refund or tax credit.

32. a. If an employee receives wages from more than one employer during any calendar year, and the sum of the employee's contributions deposited in the fund exceeds an amount equal to 0.6% of the wages determined in accordance with the provisions of paragraph (3) of subsection (b) of R.S.43:21-7 during calendar year 1993, calendar year 1994 or calendar year 1995, the employee shall be entitled to a refund of the excess if a claim establishing the employee's right to the refund is made within two years after the end of the respective calendar year in which the wages are received and are the subject of the claim. The commissioner shall refund any overpayment from the fund without interest.

b. Any employee who is a taxpayer and entitled, pursuant to the provisions of subsection a. of this section, to a refund of contributions deducted during a tax year from his wages shall, in lieu of the refund, be entitled to a credit in the full amount thereof against the tax otherwise due on his New Jersey gross income for that tax year if he submits his claim for the credit and accompanies that claim with evidence of his right to the credit in the manner provided by regulation by the Director of the Division of Taxation. In any case in which the amount, or any portion thereof, of any credit allowed hereunder results in or increases an excess of income tax payment over income tax liability, the amount of the new or increased excess shall be considered an overpayment and shall be refunded to the taxpayer in the manner provided by subsection (a) of N.J.S.54A:9-7.

C.43:21-7f Schedule of fines.

33. A schedule of fines, with no fine exceeding $1,000 for a single offense, shall be established by the commissioner for any of the following actions or omissions with respect to the collection of contributions or the use of moneys disbursed from the fund:

a. A false statement or misrepresentation made knowingly;

b. Failure to disclose a material fact;

c. Attempt to defraud;

d. Willful failure or refusal to: withhold or transfer any contribution or other payment; furnish any report or information; or

produce or permit the inspection or copying of records as required pursuant to this act; and

e. Willful violation of any provision of this act or any rule or regulation promulgated pursuant to this act.

The fines shall be recoverable in a civil action by the commissioner in the name of the State of New Jersey. In addition to penalties established for any person, employing unit, employer or entity, each shall be liable for each offense upon conviction before any court of competent jurisdiction at the discretion of the court. All fines shall be payable to the commissioner for deposit in the fund.

C.43:21-7g Rules, regulations.

34. The commissioner shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) promulgate rules and regulations necessary to implement the provisions of this act, including any requirements regarding the keeping and reporting of records and any sanctions against false statement, misrepresentation, willful violations or fraud.

35. R.S.43:21-7 is amended to read as follows:

Contributions.

43:21-7. Contributions. Employers other than governmental entities, whose benefit financing provisions are set forth in section 4 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations liable for payment in lieu of contributions on the basis set forth in section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the unemployment compensation fund, contributions as set forth in subsections (a), (b) and (c) hereof, and the provisions of subsections (d) and (e) shall be applicable to all employers, consistent with the provisions of the "unemployment compensation law" and the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

(a) Payment.

(1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this chapter (R.S.43:21-1 et seq.), with respect to having individuals in his employ during that calendar year, at the rates and on the basis hereinafter set forth. Such contributions shall become due and be paid by each employer to the controller for the fund, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to $0.005 or more, in which case it shall be increased to $0.01.

(b) Rate of contributions. Each employer shall pay the following contributions:

(1) For the calendar year 1947, and each calendar year thereafter, 2 7/10% of wages paid by him during each such calendar year, except as otherwise prescribed by subsection (c) of this section.

(2) The "wages" of any individual, with respect to any one employer, as the term is used in this subsection (b) and in subsections (c), (d) and (e) of this section 7, shall include the first $4,800.00 paid during calendar year 1975, for services performed either within or without this State; provided that no contribution shall be required by this State with respect to services performed in another state if such other state imposes contribution liability with respect thereto. If an employer (hereinafter referred to as a successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid wages with respect to employment equal to the first $4,800.00 paid during calendar year 1975, any wages paid to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer.

(3) For calendar years beginning on and after January 1, 1976, the "wages" of any individual, as defined in the preceding paragraph (2) of this subsection (b), shall be established and promulgated by the Commissioner of Labor on or before September 1 of the preceding year and shall be 28 times the Statewide average weekly remuneration paid to workers by employers, as determined under R.S.43:21-3(c), raised to the next higher multiple of $100.00 if not already a multiple thereof, provided that if the amount of wages so determined for a calendar year is less than the amount similarly determined for the preceding year, the greater amount will be used; provided, further, that if the amount of such wages so determined does not equal or exceed the amount of wages as defined in subsection (b) of section 3306 of the Federal Unemployment Tax Act, Chapter 23 of the Internal Revenue Code of 1986 (26 U.S.C.§3306(b)), the wages as determined in

this paragraph in any calendar year shall be raised to equal the amount established under the Federal Unemployment Tax Act for that calendar year.

(c) Future rates based on benefit experience.

(1) A separate account for each employer shall be maintained and this shall be credited with all the contributions which he has paid on his own behalf on or before January 31 of any calendar year with respect to employment occurring in the preceding calendar year; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday, an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this chapter (R.S.43:21-1 et seq.) shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals. Benefits paid with respect to benefit years commencing on and after January 1, 1953, to any individual on or before December 31 of any calendar year with respect to unemployment in such calendar year and in preceding calendar years shall be charged against the account or accounts of the employer or employers in whose employment such individual established base weeks constituting the basis of such benefits. Benefits paid under a given benefit determination shall be charged against the account of the employer to whom such determination relates. When each benefit payment is made, either a copy of the benefit check or other form of notification shall be promptly sent to the employer against whose account the benefits are to be charged. Such copy or notification shall identify the employer against whose account the amount of such payment is being charged, shall show at least the name and social security account number of the claimant and shall specify the period of unemployment to which said check applies. If the total amount of benefits paid to a claimant and charged to the account of the appropriate employer exceeds 50% of the total base year, base week wages paid to the claimant by that employer, then such employer shall have canceled from his account such excess benefit charges as specified above.

Each employer shall be furnished an annual summary statement of benefits charged to his account.

(2) Regulations may be prescribed for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge

their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(3) No employer's rate shall be lower than 5.4% unless assignment of such lower rate is consistent with the conditions applicable to additional credit allowance for such year under section 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.§3303(a)(1)), any other provision of this section to the contrary notwithstanding.

(4) Employer Reserve Ratio. (A) Each employer's rate shall be 2 8/10%, except as otherwise provided in the following provisions. No employer's rate for the 12 months commencing July 1 of any calendar year shall be other than 2 8/10%, unless as of the preceding January 31 such employer shall have paid contributions with respect to wages paid in each of the three calendar years immediately preceding such year, in which case such employer's rate for the 12 months commencing July 1 of any calendar year shall be determined on the basis of his record up to the beginning of such calendar year. If, at the beginning of such calendar year, the total of all his contributions, paid on his own behalf, for all past years exceeds the total benefits charged to his account for all such years, his contribution rate shall be:

(1) 2 5/10%, if such excess equals or exceeds 4%, but less than 5%, of his average annual payroll (as defined in paragraph (2), subsection (a) of R.S. 43:21-19);

(2) 2 2/10%, if such excess equals or exceeds 5%, but is less than 6%, of his average annual payroll;

(3) 1 9/10%, if such excess equals or exceeds 6%, but is less than 7%, of his average annual payroll;

(4) 1 6/10%, if such excess equals or exceeds 7%, but is less than 8%, of his average annual payroll;

(5) 1 3/10%, if such excess equals or exceeds 8%, but is less than 9%, of his average annual payroll;

(6) 1%, if such excess equals or exceeds 9%, but is less than 10%, of his average annual payroll;

(7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less than 11%, of his average annual payroll;

(8) 4/10 of 1%, if such excess equals or exceeds 11% of his average annual payroll.

(B) If the total of an employer's contributions, paid on his own behalf, for all past periods for the purposes of this paragraph (4), is less than the total benefits charged against his account during the same period, his rate shall be:

(1) 4%, if such excess is less than 10% of his average annual payroll;

(2) 4 3/10%, if such excess equals or exceeds 10%, but is less than 20%, of his average annual payroll;

(3) 4 6/10%, if such excess equals or exceeds 20% of his average annual payroll.

(C) Specially assigned rates. If no contributions were paid on wages for employment in any calendar year used in determining the average annual payroll of an employer eligible for an assigned rate under this paragraph (4), the employer's rate shall be specially assigned as follows: (i) if the reserve balance in its account is positive, its assigned rate shall be the highest rate in effect for positive balance accounts for that period, or 5.4%, whichever is higher, and (ii) if the reserve balance in its account is negative, its assigned rate shall be the highest rate in effect for deficit accounts for that period.

(D) The contribution rates prescribed by subparagraphs (A) and (B) of this paragraph (4) shall be increased or decreased in accordance with the provisions of paragraph (5) of this subsection (c) for experience rating periods through June 30, 1986.

(5) (A) Unemployment Trust Fund Reserve Ratio. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 4% but is less than 7% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 3/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection. If on March 31 of any calendar year the balance of the unemployment trust fund exceeds 2 1/2% but is less than 4% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection.

If on March 31 of any calendar year the balance of the unemployment trust fund is less than 2 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer (1) eligible for a contribution rate calculation based upon benefit experience, shall be increased by (i) 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3), (4)(A) or

(4)(B) of this subsection, and (ii) an additional amount equal to 20% of the total rate established herein, provided, however, that the final contribution rate for each employer shall be computed to the nearest multiple of 1/10% if not already a multiple thereof; (2) not eligible for a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (4) of this subsection. For the period commencing July 1, 1984 and ending June 30, 1986, the contribution rate for each employer liable to pay contributions under R.S.43:21-7 shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(B) If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 10% but is less than 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 6/10 of 1% if his account for all past periods reflects an excess of contributions paid over total benefits charged of 3% or more of his average annual payroll, otherwise by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%.

(C) The "balance" in the unemployment trust fund, as the term is used in subparagraphs (A) and (B) above, shall not include moneys credited to the State's account under section 903 of the Social Security Act, as amended (42 U.S.C.§1103), during any period in which such moneys are appropriated for the payment of expenses incurred in the administration of the "unemployment compensation law."

(D) Prior to July 1 of each calendar year the controller shall determine the Unemployment Trust Reserve Ratio, which shall be calculated by dividing the balance of the unemployment trust

fund as of the prior March 31 by total taxable wages reported to the controller by all employers as of March 31 with respect to their employment during the last calendar year.

(E) With respect to experience rating years beginning on or after July 1, 1986, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph 4 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

EXPERIENCE RATING TAX TABLE

	Fund Reserve Ratio[1]				
Employer Reserve Ratio[2]	10.00% and Over A	7.00% to 9.99% B	4.00% to 6.99% C	2.50% to 3.99% D	2.49% and Under E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
Deficit Reserve Ratio:					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2

-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4
-12.00%to-14.99%	3.6	4.6	5.4	6.0	6.5
-15.00%to-19.99%	3.6	4.6	5.5	6.1	6.6
-20.00%to-24.99%	3.7	4.7	5.6	6.2	6.7
-25.00%to-29.99%	3.7	4.8	5.6	6.3	6.8
-30.00%to-34.99%	3.8	4.8	5.7	6.3	6.9
-35.00%and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

[1]Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.
[2]Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

(F) With respect to experience rating years beginning on or after July 1, 1986, if the balance of the unemployment trust fund as of the prior March 31 is negative, the contribution rate for each employer liable to pay contributions, as computed under subparagraph E of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(G) On or after January 1, 1993, and ending December 31, 1997, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.1%, except that, during any experience rating year in which the fund reserve ratio is equal to or greater than 7.00%, there shall be no decrease pursuant to this subparagraph (G) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under.

(H) On or after January 1, 1993 until December 31, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 52.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of

contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On or after January 1, 1994 until December 31, 1995, except as provided pursuant to subparagraph (I) of this paragraph (5), notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 36.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

(I) If the fund reserve ratio decreases to a level of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, the provisions of subparagraph (H) of this paragraph (5) shall cease to be in effect as of July 1 of that calendar year.

(6) Additional contributions.

Notwithstanding any other provision of law, any employer who has been assigned a contribution rate pursuant to subsection (c) of this section for the year commencing July 1, 1948, and for any year commencing July 1 thereafter, may voluntarily make payment of additional contributions, and upon such payment shall receive a recomputation of the experience rate applicable to such employer, including in the calculation the additional contribution so made. Any such additional contribution shall be made during the 30-day period following the date of the mailing to the employer of the notice of his contribution rate as prescribed in this section, unless, for good cause, the time for payment has been extended by the controller for not to exceed an additional 60 days; provided that in no event may such payments which are made later than 120 days after the beginning of the year for which such rates are effective be considered in determining the experience rate for the year in which the payment is made. Any

employer receiving any extended period of time within which to make such additional payment and failing to make such payment timely shall be, in addition to the required amount of additional payment, a penalty of 5% thereof or $5.00, whichever is greater, not to exceed $50.00. Any adjustment under this subsection shall be made only in the form of credits against accrued or future contributions.

(7) Transfers.

(A) Upon the transfer of the organization, trade or business, or substantially all the assets of an employer to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, the controller shall transfer the employment experience of the predecessor employer to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer, pursuant to regulation, if it is determined that the employment experience of the predecessor employer with respect to the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Unless the predecessor employer was owned or controlled (by legally enforceable means or otherwise), directly or indirectly, by the successor in interest, or the predecessor employer and the successor in interest were owned or controlled (by legally enforceable means or otherwise), directly or indirectly, by the same interest or interests, the transfer of the employment experience of the predecessor shall not be effective if such successor in interest, within four months of the date of such transfer of the organization, trade, assets or business, or thereafter upon good cause shown, files a written notice protesting the transfer of the employment experience of the predecessor employer.

(B) An employer who transfers part of his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, may jointly make application with such successor in interest for transfer of that portion of the employment experience of the predecessor employer relating to the portion of the organization, trade, assets or business transferred to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer. The transfer of employment experience may be allowed pursuant to regulation only if it is found that the employment experience of the predecessor employer with respect to the portion of the organization, trade, assets or business which has been transferred may be considered indicative of the future

employment experience of the successor in interest. Credit shall be given to the successor in interest only for the years during which contributions were paid by the predecessor employer with respect to that part of the organization, trade, assets or business transferred.

(C) A transfer of the employment experience in whole or in part having become final, the predecessor employer thereafter shall not be entitled to consideration for an adjusted rate based upon his or its experience or the part thereof, as the case may be, which has thus been transferred. A successor in interest to whom employment experience or a part thereof is transferred pursuant to this subsection shall, as of the date of the transfer of the organization, trade, assets or business, or part thereof, immediately become an employer if not theretofore an employer subject to this chapter (R.S.43:21-1 et seq.).

(d) Contributions of workers, transfers to temporary disability benefit fund.

(1) (A) For periods after January 1, 1975, each worker shall contribute to the fund 1% of his wages with respect to his employment with an employer, which occurs on and after January 1, 1975, after such employer has satisfied the condition set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer; provided, however, that such contributions shall be at the rate of 1/2 of 1% of wages paid with respect to employment while the worker is in the employ of the State of New Jersey, or any governmental entity or instrumentality which is an employer as defined under R.S.43:21-19(h)(5), or is covered by an approved private plan under the "Temporary Disability Benefits Law" or while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31).

(B) Effective January 1, 1978 there shall be no contributions by workers in the employ of any governmental or nongovernmental employer electing or required to make payments in lieu of contributions unless the employer is covered by the State plan under the "Temporary Disability Benefits Law" (C.43:21-37 et seq.), and in that case contributions shall be at the rate of 1/2 of 1%, except that commencing July 1, 1986, workers in the employ of any nongovernmental employer electing or required to make payments in lieu of contributions shall be required to make contributions to the fund at the same rate prescribed for workers of other nongovernmental employers.

(C) Notwithstanding the above provisions of this paragraph (1), during the period starting July 1, 1986 and ending December 31, 1992 and during the period starting January 1, 1998, each worker shall contribute to the fund 1.125% of wages paid with respect to

his employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under R.S.43:21-19(h)(6), regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection R.S.43:21-19(h) of this Title with respect to becoming an employer. Contributions, however, shall be at the rate of 0.625% while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law" while the worker is exempt under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that such contributions shall be at the rate of 0.625% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, the contributions to the fund shall be 0.125%.

(D) Notwithstanding any other provisions of this paragraph (1), during the period starting January 1, 1993 and ending December 31, 1995 or, if the unemployment compensation fund reserve ratio, as determined pursuant to paragraph (5) of subsection (c) of this section, decreases to a level of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, ending July 1 of that calendar year, each worker shall contribute to the unemployment compensation fund 0.5% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph 6 of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer. No contributions, however, shall be made by the worker while the worker is covered by an approved private plan under the "Temporary Disability Bene-

fits Law," P.L.1948, c.110 (C.43:21-25 et seq.) or while the worker is exempt under section 7 of P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that the contributions shall be at the rate of 0.50% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, no contributions shall be made to the fund.

Each worker shall, starting on January 1, 1996 and ending December 31, 1997, or, if the unemployment compensation fund reserve ratio, as determined pursuant to paragraph (5) of subsection (c) of this section, decreases to a level of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, starting on July 1 of that calendar year and ending December 31, 1997, contribute to the unemployment compensation fund 1.10% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph 6 of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer. Contributions, however, shall be at the rate of 0.60% while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.) or while the worker is exempt under section 7 of P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that the contributions shall be at the rate of 0.60% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, the contributions to the fund shall be 0.10%.

(E) Each employer shall, notwithstanding any provision of law in this State to the contrary, withhold in trust the amount of his workers' contributions from their wages at the time such wages are paid, shall show such deduction on his payroll records, shall furnish such evidence thereof to his workers as the division or controller may prescribe, and shall transmit all such contributions, in addition to his own contributions, to the office of the controller in such manner and at such times as may be prescribed. If any employer fails to deduct the contributions of any of his workers at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding payroll period, he alone shall thereafter be liable for such contributions, and for the purpose of R.S.43:21-14, such contributions shall be treated as employer's contributions required from him.

(F) As used in this chapter (R.S.43:21-1 et seq.), except when the context clearly requires otherwise, the term "contributions" shall include the contributions of workers pursuant to this section.

(2) (A) (Deleted by amendment, P.L.1984, c.24.)

(B) (Deleted by amendment, P.L.1984, c.24.)

(C) With respect to wages paid on and after January 1, 1975, there shall be deposited in and credited to the State disability benefits fund, as established by law, one-half of all worker contributions received by the controller upon which the rate of contributions is 1%.

(D) All worker contributions received by the controller from all employers electing or required to make payments in lieu of contributions, upon which the rate of contribution is 1/2 of 1%, except the State of New Jersey or any other governmental entity or instrumentality defined as an employer under R.S.43:21-19(h)(5), unless the State of New Jersey or such other governmental entity or instrumentality is a "covered employer," as defined in section 3 of P.L.1948, c.110 (C.43:21-27).

(E) (i) Notwithstanding the above, with respect to wages during the period starting July 1, 1986 and ending December 31, 1992 and the period starting January 1, 1998, there shall be deposited in and credited to the State disability benefits fund 4/9 of all worker contributions received by the controller upon which the rate of contribution is 1.125% and 4/5 of the contributions received by the controller upon which the rate of contribution is 0.625% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu

of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law."

(ii) Notwithstanding any other provision of this paragraph (2), with respect to wages paid during the period beginning on January 1, 1993 and ending December 31, 1995 or, if the unemployment compensation fund reserve ratio, as determined pursuant to paragraph (5) of subsection (c) of this section, decreases to a level of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, ending July 1 of that calendar year, there shall be deposited in and credited to the State disability benefits fund all worker contributions received by the controller.

(iii) Notwithstanding any other provision of this paragraph (2), with respect to wages paid during the period beginning on January 1, 1996 and ending December 31, 1997 or, if the unemployment compensation fund reserve ratio, as determined pursuant to paragraph (5) of subsection (c) of this section, decreases to a level of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, during the period starting July 1 of that calendar year and ending December 31, 1997, there shall be deposited in and credited to the State disability benefits fund 5/11 of all worker contributions received by the controller upon which the rate of contribution is 1.10% and 5/6 of all worker contributions received by the controller upon which the rate of contribution is 0.60% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

(3) If an employee receives wages from more than one employer during any calendar year, and either the sum of his contributions deposited in and credited to the State disability benefits fund (in accordance with paragraph (2) of this subsection) plus the amount of his contributions, if any, required towards the costs of benefits under one or more approved private plans under the provisions of section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) and deducted from his wages, or the sum of such latter contributions, if the employee is covered during such calendar year only by two or more private plans, exceeds an amount equal to 1/2 of 1% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3) during the calendar years beginning on or after January 1, 1976, the employee shall be entitled to a refund of the excess if he makes a

claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to such refund. Such refund shall be made by the controller from the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of such refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law," such determination to be based upon the ratio of the amount of such wages exempt from contributions to such fund, as provided in subparagraph (B) of paragraph (1) of this subsection with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the disability benefits fund, as provided in subparagraph (B) of paragraph (2) of this subsection. The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the amount so prorated. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the State disability benefits fund.

(4) If an individual does not receive any wages from the employing unit which for the purposes of this chapter (R.S.43:21-1 et seq.) is treated as his employer, or receives his wages from some other employing unit, such employer shall nevertheless be liable for such individual's contributions in the first instance; and after payment thereof such employer may deduct the amount of such contributions from any sums payable by him to such employing unit, or may recover the amount of such contributions from such employing unit, or, in the absence of such an employing unit, from such individual, in a civil action; provided proceedings therefor are instituted within three months after the date on which such contributions are payable. General rules shall be prescribed whereby such an employing unit may recover the amount of such contributions from such individuals in the same manner as if it were the employer.

(5) Every employer who has elected to become an employer subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to

the provisions of R.S.43:21-8, shall post and maintain printed notices of such election on his premises, of such design, in such numbers, and at such places as the director may determine to be necessary to give notice thereof to persons in his service.

(6) Contributions by workers, payable to the controller as herein provided, shall be exempt from garnishment, attachment, execution, or any other remedy for the collection of debts.

(e) Contributions by employers to State disability benefits fund.

(1) Except as hereinafter provided, each employer shall, in addition to the contributions required by subsections (a), (b), and (c) of this section, contribute 1/2 of 1% of the wages paid by such employer to workers with respect to employment unless he is not a covered employer as defined in section 3 of the "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that the rate for the State of New Jersey shall be 1/10 of 1% for the calendar year 1980 and for the first six months of 1981. Prior to July 1, 1981 and prior to July 1 each year thereafter, the controller shall review the experience accumulated in the account of the State of New Jersey and establish a rate for the next following fiscal year which, in combination with worker contributions, will produce sufficient revenue to keep the account in balance; except that the rate so established shall not be less than 1/10 of 1%. Such contributions shall become due and be paid by the employer to the controller for the State disability benefits fund as established by law, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to $0.005 or more, in which case it shall be increased to $0.01.

(2) During the continuance of coverage of a worker by an approved private plan of disability benefits under the "Temporary Disability Benefits Law," the employer shall be exempt from the contributions required by subparagraph (1) above with respect to wages paid to such worker.

(3) (A) The rates of contribution as specified in subparagraph (1) above shall be subject to modification as provided herein with respect to employer contributions due on and after July 1, 1951.

(B) A separate disability benefits account shall be maintained for each employer required to contribute to the State disability benefits fund and such account shall be credited with contributions deposited in and credited to such fund with respect to employment occurring on and after January 1, 1949. Each employer's account shall be credited with all contributions paid

on or before January 31 of any calendar year on his own behalf and on behalf of individuals in his service with respect to employment occurring in preceding calendar years; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him to the fund either on his own behalf or on behalf of such individuals. Benefits paid to any covered individual in accordance with Article III of the "Temporary Disability Benefits Law" on or before December 31 of any calendar year with respect to disability in such calendar year and in preceding calendar years shall be charged against the account of the employer by whom such individual was employed at the commencement of such disability or by whom he was last employed, if out of employment.

(C) The controller may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(D) Prior to July 1 of each calendar year, the controller shall make a preliminary determination of the rate of contribution for the 12 months commencing on such July 1 for each employer subject to the contribution requirements of this subsection (e).

(1) Such preliminary rate shall be 1/2 of 1% unless on the preceding January 31 of such year such employer shall have been a covered employer who has paid contributions to the State disability benefits fund with respect to employment in the three calendar years immediately preceding such year.

(2) If the minimum requirements in (1) above have been fulfilled and the credited contributions exceed the benefits charged by more than $500.00, such preliminary rate shall be as follows:

(i) 2/10 of 1% if such excess over $500.00 exceeds 1% but is less than 1 1/4% of his average annual payroll (as defined in this chapter (R.S.43:21-1 et seq.));

(ii) 15/100 of 1% if such excess over $500.00 equals or exceeds 1 1/4% but is less than 1 1/2% of his average annual payroll;

(iii) 1/10 of 1% if such excess over $500.00 equals or exceeds 1 1/2% of his average annual payroll.

(3) If the minimum requirements in (1) above have been fulfilled and the contributions credited exceed the benefits charged but by not more than $500.00 plus 1% of his average annual payroll, or if the benefits charged exceed the contributions credited but by not more than $500.00, the preliminary rate shall be 1/4 of 1%.

(4) If the minimum requirements in (1) above have been fulfilled and the benefits charged exceed the contributions credited by more than $500.00, such preliminary rate shall be as follows:

(i) 35/100 of 1% if such excess over $500.00 is less than 1/4 of 1% of his average annual payroll;

(ii) 45/100 of 1% if such excess over $500.00 equals or exceeds 1/4 of 1% but is less than 1/2 of 1% of his average annual payroll;

(iii) 55/100 of 1% if such excess over $500.00 equals or exceeds 1/2 of 1% but is less than 3/4 of 1% of his average annual payroll;

(iv) 65/100 of 1% if such excess over $500.00 equals or exceeds 3/4 of 1% but is less than 1% of his average annual payroll;

(v) 75/100 of 1% if such excess over $500.00 equals or exceeds 1% of his average annual payroll.

(5) Determination of the preliminary rate as specified in (2), (3) and (4) above shall be subject, however, to the condition that it shall in no event be decreased by more than 1/10 of 1% of wages or increased by more than 2/10 of 1% of wages from the preliminary rate determined for the preceding year in accordance with (1), (2), (3) or (4), whichever shall have been applicable.

(E) (1) Prior to July 1 of each calendar year the controller shall determine the amount of the State disability benefits fund as of December 31 of the preceding calendar year, increased by the contributions paid thereto during January of the current calendar year with respect to employment occurring in the preceding calendar year. If such amount exceeds the net amount withdrawn from the unemployment trust fund pursuant to section 23 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47) plus the amount at the end of such preceding calendar year of the unemployment disability account (as defined in section 22 of said law (C.43:21-46)), such excess shall be expressed as a percentage of the wages on which contributions were paid to the State disability benefits fund on or before January 31 with respect to employment in the preceding calendar year.

(2) The controller shall then make a final determination of the rates of contribution for the 12 months commencing July 1 of

such year for employers whose preliminary rates are determined as provided in (D) hereof, as follows:

(i) If the percentage determined in accordance with paragraph (E)(1) of this subsection equals or exceeds 1 1/4%, the final employer rates shall be the preliminary rates determined as provided in (D) hereof, except that if the employer's preliminary rate is determined as provided in (D)(2) or (D)(3) hereof, the final employer rate shall be the preliminary employer rate decreased by such percentage of excess taken to the nearest 5/100 of 1%, but in no case shall such final rate be less than 1/10 of 1%.

(ii) If the percentage determined in accordance with paragraph (E)(1) of this subsection equals or exceeds 3/4 of 1% and is less than 1 1/4 of 1%, the final employer rates shall be the preliminary employer rates.

(iii) If the percentage determined in accordance with paragraph (E)(1) of this subsection is less than 3/4 of 1%, but in excess of 1/4 of 1%, the final employer rates shall be the preliminary employer rates determined as provided in (D) hereof increased by the difference between 3/4 of 1% and such percentage taken to the nearest 5/100 of 1%; provided, however, that no such final rate shall be more than 1/4 of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(2) hereof, more than 1/2 of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(1) and (D)(3) hereof, nor more than 3/4 of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(4) hereof.

(iv) If the amount of the State disability benefits fund determined as provided in paragraph (E)(1) of this subsection is equal to or less than 1/4 of 1%, then the final rate shall be 2/5 of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(2) hereof, 7/10 of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(1) and (D)(3) hereof, and 1.1% in the case of an employer whose preliminary rate is determined as provided in (D)(4) hereof. Notwithstanding any other provision of law or any determination made by the controller with respect to any 12-month period commencing on July 1, 1970, the final rates for all employers for the period beginning January 1, 1971, shall be as set forth herein.

C.26:2H-18.68 Appropriation from "Uncompensated Care Reduction - Pilot Program" account.

36. The monies in the "Uncompensated Care Reduction--Pilot Program" account of the New Jersey Uncompensated Care Trust

Fund established pursuant to P.L.1989, c.1, as that account was continued in section 18 of P.L.1991, c.187 (C.26:2H-18.40), are appropriated to the Essential Health Services Commission for the New Jersey SHIELD program established pursuant to this act.

C.26:2H-18.69 Appropriation of remaining monies.

37. Any monies remaining in the New Jersey Health Care Trust Fund, including the reserve required pursuant to section 4 of P.L.1991, c.187 (C.26:2H-18.27), are appropriated to the Health Care Subsidy Fund in the Essential Health Services Commission.

C.30:4D-7e Rules, regulations.

38. The Commissioner of Human Services shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) adopt rules and regulations necessary to implement the provisions of sections 9, 11 and 12 of this act as they relate to payments from the Health Care Subsidy Fund to disproportionate share hospitals.

C.26:2H-18.70 Short title.

39. This act shall be known and may be cited as the "Health Care Reform Act of 1992."

40. The following are repealed:

Repealer.

Section 3 of P.L.1985, c.306 (C.26:2H-18b);

Section 11 of P.L.1978, c.83 (C.26:2H-18.1); and

Sections 39 and 82 of P.L.1991, c.187 (C.26:2H-18.1a and 26:2H-18.49).

Repealer.

41. Sections 5 and 14 of P.L.1978, c.83 (C.26:2H-4.1 and 26:2H-18.3) are repealed.

42. Sections 1 through 26, 28 through 40, and 42 of this act shall take effect on January 1, 1993 and if enacted after that date, shall be retroactive to January 1, 1993, section 27 shall take effect on November 30, 1992 and if enacted after that date shall be retroactive to November 30, 1992 and section 41 shall take effect on January 1, 1994.

Approved November 30, 1992.

CHAPTER 161

AN ACT requiring all health insurers, health service corporations and health maintenance organizations to provide individual health benefits coverage on an open enrollment basis, creating the New Jersey Individual Health Coverage Program, amending P.L.1985, c.236, P.L.1988, c.71 and supplementing Title 17B of the New Jersey Statutes.

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

C.17B:27A-2 Definitions.

1. As used in sections 1 through 15, inclusive, of this act:

"Board" means the board of directors of the program.

"Carrier" means an insurance company, health service corporation or health maintenance organization authorized to issue health benefits plans in this State. For purposes of this act, carriers that are affiliated companies shall be treated as one carrier.

"Commissioner" means the Commissioner of Insurance.

"Community rating" means a rating system in which the premium for all persons covered by a contract is the same, based on the experience of all persons covered by that contract, without regard to age, sex, health status, occupation and geographical location.

"Department" means the Department of Insurance.

"Dependent" means the spouse or child of an eligible person, subject to applicable terms of the individual health benefits plan.

"Eligible person" means a person who is a resident of the State who is not eligible to be insured under a group health insurance policy, Medicare, or Medicaid.

"Financially impaired" means a carrier which, after the effective date of this act, is not insolvent, but is deemed by the commissioner to be potentially unable to fulfill its contractual obligations, or a carrier which is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

"Group health benefits plan" means a health benefits plan for groups of two or more persons.

"Health benefits plan" means a hospital and medical expense insurance policy; health service corporation contract; or health maintenance organization subscriber contract delivered or issued for delivery in this State. For purposes of this act, health benefits plan does not include the following plans, policies, or contracts: accident only, credit, disability, long-term care, Medicare supple-

ment 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.

"Individual health benefits plan" means a health benefits plan for eligible persons and their dependents.

"Member" means a carrier that is a member of the program pursuant to this act.

"Modified community rating" means a rating system in which the premium for all persons covered by a contract is formulated based on the experience of all persons covered by that contract, without regard to age, sex, occupation and geographical location, but which may differ by health status. The term modified community rating shall apply to contracts and policies issued prior to the effective date of this act which are subject to the provisions of subsection e. of section 2 of this act.

"Net earned premium" means the premiums earned in this State on health benefits plans, less return premiums thereon and dividends paid or credited to policy or contract holders on the health benefits plan business. Net earned premium shall include the aggregate premiums earned on the carrier's insured group and individual business and health maintenance organization business, including premiums from any Medicare, Medicaid or HealthStart Plus contracts with the State or federal government, but shall not include any excess or stop loss coverage issued by a carrier in connection with any self insured health benefits plan, or Medicare supplement policies or contracts.

"Open enrollment" means the offering of an individual health benefits plan to any eligible person on a guaranteed issue basis, pursuant to procedures established by the board.

"Plan of operation" means the plan of operation of the program adopted by the board pursuant to this act.

"Preexisting condition" means a condition that, during a specified period of not more than six months immediately preceding the effective date of coverage, had manifested itself in such a manner as would cause an ordinarily prudent person to seek medical advice, diagnosis, care or treatment, or for which medical advice, diagnosis, care or treatment was recommended or

received as to that condition or as to a pregnancy existing on the effective date of coverage.

"Program" means the New Jersey Individual Health Coverage Program established pursuant to this act.

C.17B:27A-3 Individual health benefits plans, applicability of act.

2. a. An individual health benefits plan issued on or after the effective date of this act shall be subject to the provisions of this act.

b. (1) An individual health benefits plan issued on an open enrollment, modified community rated basis or community rated basis prior to the effective date of this act shall not be subject to sections 3 through 8, inclusive, of this act, unless otherwise specified therein.

(2) An individual health benefits plan issued other than on an open enrollment basis prior to the effective date of this act shall not be subject to the provisions of this act, except that the plan shall be liable for assessments made pursuant to section 11 of this act.

(3) A group conversion contract or policy issued prior to the effective date of this act that is not issued on a modified community rated basis or community rated basis, shall not be subject to the provisions of this act, except that the contract or policy shall be liable for assessments made pursuant to section 11 of this act.

c. After the effective date of this act, an individual who is eligible to participate in a group health benefits plan that provides coverage for hospital or medical expenses shall not be covered by an individual health benefits plan which provides benefits for hospital and medical expenses that are the same or similar to coverage provided in the group health benefits plan.

d. After the effective date of this act, a person who is covered by an individual health benefits plan who is a participant in, or is eligible to participate in, a group health benefits plan that provides the same or similar coverages as the individual health benefits plan, and a person, including an employer or insurance producer, who causes another person to be covered by an individual health benefits plan which person is a participant in, or who is eligible to participate in a group health benefits plan that provides the same or similar coverages as the individual health benefits plan, shall be subject to a fine by the commissioner in an amount not less than twice the annual premium paid for the individual health benefits plan, together with any other penalties permitted by law.

e. Every individual health benefits plan issued prior to the effective date of this act shall be rated as follows:

(1) No later than 180 days after the effective date of this act, the premium rate charged by a carrier to the highest rated individual who purchased an individual health benefits plan prior to the effective date of this act shall not be greater than 150% of the premium rate charged to the lowest rated individual purchasing that same or a similar health benefits plan.

(2) During the period July 1, 1994 to June 30, 1995, the premium rate charged by a carrier to the highest rated individual who purchased an individual health benefits plan prior to the effective date of this act shall not be greater than 125% of the premium rate charged to the lowest rated individual purchasing that same or a similar health benefits plan.

(3) On and after July 1, 1995, every individual health benefits plan which was issued before the effective date of this act shall be community rated upon the date of its renewal.

(4) A carrier that issues an individual health benefits plan with modified community rating subject to the provisions of this subsection shall make an informational filing with the board whenever it adjusts or modifies its rates.

C.17B:27A-4 Offering of individual health benefits plans required.

3. a. No later than 180 days after the effective date of this act, a carrier shall, as a condition of issuing health benefits plans in this State, offer individual health benefits plans. The plans shall be offered on an open enrollment, community rated basis, pursuant to the provisions of this act; except that a carrier shall be deemed to have satisfied its obligation to provide the individual health benefits plans by paying an assessment or receiving an exemption pursuant to section 11 of this act.

b. A carrier shall offer to an eligible person a choice of five individual health benefits plans, any of which may contain provisions for managed care. One plan shall be a basic health benefits plan, one plan shall be a managed care plan and three plans shall include enhanced benefits of proportionally increasing actuarial value. A carrier may elect to convert any individual health benefits plans in force on the effective date of this act to any of the five benefit plans, except that the replacement plan shall be of no less actuarial value than the policy or contract being replaced.

Notwithstanding the provisions of this subsection to the contrary, at any time after three years after the effective date of this act, the board, by regulation, may reduce the number of plans required to be offered by a carrier.

Notwithstanding the provisions of this subsection to the contrary, a health maintenance organization which is a qualified health maintenance organization pursuant to the "Health Maintenance Organization Act of 1973," Pub.L.93-222 (42 U.S.C.§300e et seq.) shall be permitted to offer a basic health benefits plan in accordance with the provisions of that law in lieu of the five plans required pursuant to this subsection.

c. (1) A basic health benefits plan shall provide the benefits set forth in section 55 of P.L.1991, c.187 (C:17:48E-22.2), section 57 of P.L.1991, c.187 (C.17B:26B-2) or section 59 of P.L.1991, c.187 (C.26:2J-4.3), as the case may be.

(2) Notwithstanding the provisions of this subsection or any other law to the contrary, a carrier may, with the approval of the board, modify the coverage provided for in sections 55, 57, or 59 of P.L. 1991, c. 187 (C.17:48E-22.2, 17B:26B-2 and 26:2J-4.3, respectively) or provide alternative benefits or services from those required by this subsection if they are within the intent of this act or if the board changes the benefits included in the basic health benefits plan.

(3) A contract or policy for a basic health benefits plan provided for in this section may contain or provide for coinsurance or deductibles, or both, except that no deductible shall be payable in excess of a total of $250 by an individual or $500 by a family unit during any benefit year; no coinsurance shall be payable in excess of a total of $500 by an individual or by a family unit during any benefit year; and neither coinsurance nor deductibles shall apply to maternity benefits or preventative care examinations.

(4) Notwithstanding the provisions of paragraph (3) of this subsection or any other law to the contrary, a carrier may provide for increased deductibles or coinsurance for a basic health benefits plan if approved by the board or if the board increases deductibles or coinsurance included in the basic health benefits plan.

(5) The provisions of section 13 of P.L.1985, c.236 (C:17:48E-13), N.J.S.17B:26-1, and section 8 of P.L.1973, c.337 (C.26:2J-8) with respect to the filing of policy forms shall not apply to health plans issued on or after the effective date of this act.

(6) The provisions of section 27 of P.L.1985, c.236 (C.17:48E-27) and section 7 of P.L.1988, c.71 (C.17:48E-27.1) with respect to rate filings shall not apply to individual health plans issued on or after the effective date of this act.

d. Every group conversion contract or policy issued after the effective date of this act shall be issued pursuant to this section; except that this requirement shall not apply to any group conversion contract or

policy in which a portion of the premium is chargeable to, or subsidized by, the group policy from which the conversion is made.

C.17B:27A-5 Laws not applicable to plans.

4. The following provisions shall not apply to basic health benefits plans and managed care health benefits plans issued pursuant to section 3 of this act:

Sections 12, 32 through 35, inclusive, of P.L.1985, c.236 (C.17:48E-12 and C.17:48E-32 through C.17:48E-35, inclusive); section 2 of P.L.1987, c.62 (C.17:48E-35.1); sections 3, 4 and 6 of P.L.1991, c.279 (C.17:48E-35.4, 17B:26-2.1e and 26:2J-4.4); section 1 of P.L.1977, c.118 (C.17B:26-2.1); section 1 of P.L.1983, c.53 (C.17B:26-2.1a); section 1 of P.L.1987 c.64 (C.17B:26-2.1c); P.L.1979, c.328 (C.17B:26-2.2 et seq.); and sections 1 and 2 of P.L.1979, c.161 (C.17B:26-44.1 and C.17B:26-44.2).

C.17B:27A-6 Individual health benefits plans, requirements.

5. An individual health benefits plan issued pursuant to section 3 of this act is subject to the following provisions:

a. The health benefits plan shall guarantee coverage for an eligible person and his dependents on a community rated basis.

b. A health benefits plan shall be renewable with respect to an eligible person and his dependents at the option of the policy or contract holder except under the following circumstances:

(1) nonpayment of the required premiums by the policy or contract holder;

(2) fraud or misrepresentation by the policy or contract holder, including equitable fraud, with respect to coverage of eligible individuals or their dependents;

(3) termination of eligibility of the policy or contract holder; or

(4) cancellation or amendment by the board of the specific individual health benefits plan.

C.17B:27A-7 Establishment of policy and contract forms, benefit levels.

6. The board shall establish the policy and contract forms and benefit levels to be made available by all carriers for the policies required to be issued pursuant to section 3 of this act. The board shall provide the commissioner with an informational filing of the policy and contract forms and benefit levels it establishes.

a. The individual health benefits plans established by the board may include cost containment measures such as, but not limited to: utilization review of health care services, including review of medical necessity of hospital and physician services;

case management benefit alternatives; selective contracting with hospitals, physicians, and other health care providers; and reasonable benefit differentials applicable to participating and nonparticipating providers; and other managed care provisions.

b. An individual health benefits plan offered pursuant to section 3 of this act shall contain a limitation of no more than 12 months on coverage for preexisting conditions, except that the limitation shall not apply to an individual who satisfied a 12 month preexisting condition limitation under a prior group or individual health benefits plan with no intervening lapse in coverage.

c. In addition to the five standard individual health benefits plans provided for in section 3 of this act, the board may develop up to five rider packages. Premium rates for the rider packages shall be determined in accordance with section 8 of this act.

d. After the board's establishment of the individual health benefits plans required pursuant to section 3 of this act, and notwithstanding any law to the contrary, a carrier shall file the policy or contract forms with the board and certify to the board that the health benefits plans to be used by the carrier are in substantial compliance with the provisions in the corresponding board approved plans. The certification shall be signed by the chief executive officer of the carrier. Upon receipt by the board of the certification, the certified plans may be used until the board, after notice and hearing, disapproves their continued use.

C.17B:27A-8 Offering of certain coverage not required.

7. a. A health maintenance organization shall not be required to offer coverage to or accept an applicant pursuant to this act if the applicant is not geographically located in the health maintenance organization's approved service area or if the health maintenance organization does not have the capacity in its facilities to enroll additional members; except that, if the health maintenance organization does not have the capacity in its facilities for additional individual enrollees, it also shall not offer coverage to or accept any new group enrollees.

b. A carrier shall not be required to offer coverage or accept applications pursuant to this act if the commissioner finds that the acceptance of applications would place the carrier in a financially impaired condition.

C.17B:27A-9 Determination of rates.

8. a. The board shall make application to the Hospital Rate Setting Commission on behalf of all carriers for approval of discounted or reduced rates of payment to hospitals for health

care services provided under an individual health benefits plan provided pursuant to this act.

b. In addition to discounted or reduced rates of hospital payment, the board shall make application on behalf of all carriers for any other subsidies, discounts, or funds that may be provided for under State or federal law or regulation. A carrier may include discounted or reduced rates of hospital payment and other subsidies or funds granted to the board to reduce its premium rates for individual health benefits plans subject to this act.

c. A carrier shall not issue individual health benefits plans on a new contract or policy form pursuant to this act until an informational filing of a full schedule of rates which applies to the contract or policy form has been filed with the board. The board shall forward the informational filing to the commissioner and the Public Advocate.

d. A carrier shall make an informational filing with the board of any change in its rates for individual health benefits plans pursuant to section 3 of this act prior to the date the rates become effective. The board shall file the informational filing with the commissioner and the Public Advocate. If the carrier has filed all information required by the board, the filing shall be deemed to be complete.

e. (1) Rates shall be formulated on contracts or policies required pursuant to section 3 of this act so that the anticipated minimum loss ratio for a contract or policy form shall not be less than 75% of the premium. The carrier shall submit with its rate filing supporting data, as determined by the board, and a certification by a member of the American Academy of Actuaries, or other individuals acceptable to the board and to the commissioner, that the carrier is in compliance with the provisions of this subsection.

(2) Following the close of each calendar year, if the board determines that a carrier's loss ratio was less than 75% for that calendar year, the carrier shall be required to refund to policy or contract holders the difference between the amount of net earned premium it received that year and the amount that would have been necessary to achieve the 75% loss ratio.

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) a mutual health insurer of this State subject to Subtitle 3 of Title 17B of the New Jersey Statutes; and

(4) a foreign health insurance company authorized to do business in this State.

In approving the selection of the carrier representatives of the board, the commissioner shall assure that all members of the program are fairly represented.

Initially, two of the Governor's appointees and two of the carrier representatives shall serve for a term of three years; one of the Governor's appointees and one of the carrier representatives shall serve for a term of two years; and one of the Governor's appointees and one of the carrier representatives shall serve for a term of one year. Thereafter, all board members shall serve for a term of three years. Vacancies shall be filled in the same manner as the original appointments.

c. If the initial carrier representatives to the board are not elected at the organizational meeting, the commissioner shall appoint those members to the initial board within 15 days of the organizational meeting.

d. Within 90 days after the appointment of the initial board, the board shall submit to the commissioner a plan of operation and thereafter, any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the

program. The commissioner may disapprove the plan of operation, if the commissioner determines that it is not suitable to assure the fair, reasonable, and equitable administration of the program, and that it does not provide for the sharing of program losses on an equitable and proportionate basis in accordance with the provisions of section 11 of this act. The plan of operation or amendments thereto shall become effective unless disapproved in writing by the commissioner within 45 days of receipt by the commissioner.

e. If the board fails to submit a suitable plan of operation within 90 days after its appointment, the commissioner shall, after notice and hearing, adopt and promulgate a temporary plan of operation. 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 monies 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.

C.17B:27A-11 Powers, authority of program, board.

10. The program shall have the general powers and authority granted under the laws of New Jersey to insurance companies, health service corporations and health maintenance organizations licensed or approved to transact business in this State, except that the program shall not have the power to issue health benefits plans directly to either groups or individuals.

The board shall have the specific authority to:

a. assess members their proportionate share of program losses and administrative expenses in accordance with the provisions of

section 11 of this act, and make advance interim assessments, as may be reasonable and necessary for organizational and interim operating expenses and estimated losses. An interim assessment shall be credited as an offset against any regular assessment due following the close of the fiscal year;

b. establish rules, conditions, and procedures pertaining to the sharing of program losses and administrative expenses among the members of the program;

c. review rate applications and form filings submitted by carriers in accordance with this act;

d. define the provisions of individual health benefits plans in accordance with the requirements of this act;

e. enter into contracts which are necessary or proper to carry out the provisions and purposes of this act;

f. establish a procedure for the joint distribution of information on individual health benefits plans issued pursuant to section 3 of this act;

g. establish, at the board's discretion, standards for the application of a means test for individual health benefits plans issued pursuant to section 3 of this act;

h. establish, at the board's discretion, reasonable guidelines for the purchase of new individual health benefits plans by persons who already are enrolled in or insured by another individual health benefits plan;

i. establish minimum requirements for performance standards for carriers that are reimbursed for losses submitted to the program and provide for performance audits from time to time;

j. sue or be sued, including taking any legal actions necessary or proper for recovery of an assessment for, on behalf of, or against the program or a member;

k. appoint from among its members appropriate legal, actuarial, and other committees as necessary to provide technical and other assistance in the operation of the program, in policy and other contract design, and any other function within the authority of the program; and

l. borrow money to effect the purposes of the program. Any notes or other evidence of indebtedness of the program not in default shall be legal investments for carriers and may be carried as admitted assets.

C.17B:27A-12 Procedures for equitable sharing of program losses.

11. The board shall establish procedures for the equitable sharing of program losses among all members in accordance with their total market share as follows:

a. (1) By March 1, 1993 and following the close of each calendar year thereafter, on a date established by the board:

(a) every carrier issuing health benefits plans in this State shall file with the board its net earned premium for the preceding calendar year ending December 31; and

(b) every carrier issuing individual health benefits plans in the State shall file with the board the net earned premium on policies or contracts issued pursuant to paragraph (1) of subsection b. of section 2 and section 3 of this act and the claims paid and the administrative expenses attributable to those policies or contracts. If the claims paid and reasonable administrative expenses for that calendar year exceed the net earned premium and any investment income thereon, the amount of the excess shall be the net paid loss for the carrier that shall be reimbursable under this act. For the purposes of this subsection, "reasonable administrative expenses" shall be actual expenses or a maximum of 25% of premium, whichever amount is less.

(2) Every member shall be liable for an assessment to reimburse carriers issuing individual health benefits plans in this State which sustain net paid losses for the previous year, unless the member has received an exemption from the board pursuant to subsection d. of this section and has written a minimum number of non-group persons as provided for in that subsection. The assessment of each member shall be in the proportion that the net earned premium of the member for the calendar year preceding the assessment bears to the net earned premium of all members for the calendar year preceding the assessment.

(3) A member that is financially impaired may seek from the commissioner a deferment in whole or in part from any assessment issued by the board. The commissioner may defer, in whole or in part, the assessment of the member if, in the opinion of the commissioner, the payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. If an assessment against a member is deferred in whole or in part, the amount by which the assessment is deferred may be assessed against the other members in a manner consistent with the basis for assessment set forth in this section. The member receiving the deferment shall remain liable to the program for the amount deferred.

b. The participation in the program as a member, the establishment of rates, forms or procedures, or any other joint or collective action required by this act shall not be the basis of any legal action, criminal or civil liability, or penalty against the program,

a member of the board or a member of the program either jointly or separately except as otherwise provided in this act.

c. Payment of an assessment made under this section shall be a condition of issuing health benefits plans in the State for a carrier. Failure to pay the assessment shall be grounds for forfeiture of a carrier's authorization to issue health benefits plans of any kind in the State, as well as any other penalties permitted by law.

d. (1) Notwithstanding the provisions of this act to the contrary, a carrier may apply to the board, by a date established by the board, for an exemption from the assessment and reimbursement for losses provided for in this section. A carrier which applies for an exemption shall agree to enroll or insure a minimum number of non-group persons on an open enrollment community rated basis, under a managed care or indemnity plan, as specified in this subsection, provided that any indemnity plan so issued conforms with sections 2 through 7, inclusive, of this act. For the purposes of this subsection, non-group persons include individually enrolled persons, conversion policies issued pursuant to this act, Medicare cost and risk lives and Medicaid and HealthStart Plus recipients; except that in determining whether the carrier meets the minimum number of non-group persons required pursuant to this subsection, the number of Medicaid recipients and Medicare cost and risk lives shall not exceed 50% of the total.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, a health maintenance organization qualified pursuant to the "Health Maintenance Organization Act of 1973," Pub.L 93-222 (42 U.S.C.§300e et seq.) and tax exempt pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986, 26 U.S.C.§501, may include up to one third Medicaid recipients and up to one third Medicare recipients in determining whether it meets its minimum number.

(3) The minimum number of non-group persons, as determined by the board, shall equal the total number of community rated and modified community rated, individually enrolled or insured persons, including Medicare cost and risk lives and enrolled Medicaid and HealthStart Plus lives, of all carriers subject to this act as of the end of the calendar year, multiplied by the proportion that that carrier's net earned premium bears to the net earned premium of all carriers for that calendar year, including those carriers that are exempt from the assessment.

(4) Within 180 days after the effective date of this act and on or before March 1 of each year thereafter, every carrier seeking an

exemption pursuant to this subsection shall file with the board a statement of its net earned premium for the preceding calendar year. The board shall determine each carrier's minimum number of non-group persons in accordance with this subsection.

(5) On or before March 1 of each year, every carrier that was granted an exemption for the preceding calendar year shall file with the board the number of non-group persons, by category, enrolled or insured as of December 31 of the preceding calendar year.

To the extent that the carrier has failed to enroll the minimum number of non-group persons established by the board, the carrier shall be assessed by the board on a pro rata basis for any differential between the minimum number established by the board and the actual number enrolled or insured by the carrier.

(6) A carrier that applies for the exemption shall be deemed to be in compliance with the requirements of this subsection if:

(a) by the end of calendar year 1993, it has enrolled or insured at least 40% of the minimum number of non-group persons required;

(b) by the end of calendar year 1994, it has enrolled or insured at least 75% of the minimum number of non-group persons required; and

(c) by the end of calendar year 1995, it has enrolled or insured 100% of the minimum number of non-group persons required.

(7) Any carrier that writes both managed care and indemnity business that is granted an exemption pursuant to this subsection may satisfy its obligation to write a minimum number of non-group persons by writing either managed care or indemnity business, or both.

e. Notwithstanding the provisions of this section to the contrary, no carrier shall be liable for an assessment to reimburse any carrier pursuant to this section in an amount which exceeds 35% of the aggregate net paid losses of all carriers filing pursuant to paragraph (1) of subsection a. of this section. To the extent that this limitation results in any unreimbursed paid losses to any carrier, the unreimbursed net paid losses shall be distributed among carriers: (1) which owe assessments pursuant to paragraph (2) of subsection a. of this section; (2) whose assessments do not exceed 35% of the aggregate net paid losses of all carriers; and (3) who have not received an exemption pursuant to subsection d. of this section. For the purposes of paragraph (3) of this subsection, a carrier shall be deemed to have received an exemption notwithstanding the fact that the carrier failed to enroll or insure the minimum number of non-group persons required for that calendar year.

C.17B:27A-13 Statement of net paid losses.

12. a. No later than March 1, 1993, any carrier issuing individual health benefits plans in the State shall file with the board a statement of any net paid losses for the calendar year ending December 31, 1992, as calculated pursuant to subsection a. of section 11 of this act, along with any supporting information required by the board.

b. The losses filed pursuant to subsection a. of this section shall be reimbursed in an amount up to $10,000,000 or 50% of the paid losses, whichever amount is less, to the carrier filing the losses. The assessment shall be made as a separate assessment from those required pursuant to section 11 of this act, but shall be assessed in the same manner and at the same time as the first assessment made after the effective date of this act as provided for in section 11 of this act, except that the carrier filing for the reimbursement shall not be subject to an assessment pursuant to this section.

C.17B:27A-14 Determination of disproportionate share of substandard risks.

13. The board shall determine whether any carrier has a disproportionate share of substandard risks insured or enrolled under its individual health benefits plans and shall make recommendations to the Governor and the Legislature for remedial action to minimize the losses sustained by the carrier as a result of insuring these risks.

C.17B:27A-15 Sale of health benefits plan.

14. A health benefits plan issued pursuant to section 3 of this act may be sold through an insurance producer licensed pursuant to P.L.1987, c.293 (C.17:22A-1 et seq.).

C.17B:27A-16 Submission of rate filings by health maintenance organization not required.

15. Notwithstanding the provisions of P.L.1973, c.337 (C.26:2J-1 et seq.) to the contrary, a health maintenance organization shall not be required to submit any rate filings with the commissioner for an individual health benefits plan that is subject to the provisions of this act, but shall be subject to the minimum loss ratio provisions of section 8 of this act.

16. The board shall, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate rules and regulations necessary to effectuate the provisions of sections 1 through 15, inclusive, of this act.

17. Sections 1 through 15, inclusive, of this act shall be known and may be cited as the "Individual Health Insurance Reform Act."

18. Section 3 of P.L.1985, c.236 (C.17:48E-3) is amended to read as follows:

C.17:48E-3 Health service corporations.

3. a. No health service corporation shall be established as a corporation organized for pecuniary profit. Every health service corporation established pursuant to the provisions of this act shall be operated for the benefit of its subscribers.

b. No person, firm, association or corporation, other than a health service corporation or an insurance company authorized to transact life or health insurance in accordance with Title 17B of the New Jersey Statutes, shall establish, maintain or operate a health service plan. No person, firm, association or corporation, other than a hospital service corporation, a medical service corporation, a dental service corporation to the extent permitted by P.L.1968, c.305 (C.17:48C-1 et seq.), or an insurance company authorized to transact life or health insurance business or the kinds of insurance specified in subsection d. of R.S.17:17-1, shall otherwise contract in this State with persons to pay for or to provide for health services on the basis of premiums or other valuable considerations to be collected by the person, firm, association or corporation from any persons for the issuance of the contracts. This section shall not be construed as preventing the exercise of any authority or privilege granted to any corporation by a certificate of authority issued by the commissioner pursuant to any law of this State, or as preventing any person, firm, association or corporation from furnishing health services required under any workers' compensation law, or law pertaining to health maintenance organizations, or as otherwise provided by law.

c. A health service corporation shall, unless prohibited by the commissioner, offer as an option medical-surgical contracts and dental subscriber contracts which afford subscribers prepaid or postpaid benefits pursuant to which payment is made to participating providers for medical-surgical and dental services rendered by a participating provider network with agreements granting an aggregate differential allowance or discount on charges, as well as a limit on total allowances which may or may not be related to the subscriber's income level, where the aggregate differential or discount on charges and limit on total allowances may be achieved by payment of either the individual provider's actual charge or the health service corporation's allowance on the charge, whichever is less.

d. A health service corporation shall maintain an open enrollment period for coverage to persons who are otherwise unable to obtain

hospital, medical-surgical, or major medical coverage in accordance with the provisions of P.L.1992, c.161 (C.17B:27A-2 et al.).

e. No health service corporation shall have the power to underwrite life insurance as defined in Title 17B of the New Jersey Statutes directly, but a health service corporation may, at such time as the aggregate special contingent surplus is greater than 0%, own stock in, control, or otherwise become affiliated with a life, health or accident insurance company organized pursuant to Title 17B of the New Jersey Statutes or under the laws of any other state, provided that the company is admitted in this State.

f. No health service corporation shall solicit subscribers or enter into any contract with any subscriber until it has received from the commissioner a certificate of authority to do so, but if a health service corporation is established by means of the merger of a medical service corporation into a hospital service corporation, which hospital service corporation possesses a valid certificate of authority issued prior to the effective date of this act, the health service corporation thus established need not reapply for a new certificate of authority, but the corporation shall file in the Department of Insurance any documents relating to the merger which the commissioner may require.

g. Nothing in this act shall be deemed to prohibit a health service corporation from contracting with, or paying commissions to, any duly licensed affiliated or independent insurance producer, to the extent permitted by the laws applicable to those producers.

19. Section 27 of P.L.1985, c.236 (C.17:48E-27) is amended to read as follows:

C.17:48E-27 Rate schedule filing.

27. No health service corporation shall issue individual contracts until it has made an informational filing with the commissioner, pursuant to the provisions of this act, of a full schedule of rates which are to apply to those contracts. The rates shall be formulated so that the anticipated minimum loss ratio for a contract form shall not be less than 75% of the premium. The health service corporation shall submit with its rate filing supporting data that the corporation is in compliance with the anticipated loss ratio requirement. The supporting data and certification required pursuant to subsection e. of section 8 of P.L.1992, c.161 (C.17B:27A-9) shall satisfy the requirements of this section.

20. Section 7 of P.L.1988, c.71 (C.17:48E-27.1) is amended to read as follows:

C.17:48E-27.1 Individual contract rate changes.

7. A health service corporation shall make an informational filing of any change in its rates for coverage under individual contracts which are not experience rated, along with supporting information as required pursuant to subsection e. of section 8 of P.L.1992, c.161 (C.17B:27A-9), prior to the rates becoming effective.

21. This act shall take effect immediately.

Approved November 30, 1992.

CHAPTER 162

AN ACT requiring certain health insurers, service corporations and health maintenance organizations to offer standardized health benefits programs to small groups and establishing a reinsurance program.

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

C.17B:27A-17 Definitions.

1. As used in this act:

"Actuarial certification" means a written statement by a member of the American Academy of Actuaries or other individual acceptable to the commissioner that a small employer carrier is in compliance with the provisions of section 9 of this act, based upon examination, including a review of the appropriate records and actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefits plans.

"Anticipated loss ratio" means the ratio of the present value of the expected benefits, not including dividends, to the present value of the expected premiums, not reduced by dividends, over the entire period for which rates are computed to provide coverage. For purposes of this ratio, the present values must incorporate realistic rates of interest which are determined before federal taxes but after investment expenses.

"Board" means the board of directors of the program.

"Carrier" means any insurance company, health service corporation, hospital service corporation, medical service corporation or health maintenance organization authorized to issue health benefits plans in this State. For purposes of this act, carriers that are affiliated companies shall be treated as one carrier, except that any insurance company, health service corporation, hospital service corporation, or medical service corporation that is an affiliate of a health maintenance organization located in New Jersey or any health maintenance organization located in New Jersey that is affiliated with an insurance company, health service corporation, hospital service corporation, or medical service corporation shall treat the health maintenance organization as a separate carrier.

"Commissioner" means the Commissioner of Insurance.

"Community rating" means a rating methodology in which the premium for all persons covered by a policy or contract form is the same based upon the experience of the entire pool of risks covered by that policy or contract form without regard to age, gender, health status, residence or occupation.

"Department" means the Department of Insurance.

"Dependent" means the spouse or child of an eligible employee, subject to applicable terms of the health benefits plan covering the employee.

"Eligible employee" means a full-time employee who works a normal work week of 25 or more hours. The term includes a sole proprietor, a partner of a partnership, or an independent contractor, if the sole proprietor, partner, or independent contractor is included as an employee under a health benefits plan of a small employer, but does not include employees who work less than 25 hours a week or work on a temporary or substitute basis.

"Financially impaired" means a carrier which, after the effective date of this act, is not insolvent, but is deemed by the commissioner to be potentially unable to fulfill its contractual obligations or a carrier which is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

"Health benefits plan" means any hospital and medical expense incurred policy; health, hospital, or medical service corporation contract; or health maintenance organization subscriber contract offered by any carrier to a small employer group pursuant to section 3 of this act. For purposes of this act, "health benefits plan" excludes the following plans, policies, or contracts: accident only, credit, disability, long-term care, coverage for Medicare ser-

vices pursuant to a contract with the United States government, Medicare supplement, dental only or vision only issued as a supplement to liability insurance, coverage arising out of a workers' compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

"Late enrollee" means an eligible employee or dependent who requests enrollment in a health benefits plan of a small employer following the initial minimum 30-day enrollment period provided under the terms of the health benefits plan. An eligible employee or dependent shall not be considered a late enrollee if the individual was covered under another employer's health benefits plan at the time he was eligible to enroll and stated at the time of the initial enrollment that coverage under that other employer's health benefits plan was the reason for declining enrollment; has lost coverage under that other employer's health benefits plan as a result of termination of employment, the termination of the other plan's coverage, death of a spouse, or divorce; and the individual requests enrollment within 90 days after termination of coverage provided under another employer's health benefits plan; or if a court of competent jurisdiction has ordered coverage to be provided for a spouse or minor child under a covered employee's health benefits plan and request for enrollment is made within 30 days after issuance of that court order.

"Member" means all carriers issuing health benefits plans in this State on or after the effective date of this act.

"Plan of operation" means the plan of operation of the program including articles, bylaws and operating rules approved pursuant to section 14 of this act.

"Preexisting condition provision" means a policy or contract provision that excludes coverage under that policy or contract for charges or expenses incurred during a specified period following the insured's effective date of coverage, for a condition that, during a specified period immediately preceding the effective date of coverage, had manifested itself in such a manner as would cause an ordinarily prudent person to seek medical advice, diagnosis, care or treatment, or for which medical advice, diagnosis, care or treatment was recommended or received as to that condition or as to pregnancy existing on the effective date of coverage.

"Program" means the New Jersey Small Employer Health Excess Reinsurance Program established pursuant to section 12 of this act.

"Reinsuring carrier" means a small employer carrier electing to receive reimbursement from the program in accordance with section 19 of this act.

"Risk-assuming carrier" means a small employer carrier electing to assume risks pursuant to section 18 of this act.

"Small employer" means any person, firm, corporation, partnership, or association actively engaged in business which, on at least 50 percent of its working days during the preceding calendar year quarter, employed at least two but no more than 49 eligible employees, the majority of whom are employed within the State of New Jersey. In determining the number of eligible employees, companies which are affiliated companies shall be considered one employer, subsequent to the issuance of a health benefits plan to a small employer pursuant to the provisions of this act, and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, provisions of this act which apply to a small employer shall continue to apply until the anniversary date next of the health benefits plan following the date the employer no longer meets the definition of a small employer.

"Small employer carrier" means any carrier that offers health benefits plans covering eligible employees of one or more small employers.

"Small employer health benefits plan" means a health benefits plan for small employers approved by the commissioner pursuant to section 17 of this act.

C.17B:27A-18 Providers of health benefits, services subject to provisions of act.

2. Every health insurer, health service corporation, medical service corporation, hospital service corporation, and health maintenance organization licensed or authorized to provide health benefits or services in this State which offers health insurance policies or coverages covering two or more employees of a small employer shall be subject to the provisions of this act. Coverage shall be offered to all eligible employees and their dependents and shall not exclude any employee or eligible dependent on the basis of an actual or expected health condition.

C.17B:27A-19 Five health benefit plans offered to small employers.

3. a. Every small employer carrier shall, as a condition of transacting business in this State, offer to every small employer the same five health benefit plans. The board shall establish a standard policy form for each of the five plans, which shall be the only plans offered to small groups on or after January 1, 1994.

One policy form shall contain the benefits provided for in sections 55, 57, and 59 of P.L.1991, c.187 (C.17:48E-22.2, 17B:26B-2 and 26:2J-4.3). The remaining policy forms shall contain basic hospital and medical-surgical benefits, including, but not limited to:

(1) Basic inpatient and outpatient hospital care;

(2) Basic and extended medical-surgical benefits;

(3) Diagnostic tests, including x-rays;

(4) Maternity benefits, including prenatal and postnatal care; and

(5) Preventive medicine, including periodic physical examinations and inoculations.

At least three of the forms shall provide for major medical benefits in varying lifetime aggregates, one of which shall provide at least $1,000,000 in lifetime aggregate benefits. The policy forms provided pursuant to this section shall contain benefits representing progressively greater actuarial values.

b. Initially, a carrier shall offer a plan within 90 days of the approval of such plan by the commissioner. Thereafter, the plans shall be available to all small employers on a continuing basis. Every small employer which elects to be covered under any health benefits plan who pays the premium therefor and who satisfies the participation requirements of the plan shall be issued a policy or contract by the carrier.

c. The carrier may establish a premium payment plan which provides installment payments and which may contain reasonable provisions to ensure payment security, provided that provisions to ensure payment security are uniformly applied.

d. In addition to the five standard policies described in subsection a. of this section, the board may develop up to five rider packages. Any such package which a carrier chooses to offer shall be issued to a small employer who pays the premium therefor, and shall be subject to the rating methodology set forth in section 9 of this act.

C.17B:27A-20 Coinsurance, deductibles applicable.

4. Plans required to be offered under this act may be subject to coinsurance and deductibles, which may vary by selected portions of the coverage, except that no deductible applicable to any portion of the coverage shall exceed $250 for an individual or family unit during any benefit year, and no coinsurance applicable to any portion of the coverage shall exceed $500 for an individual or family unit during any benefit year, unless provided by the board pursuant to section 17 of this act. Neither coinsurance nor deductibles shall be applicable to maternity benefits.

C.17B:27A-21 Standard coordination of benefits provisions applicable.

5. Coverage provided pursuant to this act shall be subject to standard coordination of benefits provisions for all persons covered under the policy or contract. Notwithstanding the provision of any other law to the contrary, the health benefits plan with the lowest actuarial value provided under this act shall not extend to any injury for which coverage is available or applicable pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4), and that health benefits plan shall not be used as a substitute for any insurance required to be maintained pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4).

C.17B:27A-22 Preexisting condition provisions.

6. a. No health benefits plan subject to this act shall include any preexisting condition provision, provided that, a preexisting condition provision may apply to a late enrollee or to any group of two to five persons if such provision excludes coverage for a period of no more than 180 days following the effective date of coverage of such enrollee, and relates only to conditions manifesting themselves during the six months immediately preceding the effective date of coverage of such enrollee in such a manner as would cause an ordinarily prudent person to seek medical advice, diagnosis, care or treatment or for which medical advice, diagnosis, care, or treatment was recommended or received during the six months immediately preceding the effective date of coverage, or as to a pregnancy existing on the effective date of coverage; provided that, if 10 or more late enrollees request enrollment during any 30-day enrollment period, then no preexisting condition provision shall apply to any such enrollee.

b. In determining whether a preexisting condition provision applies to an eligible employee or dependent, all health benefits plans shall credit the time that person was covered under any previous health benefits plan if the previous coverage was continuous to a date not more than 90 days prior to the effective date of the new coverage, exclusive of any applicable waiting period under such plan.

C.17B:27A-23 Policies, contracts renewable; exceptions.

7. Every policy or contract issued to small employers in this State shall be renewable with respect to all eligible employees or dependents at the option of the policy or contract holder, or small employer except under the following circumstances:

a. Nonpayment of the required premiums by the policyholder, contract holder, or employer;

b. Fraud or misrepresentation of the policyholder, contract holder, or employer or, with respect to coverage of eligible employees or dependents, the enrollees or their representatives;

c. The number of employees covered under the health benefits plan is less than the number or percentage of employees required by participation requirements under the health benefits policy or contract;

d. Noncompliance with a carrier's employment contribution requirements;

e. Any carrier doing business pursuant to the provisions of this act ceases doing business in the small employer market, if the following conditions are satisfied:

(1) The carrier gives notice to cease doing business in the small employer market to the commissioner not later than eight months prior to the date of the planned withdrawal from the small group market, during which time the carrier shall continue to be governed by this act with respect to business written pursuant to this act. For the purposes of this subsection, "date of withdrawal" means the date upon which the first notice to small employers is sent by the carrier pursuant to paragraph (2) of this subsection;

(2) No later than two months following the date of the notification to the commissioner that the carrier intends to cease doing business in the small employer market, the carrier shall mail a notice to every small business employer insured by the carrier that the policy or contract of insurance will be terminated. This notice shall be sent by certified mail to the small business employer not less than six months in advance of the effective date of the cancellation date of the policy or contract;

(3) Any carrier that ceases to do business pursuant to this act shall be prohibited from writing new business in the small employer market for a period of five years from the date of notice to the commissioner.

C.17B:27A-24 Reasonable specified minimum participation.

8. Any small employer carrier may require a reasonable specified minimum participation of eligible employees, which shall not exceed 75%, or reasonable minimum employer contributions in determining whether to accept a small group pursuant to this act. The standards so established by the carrier shall be first approved by the board and shall be applied uniformly to all small groups, except that in no event shall a carrier require an employer to contribute more than 10% to the annual cost of the policy or contract, or an amount as otherwise provided by the board, and any mini-

mum participation standards established by the carrier shall be reasonable. In establishing the percentage of employee participation, a one-to-one credit shall be given for each employee covered by a spouse's health benefits coverage.

C.17B:27A-25 Community rating required; other plan requirements.

9. a. (1) Effective January 1, 1997, no small employer health benefits plan shall be issued in this State unless the plan is community rated.

(2) During the period January 1, 1994 to December 31, 1995, the premium rate charged by a carrier to the highest rated small group purchasing a small employer health benefits plan shall not be greater than 300% of the premium rate charged to the lowest rated small group purchasing that same health benefits plan.

(3) During the period January 1, 1996 to December 31, 1996, the premium rate charged by a carrier to the highest rated small group purchasing a small employer health benefits plan shall not be greater than 200% of the premium rate charged for the lowest rated small group purchasing that same health benefits plan.

(4) The commissioner shall study the impact on the health insurance marketplace of the transition from the rating methodology described in paragraph (3) of this subsection to community rating. In making this study the commissioner shall consult with representatives of the health insurance industry, health care providers, consumer and public interest groups and such other persons with expertise deemed relevant by the commissioner. The commissioner shall report his findings to the Governor and the Legislature on a day that the Legislature is in session, on or before July 1, 1996. If the Legislature does not take action within 60 days after its receipt of the commissioner's report, to amend this act, community rating will become effective on January 1, 1997.

b. Notwithstanding any other provision of law to the contrary, group hospital or medical coverage obtained through an out-of-State trust covering a group of 49 or fewer employees or participating persons who are residents of this State shall be community rated regardless of the situs of delivery of the policy.

c. Notwithstanding any other provision of law to the contrary, no carrier offering any health benefits plan pursuant to the provisions of this act shall act to circumvent the intent of this act by acting as a third party administrator for groups of small employers, any one of whom was insured as of September 1, 1992; provided, however, that this provision shall not act to limit a bona

fide group of small employers who voluntarily act together to provide health benefits to their employees.

d. Notwithstanding any other provision of law to the contrary, this act shall apply to an association or trust of employers, if the group includes one or more member employers or other member groups which have 49 or fewer employees or members exclusive of spouses and dependents.

e. Nothing contained herein shall prohibit the use of premium rate structures to establish different premium rates for individuals and family units.

f. No insurance contract or policy subject to this act may be entered into unless and until the carrier has made an informational filing with the commissioner of a schedule of premiums, not to exceed 12 months in duration, to be paid pursuant to such contract or policy, of the carrier's rating plan and classification system in connection with such contract or policy, and of the actuarial assumptions and methods used by the carrier in establishing premium rates for such contract or policy.

g. (1) Beginning January 1, 1995, a carrier desiring to increase or decrease premiums for any policy form subject to this act may implement such increase or decrease upon making an informational filing with the commissioner of such increase or decrease, along with the actuarial assumptions and methods used by the carrier in establishing such increase or decrease, provided that the anticipated minimum loss ratio for a policy form shall not be less than 75% of the premium therefor. Until December 31, 1996, the informational filing shall also include the carrier's rating plan and classification system in connection with such increase or decrease.

(2) Each calendar year, a carrier shall return, in the form of aggregate benefits for each of the five standard policy forms offered by the carrier pursuant to section 3 of this act, at least 75% of the aggregate premiums collected for the policy form during that calendar year. Carriers shall annually report, no later than August 1st of each year, the loss ratio calculated pursuant to this section for each such policy form for the previous calendar year. In each case where the loss ratio for a policy fails to substantially comply with the 75% loss ratio requirement, the carrier shall issue a dividend or credit against future premiums for all policyholders with that policy form in an amount sufficient to assure that the aggregate benefits paid in the previous calendar year plus the amount of the dividends and credits shall equal 75% of the aggregate premiums collected for the policy form in the

previous calendar year. The dividend or credit shall be issued to each policy which was in effect as of March 30th of the applicable year and remains in effect as of the date the dividend or credit is issued. All dividends and credits must be distributed by December 31 of the year following the calendar year in which the loss ratio requirements were not satisfied. The annual report required by this paragraph shall include a carrier's calculation of the dividends and credits, as well as an explanation of the carrier's plan to issue dividends or credits. The instructions and format for calculating and reporting loss ratios and issuing dividends or credits shall be specified by the commissioner by regulation. Such regulations shall include provisions for the distribution of a dividend or credit in the event of cancellation or termination by a policyholder.

h. No carrier issuing health benefits plans covering two or more employees of a small employer shall issue a plan inconsistent with this act whose term extends beyond December 31, 1993.

i. The provisions of this act shall apply to health benefits plans which are delivered, issued for delivery, renewed or continued on or after January 1, 1994. The commissioner shall withdraw approval for the issuance and use of all small employer policy forms, other than those approved by the board, effective January 1, 1994.

C.17B:27A-26 Health maintenance organization coverage, exceptions.

10. a. No health maintenance organization shall be required to offer coverage or accept applications pursuant to section 3 of this act to a small employer if the small employer is not physically located in the health maintenance organization's approved service area, to an employee when the employee does not work or reside within a service area, or if the health maintenance organization reasonably anticipates and demonstrates to the satisfaction of the commissioner that it will not have the capacity in its network of providers within the service area to deliver service adequately to the members of such groups because of its obligations to existing group contract holders and enrollees.

b. No small employer carrier shall be required to offer coverage or accept applications pursuant to this act for any period of time in which the commissioner determines that the requiring of the issuing of policies or contracts pursuant to this act would place the carrier in a financially impaired position.

c. A health maintenance organization which complies with the basic health benefits, underwriting and rating standards established by the federal government pursuant to subchapter XI of

Pub.L.93-222 (42.U.S.C.§300e et seq.), and which also provides the comprehensive health benefit plan coverage required by section 3 of this act, shall be deemed in compliance with this act.

C.17B:27A-27 Continued coverage for certain terminated employees.

11. a. Every policy or contract issued to a small employer in this State, including, but not limited to, policies or contracts which are subject to this act and which are delivered, issued, renewed, or continued on or after the effective date of this act, shall offer continued coverage under the plan to any employee whose employment was terminated for a reason other than for cause and to any employee covered by such plan whose hours of employment were reduced to less than 30 subsequent to the effective date of coverage for that employee. The employee shall make a written election for continued coverage within 30 days of a qualifying event. For the purposes of this section, "qualifying event" shall mean the date of termination of employment, or the date on which a reduction in an employee's hours of employment becomes effective. For the purposes of this section, the date on which a health benefits plan is continued shall be the anniversary date of the issuance of the plan.

b. Coverage continued pursuant to subsection a. of this section shall consist of coverage which is identical to the coverage provided under the policy or contract to similarly situated beneficiaries whose coverage has not been terminated or hours of employment reduced. If coverage is modified under the policy or contract for any group of similarly situated beneficiaries, this coverage shall also be modified in the same manner for persons who are qualified beneficiaries entitled pursuant to subsection a. of this section to continued coverage. Continuation of coverage may not be conditioned upon, or discriminate on the basis of, lack of evidence of insurability.

c. The health benefits plan may require payment of a premium by the employee for any period of continuation coverage as provided for in this section, except that the premium shall not exceed 102% of the applicable premium paid for similarly situated beneficiaries under the health benefits plan for a specified period, and may, at the election of the payor, be made in monthly installments. No premium payment shall be due before the 30th day after the day on which the covered employee made the initial election for continued coverage.

d. Coverage continued pursuant to this section shall continue until the earlier of the following:

(1) The date upon which the employer under whose health benefits plan coverage is continued ceases to provide any health benefits plan to any employee or other qualified beneficiary;

(2) The date on which the continued coverage ceases under the health benefits plan by reason of a failure to make timely payment of any premium required under the plan by the former employee having the continued coverage. The payment of any premium shall be considered to be timely if made within 30 days after the due date or within such longer period as may be provided for by the policy or contract; or

(3) The date after the date of election on which the qualified beneficiary first becomes:

(a) Covered under any other health benefits plan, as an employee or otherwise, which does not contain a provision which limits or excludes coverage with respect to any preexisting condition of a covered employee or any spouse or dependent who is included under the coverage provided the covered employee, for such period of the limitation or exclusion; or

(b) Eligible for benefits under Title XVIII of the Social Security Act, Pub.L.89-97 (42 U.S.C. §1395 et seq.).

e. Notice shall be provided to employees at the commencement of coverage as to their continuation rights under the plan. A qualified beneficiary may elect continuation coverage offered pursuant to this section no later than 30 days after the qualifying event. For the purposes of this section, "qualified beneficiary" means any person covered under a small employer group policy.

f. The provisions of this section shall not apply to any person who is a qualified beneficiary for the purposes of continuation of coverage as provided in accordance with section 3011(a) of Title III of Pub.L.100-647 (26 U.S.C. §4980B et al.).

g. In no event shall any continuation of coverage provided for under this section exceed 12 months from the qualifying event.

C.17B:27A-28 New Jersey Small Employer Health Excess Insurance Program created.

12. There is created a nonprofit entity to be known as the New Jersey Small Employer Health Excess Insurance Program. All carriers issuing health benefits plan policies and contracts in this State shall be members of this program. The program shall be administered by the board of directors established pursuant to section 13 of this act.

C.17B:27A-29 Initial organizational meeting, election of board.

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 11 persons, including the Commissioner of Health and the commissioner or their designees, both of whom shall sit ex officio. 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 board members shall be elected for a term of three years. The following categories shall be represented among the public members:

(1) Two carriers whose principal health insurance business is in the small employer market;

(2) One carrier whose principal health insurance business is in the large employer market;

(3) A health, hospital or medical service corporation;

(4) A health maintenance organization;

(5) A risk-assuming carrier;

(6) A reinsuring carrier utilizing the excess coverage provided for in this act; and

(7) Two persons representing small employers.

No carrier shall have more than one representative on the board.

b. If the initial board is not elected at the organizational meeting, the commissioner shall appoint the public members within 15 days of the organizational meeting, in accordance with the provisions of paragraphs (1) through (7) of subsection a. of this section.

c. The board shall determine the Statewide average payment per insured for each benefit plan provided for under this act. Each carrier who satisfies the efficiency and risk management standards promulgated by the board pursuant to subsection f. of section 15 of this act and whose average cost of insuring individuals covered by small employer health benefits plans exceeds the Statewide average cost of insuring such individuals by 20%, shall be reimbursed by the program for 80% of its costs in excess thereof.

d. All meetings of the board shall be subject to the requirements of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

e. At least two copies of the minutes of every meeting of the board shall be delivered forthwith to the commissioner.

C.17B:27A-30 Submission of plan of operation.

14. Within 90 days after the election of the initial board, the board shall submit to the commissioner a plan of operation which shall establish the administration of the program pursuant to the

provisions of this act. The plan of operation and any subsequent amendments thereto shall be submitted to the commissioner who shall, after notice and hearing, approve the plan if he finds that it is reasonable and equitable and sufficiently carries out the provisions of this act. The plan of operation shall become effective after the commissioner has approved it in writing. The plan or any subsequent amendments thereto shall be deemed approved if not expressly disapproved by the commissioner in writing within 90 days of receipt by the commissioner.

C.17B:27A-31 Contents of plan of operation.

15. The plan of operation shall constitute a public record and shall include, but not be limited to, the following:

a. A method of handling and accounting for assets and moneys of the program and an annual fiscal reporting to the commissioner;

b. A means of providing for the filling of vacancies on the board, subject to the approval of the commissioner;

c. A means of selecting an administering carrier, and a statement of the powers and duties of the administering carrier and the compensation of the administering carrier and a statement of the efficiency standards an administering carrier must meet;

d. The method to be used to determine the extent to which a carrier's payment per insured for each benefit plan provided for under this act exceeds the Statewide average payment per insured for each benefit plan provided for under this act;

e. The method for determining the extent to which a carrier whose average cost of insuring individuals covered by small employer health benefits plans exceeds the threshold described in subsection c. of section 13 of this act may receive reimbursement from the program;

f. A statement of the efficiency and risk management standards a carrier must meet before a carrier may receive reimbursement from the program; and

g. Any additional matters which are appropriate to effectuate the provisions of this act.

C.17B:27A-32 Authority of board.

16. The board shall have the authority to:

a. Enter into contracts as are necessary or proper to carry out the provisions and purposes of this act;

b. Sue or be sued, including taking any legal actions as may be necessary for recovery of any assessments due to the program or to avoid paying any improper claims;

c. Establish rules, conditions, and procedures pertaining to the reimbursement and assessment of members by the program;

d. Assess members in accordance with the provisions of this act, including such interim assessments as may be reasonable and necessary for organizational and interim operating expenses. Such interim assessments shall be credited as offsets against any regular assessments due following the close of the fiscal year; and

e. Appoint from among its members appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the program, policy and other contract design, and any other function within the authority of the program.

C.17B:27A-33 Formulation of five health benefits plans.

17. Subject to the approval of the commissioner, the board shall formulate the five health benefits plans to be made available by small employer carriers in accordance with the provisions of this act, and shall promulgate five standard forms pursuant thereto. The board may establish benefits levels, deductibles and copayments, exclusions, and limitations for such health benefits plans in accordance with the law.

One health care plan shall be established which contains benefits and cost sharing levels which are consistent with the basic method of operation and the benefits plans of health maintenance organizations, including any restrictions pursuant to subchapter XI of Pub.L.93-222 (42 U.S.C. §300 et seq.). The board shall submit the plans so established to the commissioner for his approval no later than 90 days after the election of the board pursuant to section 13 of this act. The commissioner shall approve the plan if he finds it to be consistent with the provisions of section 3 of this act. Any plans submitted to the commissioner by the board shall be deemed approved if not expressly disapproved in writing within 60 days of its receipt by the commissioner. Such plans may contain, but shall not be limited to, the following provisions:

a. Utilization review of health care services, including review of medical necessity of hospital and physician services;

b. Managed care systems, including large case management;

c. Provision for selective contracting with hospitals, physicians, and other health care providers;

d. Reasonable benefits differentials which are applicable to participating and nonparticipating providers;

e. Notwithstanding the provisions of section 4 of this act to the contrary, the board may, from time to time, adjust coinsurance and deductibles;

f. Such other provisions which may be quantifiably established to be cost containment devices;

g. The department shall publish annually a list of the premiums charged for each of the five standard small employer health benefits plans and for any rider package by all carriers writing such plans. The department shall also publish the toll free telephone number of each such carrier.

C.17B:27A-34 Election as risk-assuming or reinsuring carrier.

18. Every small employer carrier shall elect to be either a risk-assuming carrier or a reinsuring carrier and shall file notice of such election with the board. Carriers electing to be a risk-assuming carrier shall do so only with the approval of the commissioner. Application for risk-assuming status shall be filed with the commissioner on a form approved by the commissioner, and shall be deemed approved if it is not disapproved in writing within 90 days of the commissioner's receipt of the application. In determining whether to approve an application by a small employer carrier to become a risk-assuming carrier, the commissioner shall consider the carrier's financial condition, its history of assuming and managing risk, and its experience in managing small group business. The commissioner may also seek comments from the board prior to rendering a decision on the application. Any carrier which has made application for a risk-assuming status which has been disapproved by the commissioner shall be granted a hearing within 60 days of the disapproval.

C.17B:27A-35 Reimbursement to reinsuring carriers; election.

19. a. Any member which elects to be a reinsuring carrier may receive reimbursement in accordance with the standards developed by the board pursuant to subsections d., e. and f. of section 15 of this act.

b. Election to become a reinsuring carrier shall be binding for a five-year period, except that the initial election shall be made within 30 days of the submission to the commissioner of the plan of operation provided for in section 14 of this act, and shall be effective for two years.

C.17B:27A-36 Reinsuring carriers to apply case management, claims handling techniques.

20. Every member which elects to be a reinsuring carrier shall apply its case management and claims handling techniques,

including, but not limited to, utilization review, individual case management, preferred provider provisions and other methods of operation, in the same manner with respect to all its business.

C.17B:27A-37 Administering carrier to determine net loss by program; recouping.

21. a. Following the close of the calendar year ending December 31, the administering carrier shall determine the total amount owed by the program in that calendar year to all carriers qualifying for reimbursement by the program. Such amount shall be known as the net loss of the program.

b. Any net loss for the year shall be recouped by assessments of members. Assessments shall first be apportioned by the board among all reinsuring carrier members in proportion to their respective shares of the plan premiums earned in this State from health benefits plans covering small employers during the calendar year coinciding with or ending during the fiscal year of the program, or on any other equitable basis reflecting coverage of small employers as may be provided in the plan of operation. In making this determination, the board may base the assessments upon annual reports and other data filed by the member small employer carrier.

c. If the net loss is not recouped before assessments totaling 4% of the aggregate premiums from policies or contracts covering small employers have been collected from reinsuring small employer carriers, additional assessments not to exceed 1% of the aggregate premiums from all health benefits policies or contracts shall be apportioned by the board among all members, including risk-assuming carriers, in proportion to their respective shares of the total health benefits plan premiums earned in this State from all health benefits plans during the preceding calendar year. A carrier shall receive a credit against this assessment to the extent the carrier can demonstrate that its assumption of high-risk small employer groups which are not reinsured is proportionate to its market share of small employer health benefits plans, as such groups and market shares are defined by the board in the plan of operation. A carrier shall not be assessed for all individual non-group contracts or policies issued on a guaranteed issue basis or on any coverage issued by the carrier pursuant to the Medicaid program, P.L.1968, c.413 (C.30:4D-1 et seq.).

d. If assessments exceed actual losses and administrative expenses of the program, the excess shall be held as interest and used by the board to offset future losses or to reduce program premiums. As used in this subsection, "future losses" includes reserves for incurred but not reported claims.

e. Provision may be established in the plan of operation for the imposition of an interest penalty for late payment of assessments.

C.17B:27A-38 Deferment from assessment.

22. A member may seek from the commissioner a deferment in whole or in part from any assessment levied by the board. The commissioner may grant the deferment if, in his opinion, the payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. In the event an assessment against a member is deferred in whole or in part, the amount by which the assessment is deferred may be assessed against the other members in a manner consistent with the basis for assessment set forth in this act. The member receiving a deferment shall remain liable to the program for the amount deferred and shall be prohibited from reinsuring any individuals or groups in the program if it fails to pay assessments.

C.17B:27A-39 Risk-assuming carrier prohibited from reimbursement.

23. A small employer carrier which elects to cease participating as a reinsuring carrier and elects to become a risk-assuming carrier shall be prohibited from receiving reimbursement from the program pursuant to this act. Any reinsuring carrier electing to become a risk-assuming carrier shall pay a prorated assessment.

C.17B:27A-40 Assumption of reasonable share of high risk market.

24. The board shall establish guidelines to ensure that small employer carriers are assuming their share of high risk small employer groups in proportion to their market share of small employer health benefits plan business. In the event that any carrier does not assume its reasonable share of the high risk market, the board may adjust the assessment formula, with the approval of the commissioner, to require a proportionally higher assessment for the carrier.

C.17B:27A-41 Violations, penalty assessment.

25. Any carrier which violates this act shall be subject to a penalty assessment, as determined by the commissioner, whether or not the carrier is a risk-assuming carrier or a reinsuring carrier.

C.17B:27A-42 Exemption from premium taxes.

26. The excess insurance program established pursuant to this act shall be exempt from premium taxes.

C.17B:27A-43 Violations, penalties.

27. A carrier which violates any provision of this act shall be liable to a penalty of not less than $2,000 and not greater than $5,000 for

each violation. The penalty shall be collected by the commissioner in the name of the State in a summary proceeding in accordance with "the penalty enforcement law," N.J.S.2A:58-1 et seq.

C.17B:27A-44 Assessments not charged to policyholders, public.

28. No assessment provided for under this act shall be charged, directly or indirectly, to policyholders or the public, provided that a carrier may charge such an assessment to policyholders to the extent that the charging of the assessment is necessary to enable the carrier to earn a constitutionally adequate rate of return.

C.17B:27A-45 Standard claim form.

29. The board shall promulgate one standard claim form. In order to provide a standard system of payment for medical services, all claim forms for any claimant's use under any group health insurance policy issued or delivered in this State shall conform to the form adopted by the board.

C.17B:27A-46 Regulations.

30. Notwithstanding any other provision of law to the contrary, all regulations concerning any health benefits plan subject to this act shall be promulgated pursuant to this act.

31. This act shall take effect immediately.

Approved November 30, 1992.

CHAPTER 163

AN ACT concerning medicare supplement health insurance offered by commercial insurers and amending and supplementing P.L.1982, c.94.

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

C.17B:26A-9 Applicability.

1. Except as otherwise specifically provided:

a. The provisions of P.L.1982, c.94 (C.17B:26A-1 et seq.) shall apply to all medicare supplement policies delivered or issued for delivery in this State and all certificates issued under

group medicare supplement policies, which certificates are delivered or issued for delivery in this State.

b. The provisions of P.L.1982, c.94 (C.17B:26A-1 et seq.) shall not apply to health insurance policies, including group conversion policies, provided to medicare eligible persons that are not advertised, marketed, designed primarily as or otherwise held out to be medicare supplement policies.

2. Section 1 of P.L.1982, c.94 (C.17B:26A-1) is amended to read as follows:

C.17B:26A-1 Definitions.

1. For the purposes of this act:

a. "Applicant" means:

(1) In the case of an individual medicare supplement policy, the person who seeks to contract for insurance benefits, and

(2) In the case of a group medicare supplement policy, the proposed certificate holder.

b. "Certificate" means any certificate issued under a group medicare supplement policy, which certificate has been delivered or issued for delivery in this State.

c. "Commissioner" means the Commissioner of Insurance.

d. "Medicare" means the program established by the "Health Insurance for the Aged Act," Title XVIII of the "Social Security Act," Pub.L. 89-97, as then constituted or later amended (42 U.S.C. §1395 et seq.).

e. "Medicare supplement policy" means a group or individual insurance policy or certificate which is advertised, marketed, designed primarily as, or is otherwise held out to be, a supplement to reimbursements under medicare for the hospital, medical or surgical expenses of persons eligible for medicare, other than a policy issued pursuant to a contract under 42 U.S.C. §1395l or 42 U.S.C. §1395mm or a policy issued under a demonstration project authorized pursuant to the "Health Insurance for the Aged Act," 42 U.S.C §1395 et seq. The term does not include a policy issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations.

3. Section 3 of P.L.1982, c.94 (C.17B:26A-3) is amended to read as follows:

C.17B:26A-3 Prohibited provisions.

3. a. No medicare supplement policy shall contain benefits which duplicate any benefits provided by medicare.

b. The commissioner may issue regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair or unfairly discriminatory to any person insured or proposed for coverage under a medicare supplement policy.

4. Section 5 of P.L.1982, c.94 (C.17B:26A-5) is amended to read as follows:

C.17B:26A-5 Regulations.

5. The commissioner shall promulgate regulations to effectuate and enforce the provisions of P.L.1982, c.94 (C.17B:26A-1 et seq.) and any regulations which are necessary to conform medicare supplement policies and certificates with federal law. These regulations shall include, but not be limited to:

a. Establishment of minimum standards for benefits, claim payments, marketing and reporting practices and compensation arrangements;

b. Establishment of a uniform methodology for calculating and reporting loss ratios, and requiring refunds or credits if the policies or certificates do not meet loss ratio requirements;

c. Establishment of a process for filing of all requests for premium increases and rate changes, which may include public hearings as determined appropriate by the commissioner prior to approval of any premium increases;

d. Assurance of access by the public to policy, premium and loss ratio information; and

e. Establishment of standards for Medicare Select policies and certificates at such time as this State is authorized under federal law to authorize Medicare Select policies and certificates.

5. Section 6 of P.L.1982, c.94 (C.17B:26A-6) is amended to read as follows:

C.17B:26A-6 Medicare supplement policy or certificate, requirements.

6. a. No insurer shall deliver or issue for delivery to a resident of this State a medicare supplement policy or certificate, or any application, rider or endorsement to be used in connection with the issuance or renewal of any such policy or certificate, unless

the form has been submitted to and filed by the commissioner pursuant to the provisions of this subsection.

(1) At the expiration of 30 days after submission, such form shall be deemed filed unless prior thereto it has been affirmatively filed or disapproved for filing by the commissioner.

(2) No master policy, certificate or policy, which is disapproved for filing by the commissioner during the 30-day period, may be delivered or issued for delivery in this State unless and until the disapproval for filing is withdrawn. Any disapproval shall be subject to review in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Any form which is filed by the commissioner or deemed filed may be delivered or issued for delivery in this State until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(3) The commissioner may extend the 30-day period provided in paragraph (1) of this subsection for not more than 30 additional days by giving written notice of extension before the expiration of the initial 30-day period. In the event of extension, all of the provisions of this subsection, except this provision for extension, relating to the initial 30-day period shall apply to the extended period instead of the initial 30-day period.

(4) The disapproval for filing or the withdrawal of the filing of any form by the commissioner shall state in writing the grounds therefor in such detail as is reasonable to inform the insurer of the reasons for withdrawal or disapproval.

(5) The provisions of this subsection shall not apply to documents which relate only to the manner of distribution of benefits or to the reservation of rights and benefits under the certificate or policy which are used at the request of the individual insured or the policyholder.

(6) The disapproval by the commissioner of any form submitted for filing pursuant to the provisions of this subsection may be on the ground that the form contains provisions which are unjust, unfair, inequitable, misleading, or contrary to law or to the public policy of this State.

b. Any insurer providing medicare supplement insurance in this State shall file annually with the commissioner its rates, rating schedule and supporting documentation demonstrating that it is in compliance with the applicable loss ratio standards of this State. All filings of rates and rating schedules shall demonstrate that the actual and expected losses in relation to premiums com-

ply with the requirements of P.L.1982, c.94 (C.17B:26A-1 et seq.) and any rule or regulation promulgated thereunder.

c. Medicare supplement policies shall be expected to return to policyholders benefits which are reasonable in relation to the premium charged. The commissioner shall issue regulations to establish minimum standards for loss ratios of medicare supplement policies on the basis of paid claim experience and written premiums in accordance with accepted actuarial principles and practices.

6. Section 7 of P.L.1982, c.94 (C.17B:26A-7) is amended to read as follows:

C.17B:26A-7 Outline of coverage, regulations.

7. a. In order to provide for full and fair disclosure in the sale of medicare supplement policies, no medicare supplement policy or certificate shall be delivered or issued for delivery in this State unless an outline of coverage is delivered to the applicant at the time application is made.

b. The commissioner shall prescribe the format and content of the outline of coverage required by subsection a. of this section. For the purposes of this section, "format" means style, arrangement and overall appearance, including such items as the size, color and prominence of the font used, paper size and weight and the arrangement of text and captions. The outline of coverage shall include:

(1) A description of the principal benefits and coverage provided in the policy;

(2) (Deleted by amendment, P.L.1992, c.163).

(3) A statement of the renewal provisions, including any reservation by the insurer of a right to change premiums, and disclosure of the existence of any automatic renewal premium increases based on the policyholder's age; and

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

c. The commissioner may require by regulation the publication of forms and an informational brochure with a standardized format and content, to serve as an aid in the selection of appropriate coverage, if any, by those eligible for medicare, and to aid the consumer in improving his understanding of medicare benefits. Except in the case of direct response solicitation insurance policies, the commissioner may require by regulation that the informational brochure be provided, concurrently with delivery of the outline of coverage, to

all prospective insureds eligible for medicare. With respect to direct response solicitation insurance policies, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insureds eligible for medicare, but in no event later than the time of policy delivery.

d. The commissioner may promulgate regulations for captions or notice requirements for all accident and sickness insurance policies sold to persons eligible for medicare, other than for medicare supplement policies, to inform those prospective insureds that the particular insurance coverage is not a medicare supplement policy.

e. The commissioner may further promulgate regulations to govern the full and fair disclosure of the information in connection with the replacement of insurance policies or certificates by persons eligible for medicare.

7. Section 8 of P.L.1982, c.94 (C.17B:26A-8) is amended to read as follows:

C.17B:26A-8 30-day examination period, refunds.

8. Medicare supplement policies or certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Refunds made pursuant to this section shall be made in a timely manner and shall be paid directly to the applicant.

C.17B:26A-10 Filing of copies of advertising materials, regulations.

8. a. Every insurer shall file with the Department of Insurance a copy of all advertising materials to be used in promoting medicare supplement policies to which residents of this State will have access, and through which the insurer intends, or by implication purports to the reasonable, targeted consumer its intent, to make such policies available for purchase or enrollment in this State. The requirements of this section shall apply to all advertisements in any medium, whether in print or by means of television or radio broadcast. Filings shall be made at least 30 days prior to the date on which the advertisement is to be used in this State, or made accessible to residents of this State.

b. The commissioner may, in the public interest, promulgate regulations governing medicare supplement policy advertising including, but not limited to, specific filing procedures, standards

upon which review may be based, celebrity endorsements, unfair practices and review and disapproval procedures.

c. Notwithstanding the provisions of subsection b. of this section, the commissioner may disapprove any advertisement for use in this State at any time if he determines that the advertisement misrepresents the product, misleads the targeted consumer, uses a strategy which involves scare tactics, unnecessarily confusing data or representation, false or fraudulent statements or otherwise violates any applicable laws of this State or regulations promulgated thereunder.

C.17B:26A-11 Additional remedies.

9. In addition to any other applicable penalties for violation of the provisions of Title 17B of the New Jersey Statutes, the commissioner may require any health insurer violating the provisions of P.L.1982, c.94 (C.17B:26A-1 et seq.) to cease marketing any medicare supplement policy or certificate in this State which is related directly or indirectly to the violation, require that insurer to take such action as is necessary to comply with the provisions of that act, or both.

10. This act shall take effect immediately.

Approved December 2, 1992.

CHAPTER 164

AN ACT concerning the provision of medicare supplement health care services by health maintenance organizations.

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

C.26:2J-31 Definitions.

1. As used in this act:

"Applicant" means any individual who seeks enrollment with a health maintenance organization for the purpose of obtaining medicare supplement health care services.

"Commissioner" means the Commissioner of Insurance.

"Department" means the Department of Insurance.

"Enrollee" means an individual who is enrolled with a health maintenance organization.

"Evidence of coverage" means any booklet, certificate, agreement or contract issued to an enrollee setting out the services and other benefits to which he is entitled.

"Health care services" means those services, including, but not limited to, inpatient hospital and physician care, and outpatient medical services, as set forth in the evidence of coverage.

"Health maintenance organization" means any person which, directly or through contracts with providers, furnishes health care services on a prepaid basis to enrollees in a designated geographic area in this State pursuant to the provisions of P.L.1973, c.337 (C.26:2J-1 et seq.).

"Medicare" means the program established by the "Health Insurance for the Aged Act," Title XVIII of the "Social Security Act," Pub.L. 89-97, as then constituted or later amended (42 U.S.C. §1395 et seq.).

"Medicare supplement contract" means a group or individual contract or plan which is advertised, marketed or designed primarily as providing, or is otherwise held out to provide, medicare supplement health care services and under which an individual is enrolled, other than a contract issued pursuant to a contract under 42 U.S.C. §1395l or 42 U.S.C. §1395mm or a contract issued under a demonstration project authorized pursuant to the "Health Insurance for the Aged Act," 42 U.S.C. §1395 et seq. The term does not include health care services provided pursuant to a contract or plan issued to one or more employers or labor organizations, or to the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees of the employers, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

"Medicare supplement evidence of coverage" means an evidence of coverage delivered to an enrollee who has medicare supplement health care services coverage under a medicare supplement contract.

"Medicare supplement health care services" means health care services which supplement medicare, provided under a medicare supplement contract as set forth in a medicare supplement evidence of coverage.

"Provider" means any physician, hospital or other person which is licensed or otherwise authorized in this State to furnish health care services.

C.26:2J-32 Applicability of act.

2. Except as otherwise specifically provided:

a. This act shall apply to all medicare supplement health care services provided pursuant to a medicare supplement contract or evidence of coverage delivered or issued for delivery in this State.

b. This act shall not apply to any health maintenance organization contract or evidence of coverage, including group conversion plans, provided to medicare eligible persons that are not advertised, marketed, designed primarily as or otherwise held out to provide medicare supplement health care services.

C.26:2J-33 Avoidance of duplication of benefits, regulations.

3. a. No medicare supplement contract or evidence of coverage shall provide for health care services which duplicate any benefits provided by medicare.

b. The commissioner shall promulgate regulations to establish specific standards for the provisions to be contained in any medicare supplement contract or evidence of coverage, which shall be in addition to and in accordance with the applicable laws of this State. The regulations may provide, but shall not be limited to:

(1) Terms of renewability;

(2) Initial and subsequent conditions of eligibility;

(3) Non-duplication of coverage;

(4) Probationary periods;

(5) Benefit limitations, exceptions and reductions;

(6) Elimination periods;

(7) Requirements for replacement;

(8) Recurrent conditions; and

(9) Definition of terms.

c. The commissioner may promulgate regulations that specify prohibited medicare supplement contract or evidence of coverage provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair or unfairly discriminatory to any applicant for, or enrollee with, medicare supplement health care services coverage.

C.26:2J-34 Coverage for preexisting condition.

4. Notwithstanding any other provision of law to the contrary, a medicare supplement contract or evidence of coverage shall not deny medicare supplement health care services for losses incurred more than six months from the effective date of enrollment for a preexisting condition. The contract or evidence of coverage shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was

recommended by or received from a physician within six months of the effective date of enrollment.

C.26:2J-35 Regulations.

5. The commissioner shall promulgate regulations to effectuate and enforce the provisions of this act and any regulations which are necessary to conform medicare supplement health care services provided under a medicare supplement contract or evidence of coverage with federal law. These regulations shall include, but not be limited to:

a. Establishment of minimum standards for benefits, claim payments, marketing and reporting practices and compensation arrangements;

b. Establishment of a uniform methodology for calculating and reporting loss ratios, and requiring refunds or credits if the medicare supplement contracts do not meet loss ratio requirements;

c. Establishment of a process for filing of all requests for premium increases and rate changes which may include public hearings as determined appropriate by the commissioner prior to approval of any premium increases;

d. Assurance of access by the public to policy, premium and loss ratio information; and

e. Establishment of standards for Medicare Select contracts at such time as this State is authorized under federal law to authorize Medicare Select contracts.

C.26:2J-36 Authorization for health maintenance organization to offer, provide medicare supplement health care services.

6. No health maintenance organization shall offer or provide medicare supplement health care services in this State without authorization by the commissioner. The commissioner shall grant authorization if he determines that the health maintenance organization has the financial and operational capability to provide such services. In making a determination, the commissioner may consider, but shall not be limited to, the following:

a. The number of enrollees;

b. The geographic area to be serviced;

c. The current and prospective financial condition of the health maintenance organization;

d. The anticipated impact on the health maintenance organization of providing medicare supplement health care services in addition to other services which it provides.

C.26:2J-37 Submission of underlying plan; rate filings.

7. a. No health maintenance organization authorized pursuant to section 6 of this act shall deliver or issue for delivery in this State any medicare supplement contract or evidence of coverage or any application or notification used in connection with the issuance or continuance of a medicare supplement contract or evidence of coverage unless the form of which, including a copy of the underlying plan, has been submitted to and filed by the commissioner pursuant to the provisions of this subsection.

(1) At the expiration of 60 days after submission a form shall be deemed filed unless prior thereto it has been affirmatively filed or disapproved for filing by the commissioner.

(2) No form which is disapproved for filing by the commissioner during the 60-day period, may be delivered or issued for delivery in this State unless and until the disapproval for filing is withdrawn. Any disapproval shall be subject to review in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Any form which is filed by the commissioner or deemed filed may be delivered or issued for delivery in this State until such time as any subsequent withdrawal of the filing by the commissioner, following an opportunity for a hearing held in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(3) The commissioner may extend the 60-day period provided in paragraph (1) of this subsection for not more than 60 additional days by giving written notice of extension before the expiration of the initial 60-day period. In the event of an extension, all of the provisions of this subsection, except this provision for an extension, relating to the initial 60-day period shall apply to the extended period instead of the initial 60-day period.

(4) The disapproval for filing or the withdrawal of the filing of any form by the commissioner shall state in writing the grounds therefor in such detail as is reasonable to inform the health maintenance organization of the reasons for withdrawal or disapproval.

(5) The provisions of this subsection shall not apply to documents which relate only to the manner of distribution of services or to the reservation of rights and services under the medicare supplement contract or evidence of coverage and which are used at the request of the enrollee.

(6) The disapproval by the commissioner of any form submitted for filing pursuant to the provisions of this subsection may be on the ground that the form contains provisions which are unjust,

unfair, inequitable, misleading or contrary to law or to the public policy of this State.

b. Every health maintenance organization providing medicare supplement health care services to a resident of this State shall file annually with the commissioner its rates, rating schedule and supporting documentation demonstrating that it is in compliance with the applicable loss ratio standards of this State. All filings of rates and rating schedules shall be certified by a qualified actuary and shall demonstrate that the actual and expected costs in relation to services provided comply with the requirements of this act and any rule or regulation promulgated hereunder.

As used in this subsection, "qualified actuary" means a person, in good standing, who is a member of the American Academy of Actuaries, a fellow of the Casualty Actuarial Society, or a person who has otherwise demonstrated actuarial competence to the satisfaction of the commissioner.

c. Services provided under a medicare supplement contract or evidence of coverage shall be expected to return to enrollees services or other benefits which are reasonable in relation to the premium or other fee charged. The commissioner shall promulgate regulations to establish minimum standards for loss ratios under medicare supplement contracts or evidences of coverage on the basis of paid medicare supplement health care expenses and written earned premiums and fees in accordance with accepted actuarial principles and practices.

C.26:2J-38 Outline of coverage delivered to applicant.

8. a. In order to provide for full and fair disclosure in the sale of medicare supplement contracts or evidences of coverage, no medicare supplement contract or evidence of coverage shall be delivered or issued for delivery in this State unless an outline of coverage is delivered to the applicant at the time application is made.

b. The commissioner shall prescribe the format and content of the outline of coverage required by subsection a. of this section. For the purposes of this section, "format" means style, arrangement and overall appearance, including the size, color and prominence of the font used, paper size and weight and the arrangement of text and captions. The outline of coverage shall include:

(1) A description of the principal medicare supplement health care services provided;

(2) A statement of any applicable exceptions, reductions and limitations in the available medicare supplement health care services;

(3) A statement of the renewal provisions, including any reservation by the health maintenance organization of the right to change premiums or other fees; and

(4) A statement that the outline of coverage is a summary of the medicare supplement contract or evidence of coverage issued or applied for and that the contract or evidence of coverage should be consulted to determine the governing contractual provisions.

c. The commissioner may require by regulation the publication of forms and an informational brochure with a standardized format and content, to serve as an aid in the selection of appropriate coverage, if any, by those eligible for medicare, and to aid the consumer in improving his understanding of medicare benefits. Except in the case of direct response solicitation for medicare supplement health care services, the commissioner may require by regulation that the informational brochure be provided, concurrently with delivery of the outline of coverage, to all prospective enrollees eligible for medicare. With respect to direct response solicitation for medicare supplement health care services, the commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective enrollee eligible for medicare, but in no event later than the time the medicare supplement contract or evidence of coverage is delivered.

d. The commissioner may promulgate regulations for captions or notice requirements for all contracts and evidences of coverage delivered or issued for delivery to persons eligible for medicare to inform prospective enrollees that the particular contract or evidence of coverage does not provide medicare supplement health care services. These notice requirements shall not apply to medicare supplement contracts or evidences of coverage or to contracts issued pursuant to a contract under 42 U.S.C. §1395l or 42 U.S.C. §1395mm.

e. The commissioner may further promulgate regulations to govern the full and fair disclosure of information in connection with the replacement of contracts or evidences of coverage by persons eligible for medicare.

C.26:2J-39 30-day return provision, refunds.

9. Notice shall be prominently printed on the first page of each medicare supplement contract and evidence of coverage stating in substance that the applicant shall have the right to return the contract or evidence of coverage within 30 days of its delivery and to have any premium or other fee refunded if, after examination of the contract or evidence of coverage, the applicant

is not satisfied for any reason. Refunds made pursuant to this section shall be made in a timely manner and shall be paid directly to the applicant.

C.26:2J-40 Filing of copy of advertising materials, regulations.

10. a. Every health maintenance organization shall file with the department a copy of all advertising materials to be used in promoting medicare supplement health care services to which residents of this State will have access, and through which the health maintenance organization intends, or by implication purports to the reasonable, targeted consumer its intent, to make such services available for enrollment in this State. The requirements of this section shall apply to all advertisements in any medium whether in print or by means of television or radio broadcast. Filings shall be made at least 30 days prior to the date on which the advertisement is to be used in this State, or made accessible to residents of this State.

b. The commissioner may, in the public interest, promulgate regulations governing medicare supplement health care services advertising including, but not limited to, specific filing procedures, standards upon which review may be based, celebrity endorsements, unfair practices and review and disapproval procedures.

c. Notwithstanding the provisions of subsection b. of this section, the commissioner may disapprove any advertisement for use in this State at any time if he determines that the advertisement misrepresents the product, misleads the targeted consumer, uses a strategy which involves scare tactics, unnecessarily confusing data or representations, false or fraudulent statements or otherwise violates any applicable law of this State or regulation promulgated thereunder.

C.26:2J-41 Additional remedies.

11. In addition to any other applicable penalties for violation of the relevant provisions of law, the commissioner may require a health maintenance organization violating the provisions of this act to cease marketing any medicare supplement contract or evidence of coverage in this State which is related directly or indirectly to the violation, require the health maintenance organization to take such action as is necessary to comply with the provisions of this act, or both.

12. This act shall take effect immediately.

Approved December 2, 1992.

CHAPTER 165

AN ACT concerning the promotion of tourism in certain counties, providing for the creation of tourism improvement and development districts, authorizing the imposition of certain taxes on certain retail receipts therein and of certain municipal fees, creating certain tourism improvement and development authorities and authorizing certain projects thereof and supplementing Title 40 of the Revised Statutes.

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

C.40:54D-1 Short title.

1. This act shall be known and may be cited as the "Tourism Improvement and Development District Act."

C.40:54D-2 Findings, determinations.

2. The Legislature finds and determines:

a. The State of New Jersey contains many unique natural, recreational, and economic resources that are enjoyed not only by the citizens of the State but also by millions of visitors from all over the United States and the world, which in turn results in a multi-billion dollar tourism industry that is crucial to the economic well-being of the State.

b. The provision of appropriate public facilities and improvements necessary to promote and sustain tourism is especially difficult for public entities located in sixth class counties of this State. In those counties a relatively small permanent population combines with a relative lack of a diversification in the economic base to present special obstacles for public entities which seek to undertake and fund tourism facilities and improvements without damaging the economic prosperity of the locality by imposing onerous taxes on permanent residents or businesses.

c. The creation of tourism improvement and development districts may assist municipalities in those counties in promoting economic growth and employment related to a tourism-economy and that municipalities in counties of the sixth class should be encouraged to create tourism improvement and development districts to finance the acquisition, maintenance, operation and support of convention center facilities and to promote tourism in order to enhance the local tourism business climates.

d. It is in the public interest to encourage these municipalities in counties of the sixth class to seek regional solutions to common problems related to economic prosperity of this State, and to enhance the prosperity of those municipalities by the adoption of appropriate ordinances to assess, levy and collect taxes upon receipts from certain sales and services, and to impose certain municipal fees. These special public finance measures which are not generally available to other local units of the State, are appropriate to address the particular economic conditions of sixth class counties, and are not necessary or appropriate in areas with a larger population base and more diversified economic structure, which are not so heavily affected by the seasonal fluctuations of a tourism based economy.

C.40:54D-3 Definitions.

3. As used in this act:

"Authority" means a tourism improvement and development authority created pursuant to section 18 of this act, P.L.1992, c.165 (C.40:54D-18).

"Bond" means any bond or note issued by an authority pursuant to the provisions of this act.

"Commissioner" means the Commissioner of Commerce, Energy and Economic Development.

"Construction" means the planning, designing, construction, reconstruction, rehabilitation, replacement, repair, extension, enlargement, improvement and betterment of a project, and includes the demolition, clearance and removal of buildings or structures on land acquired, held, leased or used for a project.

"Convention center facility" means any convention hall or center or like structure or building, and shall include all facilities, including commercial, office, community service, parking facilities and all property rights, easements and interests, and other facilities constructed for the accommodation and entertainment of tourists and visitors, constructed in conjunction with a convention center facility and forming reasonable appurtenances thereto.

"Tourism project" means the convention center facility or similar tourism improvement or development project located in the territorial limits of the district, and any costs associated therewith.

"Cost" means all or any part of the expenses incurred in connection with the acquisition, construction and maintenance of any real property, lands, structures, real or personal property rights, rights-of-way, franchises, easements, and interests acquired or used for a project; any financing charges and reserves for the pay-

ment of principal and interest on bonds or notes; the expenses of engineering, appraisal, architectural, accounting, financial and legal services; and other expenses as may be necessary or incident to the acquisition, construction and maintenance of a project, the financing thereof and the placing of the project into operation.

"County" means a county of the sixth class.

"Department" means the Department of Commerce, Energy and Economic Development.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Fund" means a Reserve Fund created pursuant to section 13 of this act, P.L.1992, c.165 (C.40:54D-13).

"Participant amusement" means a sporting activity or amusement the charge for which is exempt from taxation under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) by virtue of the participation of the patron in the activity or amusement, such as bowling alleys, swimming pools, water slides, miniature golf, boardwalk or carnival games and amusements, baseball batting cages, tennis courts, and fishing and sightseeing boats.

"Predominantly tourism related retail receipts" means:

a. The rent for every occupancy of a room or rooms in a hotel subject to taxation pursuant to subsection (d) of section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3);

b. Receipts from the sale of food and drink in or by restaurants, taverns, or other establishments in the district, or by caterers, including in the amount of such receipt any cover, minimum, entertainment or other charge made to patrons or customers, subject to taxation pursuant to subsection (c) of section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3) but excluding receipts from sales of food and beverages sold through coin operated vending machines; and

c. Admissions charges to or the use of any place of amusement or of any roof garden, cabaret or similar place, subject to taxation pursuant to subsection (e) of section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3).

"Purchaser" means any person purchasing or hiring property or services from another person, the receipts or charges from which are taxable by an ordinance authorized under this act, P.L.1992, c.165 (C.40:54D-1 et seq.).

"Tourism" means activities involved in providing and marketing services and products, including accommodations, for nonresidents and residents who travel to and in New Jersey for recreation and pleasure.

"Tourism development fee" means a fee imposed by ordinance pursuant to section 15 of this act, P.L.1992, c.165 (C.40:54D-15), within a tourism improvement and development district on:

a. Persons making sales of tangible personal property or services, the receipts from which are subject to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), but which are not predominately tourism related retail receipts as defined in this section;

b. Persons making charges for participant amusements as defined in this section;

c. Persons operating businesses that charge for parking, garaging or storing of motor vehicles;

d. Persons maintaining or operating coin-operated vending machines within the district, for the machines within the district, regardless of the types of commodities sold through the machines; and

e. Persons making sales of tangible personal property or services, the receipts from which are subject to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), and which are predominately tourism related retail receipts as defined in this section, but only to the extent that the amount of tax on those receipts collected in a year by the person is less than the amount of the tourism development fee for that year.

"Tourism improvement and development district" or "district" means an area within two or more contiguous municipalities within a county of the sixth class established pursuant to ordinance enacted by those municipalities, for the purposes of promoting the acquisition, construction, maintenance, operation and support of a tourism project, and to devote the revenue and the proceeds from taxes upon predominantly tourism related retail receipts and from tourism development fees to the purposes as herein defined.

"Tourist industry" means the industry consisting of private and public organizations which directly or indirectly provide services and products to nonresidents and residents who travel to and in New Jersey for recreation and pleasure.

"Vendor" means a person selling or hiring property or services to another person, the receipts or charges from which are taxable by an ordinance authorized under this act, P.L.1992, c.165 (C.40:54D-1 et seq.).

C.40:54D-4 Tourism improvement and development districts.

4. a. Two or more contiguous municipalities located in a county of the sixth class may, by ordinances of a substantially similar nature, create a tourism improvement and development district for

the purpose of increasing public revenue and to levy taxes upon predominantly tourism related retail receipts at a rate not to exceed 2 percent, and to devote the proceeds therefrom for the purposes herein described. For the same purposes, the ordinances establishing the district shall also provide for the imposition of tourism development fees authorized pursuant to section 15 of this act, P.L.1992, c.165 (C.40:54D-15). The taxes on predominantly tourism related retail receipts and tourism development fees so imposed shall be uniform throughout the district.

b. Notwithstanding any other law to the contrary, ordinances so adopted shall not be subject to referenda, and shall not be altered or repealed, except by mutual action of all such municipalities. Each municipality which enters into the creation of the district shall covenant that the ordinance shall not be altered or repealed in such manner as to affect any bonds or other obligations pertaining to projects within the district which are outstanding.

c. The district shall comprise all territory within the boundaries of the municipalities which create or enter into the district.

d. A contiguous municipality located in a county of the sixth class may, by such an ordinance, and with the mutual consent of the governing bodies of the municipalities which created the district, enter into the district so created after the date of the district's creation.

e. A copy of an ordinance adopted pursuant to this section shall be transmitted upon adoption to the State Treasurer. An ordinance so adopted shall provide that the retail receipts tax provisions of the ordinance shall take effect on the first day of the first full month occurring 90 days after the date of transmittal to the State Treasurer.

C.40:54D-5 Exemptions from taxation.

5. No tax on predominantly tourism related retail receipts shall be imposed upon:

a. The receipts of a sale or transaction originating or consummated, or both, outside the tourism improvement and development district, notwithstanding that some act may be necessarily performed with respect to the sale or transaction within the district;

b. A nonresident of the district or on account of any sale or transaction by or with a nonresident of the district, except when imposed without discrimination as between residents and nonresidents on account of transfers, sales, or other transactions actually made or consummated within the tourism improvement and development district by a nonresident while within the district.

C.40:54D-6 Collection, administration of tax, determination, certification of revenues.

6. a. The director shall collect and administer any tax imposed pursuant to the provisions of this act, P.L.1992, c.165 (C.40:54D-1 et seq.), notwithstanding the provisions of any other law or ordinance to the contrary. In carrying out the provisions of this act the director shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.).

b. The director shall determine and certify to the State Treasurer on a monthly basis the amount of revenues payable to any authority operating in a district for which a tax on predominantly tourism related retail receipts is imposed and collected by the director pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.). The State Treasurer, upon the certification of the director and upon the warrant of the State Comptroller, shall pay and distribute on a monthly basis to the fund established pursuant to section 13 of this act (C.40:54D-13) the amount so determined and certified unless those amounts are otherwise required to be placed in the reserve fund pursuant to this act.

C.40:54D-7 Contents of ordinance.

7. An ordinance imposing a tax upon predominantly tourism related retail receipts adopted pursuant to this act shall contain the following provisions:

a. All taxes imposed by the ordinance shall be paid by the purchaser;

b. A vendor shall not assume or absorb any tax imposed by the ordinance;

c. A vendor shall not in any manner advertise or represent that a tax imposed by the ordinance will be assumed or absorbed by the vendor;

d. Each assumption or absorption by a vendor of the tax shall be deemed a separate offense and each representation of advertisement by a vendor for each day the representation or advertisement continues shall be deemed a separate offense; and

e. Penalties as fixed in the ordinance, for violation of the foregoing provisions.

C.40:54D-8 Applicability of tax imposed.

8. A tax imposed pursuant to an ordinance shall apply only within the territorial limits of the district within the municipalities, and shall be in addition to all other taxes and excises.

C.40:54D-9 Forwarding of tax collected, filing returns.

9. a. A vendor required to collect the tax upon predominantly tourism related retail receipts imposed pursuant to this act shall

on or before the dates required pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to the director the tax collected in the preceding month and make and file a return for the preceding month with the director on any form and containing any information as the Director of the Division of Taxation in the Department of the Treasury shall prescribe by rule or regulation as necessary to determine liability for the tax in the preceding month during which the person was required to collect the tax.

b. The director may permit or require returns to be made covering other periods and upon any dates as the director may specify. In addition, the director may require payments of tax liability at any intervals and based upon any classifications as the director may designate. In prescribing any other periods to be covered by the return or intervals or classifications for payment of tax liability, the director may take into account the dollar volume of tax involved as well as the need for ensuring the prompt and orderly collection of the tax imposed.

c. The director may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

d. The director shall inform the authority for each month in which this tax is collected and returns made of the amount so collected in each month.

C.40:54D-10 "State Tax Uniform Procedure Law" applicable.

10. The tax imposed upon predominantly tourism related retail receipts pursuant to this act shall be governed by the provisions of the "State Tax Uniform Procedure Law," R.S.54:48-1 et seq.

C.40:54D-11 Rules, regulations.

11. The director shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to implement this act and the purposes thereof, including the extension of, for cause shown by general regulation or individual authorization, the time of filing a return for a time not exceeding three months on such terms and conditions as the director may require.

C.40:54D-12 Revenues deposited in fund.

12. All revenues collected by the director under an ordinance adopted and authorized pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.), shall be retained by the State Treasurer for deposit in the fund established pursuant to section 13 of this act,

P.L.1992, c.165 (C.40:54D-13), to be used and distributed according to the terms herein provided.

The State Treasurer may deduct from amounts so retained prior to deposit in the fund an amount equal to that necessary to compensate the Department of the Treasury for costs actually incurred by that department in administering the provisions of this act. The State Treasurer shall annually provide the authority to which the fund pertains with a written account of the amounts so deducted and of the costs so incurred in the previous fiscal year. Amounts deducted by the State Treasurer shall be retained by the Department of the Treasury and used exclusively for costs so incurred.

C.40:54D-13 Reserve fund created.

13. There is created for a tourism improvement and development district established pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.), a reserve fund to be held by the State Treasurer, but not to exist in the State Treasury, to be the repository for monies paid to the State Treasurer pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.), and disbursed as provided herein.

C.40:54D-14 Application of fund.

14. a. Until such time as the conditions set forth in subsection b. of this section are met, the revenues deposited by the State Treasurer in the fund shall be applied for the purposes of financing the provision, advertising, promotion, improvement and operation of the tourism project within the district, and the acquisition, maintenance, operation and support of the tourism project designated by the authority authorized to undertake those activities pursuant to section 18 of this act, P.L.1992, c.165 (C.40:54D-18).

b. Commencing on that date which is the later of (1) July 1, 1993, or (2) six months prior to the first date on which any payment of principal or interest on any bonds or notes issued for, or any payment of rent under any lease entered into by the authority in connection with the acquisition, construction, reconstruction, maintenance, operation or support of a convention center facility or other tourism project to accomplish the purposes of the authority as set forth in section 21 of this act, P.L.1992, c.165 (C.40:54D-21), are required to be made from the revenues collected pursuant to section 4 of this act, P.L.1992, c.165 (C.40:54D-4), the revenues thereafter retained by the State Treasurer pursuant to section 12 of this act, P.L.1992, c.165 (C.40:54D-12), shall be applied exclusively in accordance with the provisions of the resolution or resolutions authorizing the issuance of bonds by the authority for that tourism

project, to the payment of principal of and interest on bonds so issued, the maintenance of necessary reserves and the allocation of monies for future debt service payments. On that date which is the later date determined pursuant to paragraph 1 or 2 of this subsection, all monies then accumulated in the fund shall be removed by the State Treasurer and the proceeds, with the interest thereon, shall be used for any of the purposes set forth in subsection a. of this section.

c. At the end of any full calendar year occurring after the date which is the later date determined pursuant to paragraph 1 or 2 of subsection b. of this section and after all payments coming due during that calendar year of principal and interest on authority bonds or notes issued for a tourism project have been made, and all obligations to the holders of those bonds have been met, including the maintenance of necessary reserves and the allocation of monies for future debt service payments, any balance remaining in the fund in that calendar year shall be applied to any deficiency between the operating expense budget and the anticipated operating revenues available for the following fiscal year to the entity operating the tourism project.

d. At the end of each full calendar year occurring after the date which is the later date determined pursuant to paragraph 1 or 2 of subsection b. of this section and after all payments for that year have been made from the fund pursuant to subsections b. and c. of this section, any monies remaining in the fund in that calendar year shall be used for the purposes set forth in subsection a. of this section.

e. Pending application to the purposes for which monies deposited in the fund may be used, the monies in the fund shall be invested by the State Treasurer pursuant to applicable regulations prescribed for the investment of State monies. Any income received from these investments shall be added to the fund from which earned, and used only for the purposes of the fund.

C.40:54D-15 Imposition of tourism development fee.

15. Ordinances adopted pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.) shall impose a tourism development fee which shall not be more than $1,000 per year. The ordinances imposing the fee shall set forth the method for the calculation thereof which shall be similar to that used for mercantile licenses and other such fees. The fee shall be uniform throughout the district and shall apply to: a. all persons making sales of tangible personal property or services, the receipts from which are subject to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), not required to collect a tax on predominantly tourism

related retail receipts; b. all persons making charges for participant amusements; c. all persons operating businesses that charge for parking, garaging or storing motor vehicles; d. all persons maintaining or operating coin-operated vending machines within the district, for the machines within the district, regardless of the types of commodities sold through the machines; and e. all persons making sales of tangible personal property or services, the receipts from which are subject to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) and who are required to collect a tax on predominately tourism related retail receipts, but only to the extent that the amount of tax on those receipts collected in a year by the person is less than the amount of the tourism development fee for that year. A person shall be exempt from payment of a tourism development fee for a year if that person is a vendor required to collect the tax upon predominantly tourism related retail receipts under an ordinance authorized under this act, P.L.1992, c.165 (C.40:54D-1 et seq.), in an amount equal to the amount of tax so collected in that year.

A person claiming any exemption for an amount of fee otherwise required by this section by reason of the collection of amounts of tax on predominately tourism related retail receipts is deemed to have consented to the release of information concerning that person's tax on predominately tourism related retail receipts collections for the fee period sufficient, as determined by the director, to verify the claim for exemption. The municipality shall provide safeguards which restrict the use or disclosure of any such information provided to purposes directly connected with the administration of the fee.

C.40:54D-16 Payment of fee.

16. The tourism development fee shall be due and payable in the manner prescribed in the ordinance establishing the fee.

C.40:54D-17 Remitting, reporting of fees paid, appropriation to authority.

17. a. All tourism development fees imposed by ordinance pursuant to section 15 of this act, P.L.1992, c.165 (C.40:54D-15), shall be paid to the municipality by the person making the charge that subjects the person or business to imposition of the fee. The fees shall be remitted to the chief fiscal officer of the municipality, and shall be reported on such forms and paid at such times as may be prescribed by ordinance. The ordinance shall provide for the penalties and interest to be paid in the event of delinquency in payment of fees.

b. The amount of all fees paid to a municipality pursuant to this section shall be appropriated annually to the authority established

pursuant to section 18 of this act, P.L.1992, c.165 (C.40:54D-18), to be used by the authority to advertise, promote and operate the tourism project of the authority, and to promote and enhance the public awareness of the tourism industry in the district.

C.40:54D-18 "the Tourism Improvement and Development Authority."

18. a. Ordinances adopted to create a tourism improvement and development district pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.) shall provide for the creation of a public body corporate and politic for the district, under the name and style of "the Tourism Improvement and Development Authority."

b. Copies of the ordinances for the creation of the authority shall be filed in the office of the Secretary of State and in the office of the Division of Local Government Services in the Department of Community Affairs. A copy of the certified ordinance shall be admissible in evidence in any action or proceeding and shall be conclusive evidence of due and proper adoption and filing thereof. After filing in the office of the Secretary of State, a copy of the ordinance shall be published at least once in a newspaper published or circulating in the adopting municipalities, together with a notice stating the fact and date of its adoption and the date of first publication of the notice. If no action questioning the validity of the creation of the authority is commenced within 45 days after the first publication of the notice, then the authority shall be conclusively deemed to have been validly created and authorized to transact business and exercise powers pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.).

c. An authority so established shall be subject to the provisions of the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), except that the creation of the authority shall not be subject to approval of the Local Finance Board in the Department of Community Affairs.

C.40:54D-19 Dissolution of authority.

19. The governing bodies of the municipalities which created an authority pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.) may by ordinance, dissolve the authority pursuant to the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

C.40:54D-20 Appointment of members.

20. a. After the expiration of the period of 45 days following the first publication of the creating ordinances, the governing body of each municipality joining in the creation of the tourism

improvement and development district shall appoint the first members to the authority. Each municipality shall be entitled to appoint three members to the authority. Two of the three members so appointed shall be owners, or employees of vendors, for whom a regular part of a dominant line of their business generates retail receipts subject to taxation or who are subject to payment of municipal fees pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.). The remaining member appointed by each municipality shall be a resident of the municipality who is not such an owner or employee of a vendor. No member shall hold any elective public office.

b. The Commissioner of the Department of Commerce, Energy and Economic Development shall be an ex officio member of the authority.

c. Each member of the authority shall serve for a term of four years, except of the members initially appointed, two shall be appointed for a term of two years and one shall be appointed for a term of four years. Each member shall hold office for the term of the member's appointment and until the member's successor is appointed and qualified. A member shall be eligible for reappointment. A vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

d. The commissioner may designate an employee of the department to represent the member at meetings of the authority. The designee of the member may lawfully vote and otherwise act on behalf of the member. The designation shall be made annually in writing and delivered to the authority and shall be effective until revoked or amended by written notice delivered to the authority.

e. The authority, upon the first appointment of its members and thereafter at the same time in each year, shall annually elect from among its members, a chairman and a vice-chairman who shall hold office until a successor is elected. The authority may also appoint and employ, without regard to the provisions of Title 11A of the New Jersey Statutes, an executive director and other agents and employees as the authority may require, and shall determine their qualifications, terms of office, duties and compensation thereof.

f. The powers of the authority shall be vested in the voting members thereof in office from time to time; a majority of the members of the authority shall constitute a quorum and the affirmative vote of a majority of the full membership shall be necessary for any action taken by the authority unless 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. The members of the authority shall serve without compensation, but the authority may reimburse its members for actual and necessary expenses incurred in the discharge of their duties.

h. Each appointed member of the authority may be removed by the appointing authority for cause after a public hearing and may be suspended by the authority pending the completion of the hearing. Each member of the authority before entering upon the duties of office shall take and subscribe an oath to perform the duties of the office faithfully, impartially, prudently and justly to the best of the member's ability. A record of these oaths shall be filed in the office of the Secretary of State.

C.40:54D-21 Public purpose of authority.

21. The public purpose of an authority shall be to undertake a tourism project which is necessary or useful to the economic development and public welfare of the residents and tourist industry of the creating municipalities, and to promote, advertise and enhance the attractiveness of the district to visitors and tourists. An authority shall have the following powers:

a. To adopt bylaws for the regulation of its affairs and the conduct of its business;

b. To adopt an official common seal and alter it at its pleasure;

c. To maintain an office at a place or places within the district as it may designate;

d. To sue and be sued in its own name;

e. To acquire from any predecessor owner or operator, and to construct, reconstruct, maintain, and operate a convention center facility or other tourism project;

f. To issue bonds or notes of the authority for the purposes of this act and to provide for the rights of the holders thereof all as provided in the "Local Bond Law," N.J.S.40A:2-1 et seq.;

g. To set and collect rents, fees, charges or other payments for the lease, use, occupancy or disposition of a convention center facility or other project acquired, constructed or reconstructed by the authority pursuant to the provisions of this act, P.L.1992, c.165 (C.40:54D-1 et seq.). Any revenues collected shall be available to the authority for use in furtherance of any of the purposes of this act;

h. To acquire, lease as lessee or lessor, own, rent, use, hold and dispose of real property and personal property or any interest

therein, in the exercise of its powers and the performance of its duties under this act;

i. To acquire in the name of the authority by purchase, gift or otherwise, on terms and conditions and in a manner as the authority may deem proper, or by the exercise of the power of eminent domain except as against the State of New Jersey, any land and other property which the authority may determine is necessary for the construction, reconstruction, maintenance, operation or support of a convention center facility pursuant to the provisions of this act, P.L.1992, c.165 (C.40:54D-1 et seq.) or parts thereof or rights therein, and any fee simple absolute or any lesser interest in private property, and any fee simple absolute in, easements upon, or the benefit of restrictions upon abutting property to preserve and protect same;

j. To grant by franchise, lease or otherwise, the use of any property owned and controlled by the authority to any person for the consideration and for the period or periods of time and upon terms and conditions as are agreed upon;

k. To apply for, receive and accept from the United States of America or any agency thereof, or the State and any subdivision thereof, subject to the approval of the State Treasurer, grants for or in aid of the planning, acquisition or construction of a convention center facility or other tourism project, and to receive and accept aid or contributions from any other public or private source, of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which those grants and contributions may be made;

l. Subject to the limitations of this act, to determine the location, type and character of its tourism project and all other matters in connection therewith;

m. To enter into contracts or agreements with any entity for the entity to issue bonds or notes on behalf of the authority and to make payments to the entity to secure those bonds or notes;

n. To procure and enter into contracts for any type of insurance and indemnify against loss or damage to property from any cause, including the loss of use and occupancy and business interruption, death or injury of any person, employee liability, any act of any member, officer, employee or servant of the authority, whether part-time, compensated or uncompensated, in the performance of the duties of office or employment or any other insurable risk or any other losses in connection with property, operations, assets or obligations in any amounts and from any

insurers as are deemed desirable. In addition, the authority may carry its own liability insurance;

o. To promote and advertise the district and to promote the use of the convention center facility by tourists and visitors to the district; and

p. To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the authority or to carry out any power expressly given in this act.

C.40:54D-22 Applicability of "Local Public Contracts Law."

22. All purchases, contracts or agreements made pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.) shall be made or awarded pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

C.40:54D-23 Maintenance of projects.

23. Any convention center facility or other tourism project constructed by the authority shall be maintained and kept in the condition and repair as the authority determines, or the bond covenants require. A project or any part thereof may be policed and operated by employees and other persons as the authority may employ or authorize.

C.40:54D-24 Eminent domain.

24. The exercise of the power of eminent domain and the compensation to be paid thereunder by the authority shall be in accordance with the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.) insofar as the provisions thereof are applicable and not inconsistent with the provisions contained in this act.

C.40:54D-25 Issuance of bonds, notes.

25. a. The authority may from time to time issue its bonds or notes for any of its purposes under this act, including the payment, funding, or refunding of principal or interest or redemption premiums on any bonds or notes issued by it whether the bonds or notes or interest to be funded or refunded have or have not become due. Bonds and notes so issued shall be subject to the "Local Bond Law," N.J.S.40A:2-1 et seq. and the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

b. Except as may be otherwise expressly provided by the authority, every issue of bonds or notes shall be general obligations payable out of any monies or revenues of the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or funds. The

authority may issue the types of bonds or notes as it may determine, including, without limiting the generality of the foregoing, bonds or notes on which the principal and interest are payable: (1) exclusively from the income and revenues derived from a tax upon retail receipts of any vendor located within the tourism improvement and development district created pursuant to the provisions of section 4 of this act, P.L.1992, c.165 (C.40:54D-4); (2) exclusively from the income and revenues from rates, charges and fees of a convention center facility or other tourism project operated by the authority, whether or not the project is financed in whole or in part with the proceeds of the bonds or notes; or (3) from its revenues generally. Any bonds or notes may be additionally secured by a pledge of any grant or contribution from the federal government or any State or any agency or public subdivision thereof or any person or a pledge of any monies, income or revenues of the authority from any source whatsoever. In addition, the authority may, in anticipation of the issuance of the bonds or the receipt of appropriations, grants, reimbursements or other funds, including without limitation grants from the federal government, issue notes, the principal of or interest on which, or both, shall be payable out of the proceeds of notes, bonds or other obligations of the authority or appropriations, grants reimbursements or other funds or revenues of the authority.

C.40:54D-26 Application for proposed project financing.

26. Prior to the adoption of any resolution of an authority authorizing the issuance of notes or bonds for a tourism project, an application for the proposed project financing shall be submitted to the Local Finance Board for review and findings pursuant to the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

C.40:54D-27 Report filed with Local Finance Board.

27. a. Within 30 days after the issuance of any bonds or notes for, or the execution of lease in connection with, the acquisition, construction, reconstruction or improvement of a convention center facility or other tourism project pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.), the authority shall file a report with the Local Finance Board setting forth, if applicable, the principal amount of bonds or notes issued for that project, the annual payments of principal and interest to be made on the bonds or notes with respect to that project, the terms and provisions of the financing undertaken for, or the lease entered into in connection with, the project, and such engineering and feasibility studies as may have been commissioned and used by the authority in connection with financing the project.

b. At least 90 days prior to the date which is the later date determined pursuant to paragraph 1 or 2 of subsection b. of section 14 of this act (C.40:54D-14), an authorized officer of the authority issuing bonds or notes for, or entering into a lease in connection with, the acquisition, construction, reconstruction or improvement of the convention center facility or other tourism project shall notify the Director of the Division of Local Government Services in the Department of Community Affairs of the precise date determined pursuant to subsection b. of section 14 of this act, the amounts payable thereafter: (1) on account of the principal and interest on, or reserve funding requirements on, those bonds or notes; or (2) as rent under the lease, and the name and address of the paying agent or agents for the bonds or notes, or of the lessor under the lease. The director shall, upon the receipt of that notice, verify the facts contained therein, and certify the same to the State Treasurer.

c. Following the certification in subsection b. of this section and upon the date set forth therein, the State Treasurer shall thereafter pay prior to each payment date from the fund the amounts certified to be paid: (1) to the appropriate paying agent or agents for the principal and interest on, or reserve funding requirements on, the bonds or notes; or (2) to the lessor as rent under the lease.

C.40:54D-28 Pledges.

28. Any pledge of revenues or other monies made by the authority shall be valid and binding from the time when the pledge is made. The revenues or other monies so pledged and thereafter received by the authority shall immediately be subject to the lien of that pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded except in the records of the authority.

C.40:54D-29 Pledge of State to bondholders.

29. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds or notes issued by the authority or other entity pursuant to the provisions of this act, P.L.1992, c.165 (C.40:54D-1 et seq.) that the State will not limit or alter the rights or powers vested in the authority to acquire, construct, maintain and operate any project, or to perform and fulfill the terms of any agreement made with the holders of the bonds or notes, or to fix, establish, charge and collect rates, fees

or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and fulfill the terms of any contract with another entity or any agreement made with the holders of the bonds or notes, and that the State will not in any way impair the rights or remedies of the holders or modify in any way the exemptions from taxation provided for in this act, until the bonds and notes, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged or provided for.

C.40:54D-30 Immunity from personal liability on bonds.

30. Neither the members of the authority nor any person executing bonds or notes issued pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.) shall be liable personally on the bonds or notes by reason of the issuance thereof.

C.40:54D-31 Authorization to collect rates, charges, fees for use of projects.

31. a. The authority is authorized to fix, revise, charge and collect rates, charges and fees for the use of a convention center facility or other tourism project and the different parts or sections thereof. The rates, charges and fees shall be so fixed and adjusted as to effectuate the purposes of this act and in any event to carry out and perform the terms and provisions of any contract with or for the benefit of holders of bonds or notes. The charges shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the State or subdivision of the State, except as provided in the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.). The use and disposition of charges and revenues shall be subject to the provisions of any resolution authorizing the issuance of the bonds or notes.

b. The authority is authorized to contract with any person, partnership, association, corporation or federal, State or local government entity or subdivision thereof desiring the use of any part of a project, including the right-of-way adjoining a paved portion, for operation or placing thereon telephone, telegraph, electric light or power lines, gas stations, garages, stores, hotels, or restaurants, or for any other purpose, and to fix the terms, conditions, rents and rates of charges for that use. No contract shall be required, and no rent, fee or other charge of any kind shall be imposed, for the use and occupation for the installation, construction, use, operation, maintenance or repair, renewal, relocation or removal of tracks, pipes, mains, conduits, cables, wires, towers, holes or other equipment or appliances in, on, along, over or under

any project by any public utility as defined in section R.S.27:7-1 which is subject to taxation pursuant to either P.L.1940, c.4 (C.54:30A-16 et seq.) or P.L.1940, c.5 (C.54:30A-49 et seq.), or pursuant to any other law imposing a tax for the privilege of using the public streets, highways, roads or other public places in the State.

C.40:54D-32 Additional powers.

32. In addition to the other powers conferred by this act or by any other law and not in limitation thereof, the authority, in connection with construction or operation of a convention center facility or other tourism project, may make reasonable regulations for the installation, construction, maintenance, renewal and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles or any other equipment and appliances, herein called "works," of any public utility as defined in R.S.48:2-13, in, on or along, over or under the project, public highway or real property, including public lands or waters. Whenever in connection with construction or operation of the project, the authority shall determine that it is necessary that any works, which now are or hereafter may be located in, on, along, over under any project, public highway, or real property, should be relocated in the project, public highway, or real property or should be removed therefrom, the public utility owning or operating the works shall relocate or remove the same in accordance with the order of the authority, provided, however, that the cost and expenses of the relocation or removal, including the cost of installing these works in a new location, and the cost of any lands or any rights or interest in lands or any other rights acquired to accomplish the relocation or removal, less the cost of any lands or any rights or interest in lands or any other rights of the public utility, paid to the public utility in connection with the relocation or removal of the works, shall be paid by the authority and may be included in the cost of the project. In case of any relocation or removal of works, the public utility owning or operating the same, its successors or assigns, may maintain and operate the works, with the necessary appurtenances, in the new location for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate the works in their former location.

C.40:54D-33 Government entity may convey property.

33. Any government entity, notwithstanding any contrary provision of law, is authorized to lease, lend, grant or convey to the authority at its request upon the terms and conditions as the governing body or other proper agencies of the government entity may deem reasonable and fair and without the necessity for any advertisement, order of court or other action, other than the

authorizing resolution or other formal action of the government entity, any real property or personal property or interest therein which may be necessary or convenient to effectuate the purposes of the authority, including any convention center buildings and structures or other real property already devoted to such purposes.

C.40:54D-34 Cooperation of county, municipality.

34. For the purpose of aiding and cooperating in the acquisition, construction, or operation of any project of the authority, any county or municipality may, upon agreement with the authority and in the manner provided by law:

a. Appropriate monies for the purposes of the authority and to loan or donate the money to the authority in the installments and upon the terms as may be agreed upon by the authority;

b. Perform any act for the authority which it is empowered by law to perform;

c. Incur indebtedness, borrow money and issue bonds or notes for the purpose of financing a project pursuant to the provision of the "Local Bond Law," N.J.S.40A:2-1 et seq.; and

d. Unconditionally guarantee the punctual payment of the principal of and interest on any bonds or notes of the authority.

C.40:54D-35 Property exempt from levy, sale.

35. All property of the authority, except any property which is subjected to a lien to secure any bonds or notes issued by the authority, shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same, nor shall any such judgment against the authority be a charge or lien upon its property; provided that nothing herein contained shall apply to or limit the rights of the holders of any bonds or notes to pursue any remedy for the enforcement of any pledge or lien given by the authority on its revenues or other monies.

C.40:54D-36 Exemption from taxes, special assessments.

36. The tourism project and other property of the authority are declared to be public property of an instrumentality of the State and devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any subdivision thereof. All bonds or notes issued pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.) are declared to be issued by an instrumentality of this State and for an essential public and governmental purpose and the bonds and notes, and the interest thereon and the income therefrom, and all charges, funds, revenues, income and other monies pledged or available to pay, or secure the payment of the

bonds or notes, or interest thereon, shall at all times be exempt from taxation except for transfer inheritance and estate taxes.

C.40:54D-37 Depositories.

37. All banks, trust companies, savings banks, investment companies and other persons carrying on a banking business are each authorized to give to the authority a good and sufficient undertaking with the sureties as shall be approved by the authority to the effect that the bank or banking institution shall faithfully keep and pay over to the order of or upon the warrant of the authority or its authorized agent all those funds as may be deposited with it by the authority and agreed interest thereon, at the times and upon the demands as may be agreed to with the authority or, in lieu of these sureties, deposit with the authority or its authorized agent or any trustee therefor or for the holders of any bonds or notes, as collateral, these securities as the authority may approve. The deposits of the authority may be evidenced or secured by a depository collateral agreement in that form and upon the terms and conditions as may be agreed upon by the authority and at the bank or banking institution.

C.40:54D-38 Investment of bond, note funds.

38. Notwithstanding the provisions of any other law, the State and all public officers, municipalities, counties, political subdivisions and public bodies and agencies thereof, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, investment companies, savings and loan associations, and other persons carrying on a banking or investment business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, monies or other funds belonging to them or within their control in any bonds or notes issued pursuant to this act, P.L.1992, c.165 (C.40:54D-1 et seq.), and these bonds and notes shall be authorized security for any and all public deposits.

C.40:54D-39 Audit.

39. The authority shall cause a financial audit of its books and accounts to be made at least once each year by certified public accountants pursuant to the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), and copies thereof shall be filed with the State Treasurer and with the State Auditor.

C.40:54D-40 Construction of act.

40. Nothing in this act shall be construed to authorize or empower the authority to:

a. Vacate, close, connect with, adjust, relocate, cross or otherwise physically affect any State highway without written approval by the Commissioner of Transportation; or

b. Acquire State property or any interest therein by the exercise of the power of eminent domain.

C.40:54D-41 Access by authority.

41. The authority and its authorized agents and employees may enter upon any lands, waters and premises other than State property for the purpose of making surveys, soundings, drillings and examinations as it may deem necessary or convenient for the purposes of this act, and this entry shall not be deemed a trespass, nor shall the entry for this purpose be deemed an entry under any condemnation proceedings which may be then pending. The authority shall make reimbursement for any actual damages resulting to such lands, waters and premises as a result of those activities.

C.40:54D-42 Contracts, etc. with municipal governments.

42. The authority may enter into contracts, leases, or agreements with any municipal government, concerning the acquisition, construction, maintenance, operation, or support of a convention center facility or other tourism project.

C.40:54D-43 Supplemental powers.

43. The powers granted pursuant to the provisions of this act, P.L.1992, c.165 (C.40:54D-1 et seq.) are in addition to all powers under existing laws and municipal charters.

C.40:54D-44 Prior obligations unaffected.

44. Nothing in this act shall be construed to in any way impair any obligation assumed by any municipality entered into prior to the effective date of this act.

45. This act shall take effect immediately but sections 1 through 44 shall remain inoperative for 90 days following enactment, provided however the Commissioner of Commerce, Energy and Economic Development, the State Treasurer, the Local Finance Board, the Director of the Division of Taxation and the Director of the Division of Budget and Accounting may take such anticipatory actions as may be necessary for the timely implementation of this act on the operative date.

Approved December 2, 1992.

CHAPTER 166

AN ACT concerning municipal tourist development commissions, amending and supplementing P.L.1982, c.68.

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

1. Section 2 of P.L.1982, c.68 (C.40:52-8) is amended to read as follows:

C.40:52-8 Creation of fund.

2. Every municipality adopting an ordinance or ordinances authorized by section 1 of P.L.1982, c.68 (C.40:52-7) shall create a fund, which shall be held by the commission created pursuant to section 3 of P.L.1982, c.68 (C.40:54C-1). The fund shall be the exclusive repository of all revenues collected by the municipality pursuant to the additional licensing assessment, and shall be audited by the municipality as part of the annual audit of its books, accounts and financial transactions made in accordance with N.J.S.40A:5-4. Revenues from the fund shall be disbursed to fulfill the purpose expressed in section 5 of P.L.1982, c.68 (C.40:54C-3), and are dedicated to that purpose exclusively. Any revenues received by the municipality on behalf of the commission shall be treated as a dedicated revenue pursuant to the provisions of N.J.S.40A:4-39.

2. Section 4 of P.L.1982, c.68 (C.40:54C-2) is amended to read as follows:

C.40:54C-2 Organization, regulation of commission.

4. a. As soon as possible and in any event no later than 15 days after its appointment, the commission shall organize and hold its first meeting, fix its hours and place of meeting, and adopt rules for the conduct of its business as it may deem necessary and advisable. A majority of the members of the commission shall constitute a quorum for the transaction of business.

b. The commission shall be considered a "public body" for the purpose of complying with the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), and shall be subject to the provisions thereof.

c. Members of the commission shall be considered "local government officers" for the purpose of complying with the provisions

of the "Local Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1 et seq.), and shall be subject to the provisions thereof.

d. The commission shall be considered a "contracting unit" pursuant to the provisions of the "Local Public Contracts Law," N.J.S.40A:11-1 et seq., and shall be subject to the provisions thereof.

e. The commission shall designate a location and a person for the public to contact in order to obtain information or inspect the records of the commission during regular business hours.

C.40:54C-4.1 Custodian.

3. The chief financial officer of the municipality shall serve as the custodian of the fund established pursuant to section 2 of P.L.1982, c.68 (C.40:52-8), and shall maintain the necessary financial records required by the Director of the Division of Local Government Services in the Department of Community Affairs.

C.40:54C-6 Advertisements exempt from public bidding.

4. The provisions of the "Local Public Contracts Law," N.J.S.40A:11-1 et seq., to the contrary notwithstanding, the purchase of, or contracting for, advertisements in periodicals, or on radio, television, or cable television by the commission, shall be exempt from public bidding; provided, however, that in awarding a contract for such advertisements, the commission shall in each instance:

a. State in the resolution awarding the contract the supporting reasons for its action in the resolution awarding the contract;

b. Forthwith cause to be printed once in a newspaper authorized by the commission to publish the legal advertisements thereof, a brief notice stating the nature, duration, service and amount of the contract; and

c. Keep and make available for public inspection a copy of the resolution and the contract.

C.40:54C-7 Authority of commission.

5. The commission established by an ordinance authorized pursuant to section 1 of P.L.1982, c.68 (C.40:52-7), in furtherance of the 10-year master plan for the growth of tourism pursuant to the provisions of section 8 of the "Division of Travel and Tourism Act," P.L.1977, c.225 (C.34:1A-52), may:

a. Apply for, receive and accept, from the United States, the State, or any other public or private source, contributions or donations of money, property, labor or other thing of value, to be held, used and applied for, or in aid of, the commission's authorized purposes pursuant to section 5 of P.L.1982, c.68 (C.40:54C-3);

b. Make grants of money, property or personal services to any person, business or organization engaged in the tourist industry, upon such terms and conditions as the commission may prescribe; and

c. Enter into any and all agreements or contracts, execute any and all instruments, and do or perform any and all acts necessary or convenient for the purposes of the commission to carry out any power, function or duty exercised thereby.

6. This act shall take effect immediately.

Approved December 2, 1992.

CHAPTER 167

AN ACT concerning district recycling plans, and amending P.L.1987, c.102.

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

1. Section 3 of P.L.1987, c.102 (C.13:1E-99.13) is amended to read as follows:

C.13:1E-99.13 District recycling plan.

3. a. Each county shall, no later than October 20, 1987 and after consultation with each municipality within the county, prepare and adopt a district recycling plan to implement the State Recycling Plan goals. Each plan shall be adopted as an amendment to 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.).

b. Each district recycling plan required pursuant to this section shall include, but need not be limited to:

(1) Designation of a district recycling coordinator;

(2) Designation of the recyclable materials to be source separated in each municipality which shall include, in addition to leaves, at least three other recyclable materials separated from the municipal solid waste stream;

(3) Designation of the strategy for the collection, marketing and disposition of designated source separated recyclable materials in each municipality;

(4) Designation of recovery targets in each municipality to achieve the maximum feasible recovery of recyclable materials

from the municipal solid waste stream which shall include, at a minimum, the following schedule:

(a) The recycling of at least 15% of the total municipal solid waste stream by December 31, 1989;

(b) The recycling of at least 25% of the total municipal solid waste stream by December 31, 1990; and

(c) The recycling of at least 50% of the total municipal solid waste stream, including yard waste and vegetative waste, by December 31, 1995; and

(5) Designation of countywide recovery targets to achieve the maximum feasible recovery of recyclable materials from the total solid waste stream which shall include, at a minimum, the recycling of at least 60% of the total solid waste stream by December 31, 1995.

For the purposes of this subsection, "total municipal solid waste stream" means the sum of the municipal solid waste stream disposed of as solid waste, as measured in tons, plus the total number of tons of recyclable materials recycled; and "total solid waste stream" means the aggregate amount of solid waste generated within the boundaries of any county from all sources of generation, including the municipal solid waste stream.

c. Each district recycling plan, in designating a strategy for the collection, marketing and disposition of designated recyclable materials in each municipality, shall accord priority consideration to persons engaging in the business of recycling or otherwise lawfully providing recycling services on behalf of a county or municipality on January 1, 1986, if that person continues to provide recycling services prior to the adoption of the plan and that person has not discontinued these services for a period of 90 days or more between January 1, 1986, and the date on which the plan is adopted.

Each district recycling plan may be modified after adoption pursuant to a procedure set forth in the adopted plan as approved by the department.

d. A district recycling plan may be modified to require that each municipality within the county revise the ordinance adopted pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16) to provide for the source separation and collection of used dry cell batteries as a designated recyclable material.

2. This act shall take effect immediately.

Approved December 2, 1992.

CHAPTER 168

AN ACT concerning a study of the recycling of certain beverage containers and supplementing P.L.1987, c.102 (C.13:1E-99.11 et al.).

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

1. a. Within one year of the effective date of this act, the Department of Environmental Protection shall conduct a study to determine whether a convenient and economically feasible mechanism for the marketing and recycling of collected beverage containers composed of green glass is available to counties and municipalities in the State, and if a market is not available, to evaluate the impact of a prohibition of the retail sale of beverages in green glass containers. The department shall file a written report containing its findings and recommendations thereon to the Governor and to the Senate Environment Committee and the Assembly Solid Waste Committee, or their successors.

b. The report on green glass beverage containers shall contain:

(1) a comprehensive description of the market demand for green glass and green cullet, the causes of any overabundance of green cullet, and the monetary value of green cullet in the recycling market;

(2) identification of the economic effect of the market for green cullet upon the solid waste disposal costs and recycling program costs of counties and municipalities;

(3) a determination whether a convenient and economically feasible mechanism for the marketing and recycling of green glass beverage containers currently exists in the State;

(4) an evaluation of the economic effect upon consumers, the affected beverage industries, the State, and county and municipality recycling programs of a prohibition of the sale or distribution in the State of beverage containers composed of green glass;

(5) a listing and evaluation of the alternatives to a prohibition of the sale and distribution of beverages in containers composed of green glass that would promote the State's recycling and solid waste disposal goals, and eliminate the overabundance of these unusable containers; and

(6) recommendations for legislative or administrative actions to implement the findings of the department.

2. This act shall take effect immediately.

Approved December 2, 1992.

CHAPTER 169

AN ACT to fund the development, operation and maintenance of an automated system for collection of assessments, restitutions and fines, amending N.J.S.2C:46-1 and P.L.1991, c.329 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:46-1 is amended to read as follows:

Time and method of payment; disposition of funds.

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

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

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

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

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

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

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

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

(7) the date of the order.

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

b. (1) When a defendant sentenced to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a penalty imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee imposed pursuant to N.J.S.2C:35-20 or to make restitution is also sentenced to probation, the court shall make continuing payment of installments on the assessment and restitution a condition of probation, and may make continuing payment of installments on the fine, the mandatory Drug Enforcement and Demand Reduction penalty or the forensic laboratory fee a condition of probation.

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

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

d. (1) When, in connection with a sentence of probation, a defendant is sentenced to pay an assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), a fine, a penalty imposed pursuant to N.J.S.2C:35-15, a forensic laboratory fee imposed pursuant to N.J.S.2C:35-20 or to make restitution, the defendant, in addition, shall be sentenced to pay a transaction fee on each occasion that the defendant makes a payment or an installment payment, until the defendant has paid the full amount he is sentenced to pay. 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 $1.00.

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

rections 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.

C.2C:46-1.1 Computerized Collection Fund.

2. a. Transaction fees collected pursuant to paragraph (1) of subsection d. of N.J.S.2C:46-1 shall be deposited in the Courts Computerized Collection Fund, which is hereby established as a separate fund in the General Fund, to be administered by the Administrative Office of the Courts and dedicated to the development, establishment, operation and maintenance of a computerized system for use by the Administrative Office of the Courts in developing, implementing, operating and improving the judiciary's component of the uniform system for tracking and collecting assessments, restitutions, penalties, fees and fines imposed in accordance with the provisions of Title 2C of the New Jersey Statutes, as required by section 19 of P.L.1991, c.329 (C.52:4B-8.1).

b. Transaction fees collected pursuant to paragraph (2) of subsection d. of N.J.S.2C:46-1 shall be deposited in the Corrections Computerized Collection Fund, which is hereby established as a separate fund in the General Fund, to be administered by the Department of Corrections and dedicated to the development, establishment, operation and maintenance of a computerized system for use by the Department of Corrections in developing, implementing, operating and improving the Department's component of the uniform system for tracking and collecting assessments, restitutions, penalties, fees and fines imposed in accordance with the provisions of Title 2C of the New Jersey Statutes, as required by section 19 of P.L.1991, c.329 (C.52:4B-8.1).

C.2C:46-1.2 Rules, regulations.

3. a. The Supreme Court of New Jersey may issue Rules of Court to effectuate the purposes of this act.

b. The Commissioner of the Department of Corrections shall promulgate rules and regulations, pursuant to the "Administrative Procedures Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes of this act.

4. Section 19 of P.L.1991, c.329 (C.52:4B-8.1) is amended to read as follows:

C.52:4B-8.1 Development of an informational tracking system.

19. a. Within 180 days of the effective date of this act, the Violent Crimes Compensation Board, after consultation with the

Attorney General, the Department of Corrections, and the Administrative Office of the Courts, on behalf of the county probation departments and the municipal court clerks, shall develop a uniform system for recording all information necessary to ensure proper identification, tracking, collection and disposition of moneys owed for:

(1) assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1);

(2) fines and restitutions imposed in accordance with provisions of Title 2C of the New Jersey Statutes;

(3) fees imposed pursuant to N.J.S.2C:35-20;

(4) penalties imposed pursuant to N.J.S.2C:35-15.

b. The Violent Crimes Compensation Board shall use the moneys deposited in the Criminal Disposition and Revenue Collection Fund to defray the costs incurred by the board in developing, implementing, operating and improving the board's component of the uniform system for tracking and collecting revenues described in subsection a. of this section.

c. The Department of Corrections, and the Administrative Office of the Courts, on behalf of the county probation departments and the municipal court clerks, shall file such reports with the Violent Crimes Compensation Board as required for the operation of the uniform system described in subsection a. of this section.

d. The Violent Crimes Compensation Board shall report annually to the Governor, the Attorney General, the Administrative Director of the Administrative Office of the Courts, the Commissioner of the Department of Corrections, and the Legislature on the development, implementation, improvement and effectiveness of the uniform system and on moneys received, deposited and identified as receivable.

5. This act shall take effect on the 60th day following enactment.

Approved December 3, 1992.

CHAPTER 170

AN ACT appropriating funds from the Public Purpose Buildings and Community-Based Facilities Construction Fund for the planning, construction, reconstruction, development, erection, acquisition, extension, improvement, rehabilitation and equipping of facilities for the mentally ill and developmentally disabled.

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

1. There is appropriated to the Department of Human Services from the Public Purpose Buildings and Community-Based Facilities Construction Fund created by the "Public Purpose Buildings and Community-Based Facilities Construction Bond Act of 1989," P.L.1989, c.184, the sum of $30,000,000 for the following construction projects:

Division of Developmental Disabilities	
Planning, construction, reconstruction, development, erection, acquisition, extension, improvement, rehabilitation and equipping of facilities for the developmentally disabled.....	$10,000,000
Division of Mental Health and Hospitals	
Planning, construction, reconstruction, development, erection, acquisition, extension, improvement, rehabilitation and equipping of facilities for the mentally ill.....	$18,500,000
Division of Youth and Family Services	
Planning, construction, reconstruction, development, erection, acquisition, extension, improvement, rehabilitation and equipping of facilities for the mentally ill and the developmentally disabled	$1,500,000

2. There is also appropriated from the proceeds of the sale of the above mentioned bonds, such amounts as may be necessary to meet any expense incurred by the issuing officials under P.L.1989, c.184 for advertising, engraving, printing, clerical, legal or other services necessary to carry out the duties imposed upon them by the provisions of that act.

3. 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, of 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.

4. 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.

5. With respect to any human services facility to be erected or constructed from the funds appropriated pursuant to section 1 of this act, if the board, body or person authorized by law to award contracts for the work on the public purpose building or project, or the person authorized by law to award contracts for the work on the project, finds that such building or project:

(1) requires a unique application of specialized planning, management and operational strategies, skills and techniques; and

(2) requires that construction management personnel, engineers, architects and contractors whose skills and expertise will ensure the completion of the building or project in the most efficient and timely manner be employed for its planning, design and construction, then the board, body or person authorized by law to award the contracts, may, by advertising and receiving bids in the form of a single contract, multiple branch contracts, or both, award the contract to the lowest responsible bidder or bidders, as determined by the board, body or person. There shall be set forth in the bid the name or names of, and evidence of performance security from, 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 Title 52 of the Revised Statutes.

6. In order to provide flexibility in administering the provisions of this act, the Commissioner of Human Services 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 of the Joint Budget Oversight Committee or its successor.

7. The Commissioner of Human Services shall report to the Joint Budget Oversight Committee, the Senate Health and Human Services Committee and General Assembly Senior Citizens and Social Services Committee, or their successors, 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 amounts of funds appropriated, obligated and expended for each project.

8. This act shall take effect immediately.

Approved December 3, 1992.

CHAPTER 171

AN ACT concerning highway litter and amending R.S.39:4-64.

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

1. R.S.39:4-64 is amended to read as follows:

Highway littering ban.

39:4-64. a. No person shall throw or drop any bundle, object, article or debris of any nature from a vehicle whether in motion or not when such vehicle is on a highway. The words "object, article or debris of any nature" as used in this section shall be deemed to include a cigarette, cigar, match, or ashes, or any substance or thing in and of itself likely to cause or fuel a fire, but such inclusion shall not be deemed to in any way limit the generality of the words "object, article or debris of any nature." Any person who violates this section shall be subject to a fine of not less than $200 or more than $1,000 for each offense.

b. There shall be a rebuttable presumption that the registered owner of the vehicle, if present in the vehicle, or, in his absence, the driver of the vehicle, is presumed to be responsible for any violation of this section, if:

(1) A bundle, object, article or debris of any nature is thrown or dropped from the vehicle by an occupant of the vehicle;

(2) There are two or more occupants in the vehicle; and
(3) It cannot be determined which occupant of the vehicle is the violator.

2. This act shall take effect on the first day of the sixth month after enactment.

Approved December 4, 1992.

CHAPTER 172

AN ACT regarding State tax collection procedures and authorizing the use of collection agents, supplementing Title 54 of the Revised Statutes.

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

C.54:49-12.2 Agreements for collection.

1. Notwithstanding any other provision of law, the director may enter into agreements with one or more private persons, companies, associations or corporations providing debt collection services for the purpose of collecting past due taxes, interest, additions to tax and penalties. Any such agreement shall contain provisions prohibiting the use of unfair debt collection practices by the provider of debt collection services, which provisions shall include, without limitation, restrictions upon the conduct of the provider of debt collection services substantially similar to those contained in the "Fair Debt Collection Practices Act," 15 U.S.C. §1692 et seq.

C.54:49-12.3 Compensation for debt collection services.

2. As part of any such agreement, the director may provide that compensation for the debt collection services may be added to the taxes, interest, additions to tax and penalties to be collected from the tax debtor by the provider of debt collection services. Any such agreement may authorize the provider of debt collection services to adjust, compromise or abate the taxes, interest, additions to tax and penalties, with the approval of the director. Any such authorization shall be subject to the same conditions and restrictions imposed upon the director by law, and may be further limited or subject to standards imposed by the director.

C.54:49-12.4 Provision of taxpayer information.

3. The provisions of subsection a. of R.S.54:50-8 notwithstanding, the director may provide such taxpayer information as is necessary for the provider of debt collection services to fulfill its obligations under the collection agreement, provided that such disclosure is not contrary to the provisions of subsection (a) of section 26 of the federal Internal Revenue Code of 1986, 26 U.S.C.§6103. Such persons, companies, associations or corporations providing debt collection services, and their employees, shall be specifically subject to the confidentiality provisions of R.S.54:50-8. The provider of debt collection services shall furnish the director with the affidavit of each of its principals and employees in which each such principal and employee shall acknowledge receipt of a copy of the confidentiality provisions of the "State Tax Uniform Procedure Law", R.S.54:48-1 et seq., understanding of the obligation to maintain, and agreement to maintain, the confidentiality of taxpayer information, and awareness that violation of the confidentiality provisions is punishable by law.

C.54:49-12.5 Regulations.

4. The director is authorized to promulgate regulations and take other necessary or useful measures for the purpose of efficiently administering this act, securing the largest possible recoveries for the State, ensuring the integrity of the collection program and assuring fairness to taxpayers.

5. This act shall take effect immediately.

Approved December 8, 1992.

CHAPTER 173

AN ACT concerning certain unclaimed county deposits and amending R.S.46:30B-74.

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

1. R.S.46:30B-74 is amended to read as follows:

Deposits of funds by administrator.

46:30B-74. Deposits of funds by administrator. The administrator shall establish and manage two separate trust funds to be known as the Unclaimed County Deposits Trust Fund and the Unclaimed Personal Property Trust Fund.

a. All moneys received as unclaimed county deposits and the accretions thereon shall be deposited into the Unclaimed County Deposits Trust Fund. Each year, unless the administrator deems it prudent and advisable to do otherwise, the administrator shall pay to each county, within 45 days of the receipt of such funds, 75% of the unclaimed county deposits received from that county by the administrator. The remaining portion shall be retained in the trust fund, administered and invested by the State Treasurer, and used to pay claims duly presented and allowed and all expenses and costs incurred by the State of New Jersey. If the Unclaimed County Deposits Trust Fund is insufficient to pay specific claims against a county, the administrator shall report the fact to the county governing body and the unpaid claim shall become an affirmative obligation of that county.

Upon the effective date of this act, any county deposits paid to the administrator between April 18, 1989 and the effective date of this act shall be transferred from the Unclaimed Personal Property Trust Fund to the Unclaimed County Deposits Trust Fund.

b. All other moneys received as unclaimed property presumed abandoned, the accretions thereon, and the proceeds of sale of unclaimed property shall be deposited into the Unclaimed Personal Property Trust Fund. Unless the administrator deems it prudent and advisable to do otherwise, 75% of all funds received shall be transferred to the General State Fund. The remaining portion shall be retained in the trust fund, administered and invested by the State Treasurer, and used to pay claims duly presented and allowed and all expenses and costs incurred by the State of New Jersey.

Upon the effective date of this act, all funds and assets of the trust funds established pursuant to N.J.S.2A:37-41, section 8 of P.L.1945, c.199 (C.17:9-25), and N.J.S.17B:31-7, shall be transferred to and become part of the Unclaimed Personal Property Trust Fund established by this act, which shall be responsible for payment of any allowed claims for restitution of unclaimed property paid into those three funds.

c. As used in this section, "county deposits" means: the proceeds of a judgment received in favor of a minor and placed under the control of a county surrogate, any devise or distribution from an estate paid into the county surrogate's court prior to April 14, 1989, and any money deposited with the county clerk as bail.

2. This act shall take effect immediately.

Approved December 10, 1992.

CHAPTER 174

AN ACT concerning the New Jersey Building Authority, amending and supplementing P.L.1981, c.120, and amending P.L.1987, c.203.

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

1. Section 2 of P.L.1981, c.120 (C.52:18A-78.2) is amended to read as follows:

C.52:18A-78.2 Definitions.

2. As used in this act, unless the context clearly indicates otherwise:

a. "Authority" means the New Jersey Building Authority created under this act.

b. "Bonds" means bonds issued by the authority pursuant to this act.

c. "Building" includes any portion thereof, such as an apartment created under the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.) or a unit created under the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).

d. "Local governmental agency" means any municipality, county, school district, or any agency, department or instrumentality of any of the foregoing, or any other public body having local or regional jurisdiction or powers and not constituting a State agency.

e. "Notes" means notes issued by the authority pursuant to this act.

f. "Project" means any building or buildings, including related structures, parking facilities, improvements, real and personal property or any interest therein, including lands under water, space rights and air rights, and other appurtenances and facilities necessary or convenient to the use or operation of the building or buildings, acquired, owned, constructed, reconstructed, extended, rehabilitated , renovated, preserved or improved by the authority for the purposes set forth in section 8 of P.L.1992, c.174 (C.52:18A-78.5a).

g. "State agency" means the Executive, Legislative or Judicial branch of the State Government or any officer, department, board, commission, bureau, division, public authority or corporation, agency or instrumentality of the State.

h. "Historic public building" means a building that is owned by a governmental agency and that is on or eligible for State or National Registers of Historic Places.

2. Section 3 of P.L.1981, c.120 (C.52:18A-78.3) is amended to read as follows:

C.52:18A-78.3 Findings, declarations.

3. The Legislature finds and declares the following:

a. That for many years the functions of the State Government have grown and that during this period of rapid expansion no definite program has been adopted for the housing and carrying out of the operations of the many State agencies.

b. That many State agencies have their offices in privately owned or inadequate State owned buildings and that these buildings are inadequate to meet the needs of these State agencies and the needs of the people of the State.

c. That it is to the economic benefit and general welfare of the citizens of the State to provide sufficient office space and related facilities for these State agencies and thus provide for a more efficient and economic operation of State Government.

d. That projects for the construction of correctional facilities are required because of a critical public need and a legal constraint.

e. That in order to provide for office space and related facilities at a cost that these State agencies can afford, it is necessary to create and establish a building authority for the purposes of constructing, operating, selling and leasing office buildings and related facilities to meet the needs of State agencies.

f. It is necessary and in the public interest that this building authority have the necessary funds to provide for predevelopment cost, temporary financing, land development expenses, construction and operation of office buildings and related facilities for the use of, and sale or rental to, State agencies.

g. That the renovation and preservation of historic public buildings contribute to the preservation of the State's heritage, the promotion of the cultural life of our people, and the development and redevelopment of our municipalities.

h. For these purposes, there should be created a corporate governmental agency to be known as the "New Jersey Building Authority" which, through issuance of bonds and notes to the private, investing public may provide or obtain the capital resources necessary to acquire, construct, reconstruct, rehabilitate, renovate, preserve or improve these office buildings and related facilities necessary or convenient to the operation of any State agency, or historic public buildings, as the case may be.

i. That the acquisition, construction, reconstruction, rehabilitation, renovation, preservation or improvement of these office buildings and related facilities necessary or convenient to the operation of any State agency, and historic public buildings are

public uses and public purposes for which public money may be loaned and private property may be acquired and tax exemptions granted, and that the powers and duties of the New Jersey Building Authority as set forth in this act are necessary and proper for the purpose of achieving the ends here recited.

j. That the construction, reconstruction, rehabilitation, renovation, preservation and improvement activities of the authority will provide a much needed stimulus for the construction industry, and related industries and professions, particularly in urban areas.

k. That the highest priority for the New Jersey Building Authority shall be the renovation and preservation of the following facilities in the State Capital: the State House, the Old Barracks, the War Memorial, the Kelsey Building, and the townhouses adjacent to the Kelsey Building.

3. Section 6 of P.L.1981, c.120 (C.52:18A-78.6) is amended to read as follows:

C.52:18A-78.6 Project report; review.

6. Prior to the acquisition or construction of any project, or any reconstruction, rehabilitation, repair, renovation, preservation, or improvement of a project, the cost of which undertaking is estimated to exceed $100,000.00 the authority shall, except as otherwise provided in subsection d. of section 9 of P.L.1992, c.174 (C.52:18A-78.5c):

a. Prepare a project report which shall describe the nature and scope of the project, including but not limited to its location, size, cost, and purpose, a list of all entities which will occupy the project and the amount of space each will occupy, the anticipated annual State appropriation for lease agreements, the total State appropriations necessary in each year until the total indebtedness attributable to the project is paid or retired and a statement of anticipated annual receipts and expenditures for the project;

b. Submit the project report to the Commission on Capital Budgeting and Planning for its review and its findings as to whether the project is necessary and convenient to meet the needs of the State agencies which are to utilize the project, whether the project is consistent with the State Capital Improvement Plan, and whether it meets the criteria otherwise established by the Commission for its approval of State capital projects;

c. Conduct a public hearing in the municipality in which the project is to be located as provided in section 7 of this act, and make all responses required by that section; except that this

requirement shall not apply in the case of the reconstruction, rehabilitation, renovation, preservation, repair or improvement of an existing building or facility owned by the State and which will continue to be used for substantially the same purpose after completion of the project, nor shall it apply to a project which qualifies as a State investment project under section 4 of P.L.1983, c.139 (C.40:55C-46a);

d. Submit to the Legislature the project report, the findings of the Commission on Capital Budgeting and Planning, the transcript of the public hearing, and all responses required by section 7 of this act;

e. Submit to the Legislature documentation that:

(1) Plans and specifications for the project assure, or will assure adequate light, air, sanitation, and fire protection;

(2) There is a feasible method for the relocation of families and individuals displaced from the project area into decent, safe and sanitary dwellings in accordance with the provisions of the "Relocation Assistance Act of 1967," P.L.1967, c.79 (C.52:31B-1 et seq.) and the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.), whichever is applicable;

(3) Plans and specifications for the project assure that the project will comply with all applicable standards and requirements prescribed by State and federal law which promote the public health, protect the environment or promote the conservation of energy, and that, where practicable and appropriate, consideration shall be given to the generation or cogeneration of electrical power on the project site or in conjunction with other facilities;

(4) Plans and specifications for the project assure that it will comply with the requirements of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.);

(5) The location of the project is consistent with the State's urban policy of concentrating public investments in distressed urban centers and assisting in the revitalization of the older municipalities, except for a project intended to serve a region which contains no such urban center.

For the purposes of this section "cost" means, in addition to the usual connotations thereof, the cost of acquisition, construction, reconstruction, rehabilitation, repair, improvement and operation of all or any part of a project, and includes, but is not limited to, the cost or fair market value of construction, machinery and equipment, property rights, easements, privileges, agreements, franchises, utility extensions, disposal facilities, access roads and site development deemed by the authority to be necessary or use-

ful and convenient therewith, discount on bonds, cost of issuance of bonds, engineering and inspection costs and legal expenses, cost of financial, professional and other estimates and advice, organization, administrative, insurance, operating and other expenses of the authority or any person prior to and during any acquisition or construction, reconstruction, rehabilitation, repair or improvement, and all other expenses as may be necessary or incident to the financing, acquisition, construction, rehabilitation, repair or improvement and completion of the project or part thereof, and also provision for reserves for payment or security of, principal of, or interest on, the bonds during any such undertaking.

4. Section 14 of P.L.1981, c.120 (C.52:18A-78.14) is amended to read as follows:

C.52:18A-78.14 Issuance of bonds, notes.

14. a. The authority may from time to time issue its bonds or notes in such principal amounts as in the opinion of the authority shall be necessary to provide sufficient funds for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds or notes issued by it whether the bonds or notes or interest to be funded or refunded have or have not become due, the establishment or increase of such reserves to secure or to pay the bonds or notes or interest thereon and all other costs or expenses of the authority incident to and necessary to carry out its corporate purposes and powers.

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

c. Bonds or notes of the authority shall be authorized by a resolution or resolutions of the authority and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates of interest per annum, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources; in such medium of payment; at such place or places within or without the State, and be subject to such terms of redemption, with or without premium, as such resolution or resolutions may provide.

d. Bonds or notes of the authority may be sold at public or private sale at such price or prices and in such manner as the authority shall determine. Every bond shall mature and be paid not later than 35 years from the date thereof.

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

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

g. Each issue of bonds or notes of the authority may, if it is determined by the authority, be general obligations thereof payable out of any revenues, receipts or funds of the authority subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or funds, and shall be secured by one or more of the following:

(1) Pledge of rentals, receipts and other revenues to be derived from leases, sales agreements, service contracts or similar contractual arrangements with one or more State agencies, or one or more persons, firms, partnerships or corporations, whether or not the same relate to the project or part thereof financed with the bonds or notes, or a pledge or assignment of the leases, sales agreements, service contracts or instruments evidencing similar arrangements and the rights and interests of the authority; pro-

vided that such leases, sales agreements, service contracts or similar contractual arrangements shall be in effect at the time of the issuance of the bonds or notes;

(2) Pledge of grants, subsidies, contributions or other payments to be received from the United States of America or any instrumentality thereof or from the State or any State agency;

(3) A first mortgage on all or any part of the property, real or personal, of the authority then owned or thereafter to be acquired; provided that the property so mortgaged as improved and developed by application of the proceeds of the bonds or notes shall be appraised as at least equal to the amount of the bonds or notes;

(4) Pledge of the revenues and receipts estimated to be thereafter derived from the ownership or operation of the project or part thereof or from the lease or sale thereof, including any income from investment of the funds and moneys held in connection therewith and pledged to the payment of the bonds or notes and the interest thereon or a pledge of any lease, sales agreement, service contract or instrument evidencing similar arrangements to be entered into subsequent to the issuance of the bonds or notes;

(5) Pledge of all moneys, funds, accounts, securities and other funds, including the proceeds of the bonds or notes.

5. Section 1 of P.L.1987, c.203 (C.52:18A-78.11d) is amended to read as follows:

C.52:18A-78.11d Supervision by chairman.

1. Notwithstanding any provision of section 11 or any other provision of the act to which this act is a supplement to the contrary, the authority may delegate, by resolution, the supervision of the construction, reconstruction, rehabilitation, renovation, preservation or improvement of any project to the chairman of the authority.

6. Section 3 of P.L.1987, c.203 (C.52:18A-78.11f) is amended to read as follows:

C.52:18A-78.11f General Services Administration authority.

3. a. The authority may delegate to an appropriate State agency within the General Services Administration the authority to undertake a project the aggregate amount of which, including labor and construction materials, is greater than $25,000.00, or the amount determined pursuant to subsection b. of section 2 of P.L.1954, c.48 (C.52:34-7).

b. A State agency delegated by the authority to undertake a construction project pursuant to this section shall have the authority to

make, negotiate or award any contract necessary to complete the construction project and shall, in the case of the State House, State House Annex and ancillary structures, and in the case of any correctional facility, award contracts for work on the project in the manner set forth in section 2 of P.L.1987, c.202 (C.52:32-2.2) and section 3 of P.L.1987, c.202 (C.52:32-2.3), and in the case of all other projects shall apply the award standard set forth in either R.S.52:32-2 or section 7 of P.L.1954, c.48 (C.52:34-12). The State agency shall comply with the applicable procedures for public advertisement for bids, the exceptions thereto and the waiver procedures.

7. Section 19 of P.L.1981, c.120 (C.52:18A-78.19) is amended to read as follows:

C.52:18A-78.19 Pledge and covenant not to alter rights and powers.

19. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds or notes issued pursuant to authorization of the act that the State will not limit or alter the rights or powers hereby vested in the authority to acquire, construct, maintain, improve, renovate, preserve, repair and operate any project in any way that would jeopardize the interest of the holders, or to perform and fulfill the terms of any agreement made with the holders of the bonds or notes, or to fix, establish, charge and collect such rents, fees, rates, payments, or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and to fulfill the terms of any agreement made with the holders of the bonds and notes, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, until the bonds and notes, together with interest thereon, are fully met and discharged or provided for.

C.52:18A-78.5a Purposes for authority projects.

8. a. The projects of the authority shall be undertaken for the following purposes:

(1) The creation, reconstruction, extension, rehabilitation, renovation, preservation or improvement of office space and related facilities necessary for the conduct of official business by State agencies, including storage and warehouse facilities, motor vehicle inspection stations, testing and research laboratories;

(2) The acquisition, construction, reconstruction, rehabilitation, renovation, preservation, or improvement of State correctional

facilities, except in State parks and forests and land devoted to recreation and conservation purposes under the jurisdiction of the Department of Environmental Protection and Energy pursuant to P.L.1983, c.324 (C.13:1L-1 et al.), and

(3) The renovation or preservation of historic public buildings.

b. (1) For the purposes of paragraph (1) of subsection a. of this section, the authority shall make every effort to preserve historically significant buildings as office space and related facilities, in addition to creating new office space and related facilities.

(2) For purposes of paragraph (2) of subsection a. of this section with respect to buildings located in the State Capital, the authority shall be exempt from compliance with any of the provisions of P.L.1987, c.58 (C.52:9Q-9 et seq.).

C.52:18A-78.5c Application for financing local historic projects.

9. a. A local governmental agency may apply to the authority for financing of the renovation or preservation of a historic public building. The application shall be of such form and contents as shall be prescribed by regulation of the authority, promulgated pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The contents shall include, but not be limited to documentation of the inability of the local governmental agency to secure financing for the project from the Economic Development Authority, a local or county improvement authority, the Historic Trust, and other funding sources available for historic renovation and preservation.

b. In the case of projects which are not State office buildings, the Commission on Capital Budgeting and Planning need not determine whether the project meets the needs of State agencies pursuant to subsection b. of section 6 of P.L.1981, c.120 (C.52:18A-78.6).

c. The amount, terms and conditions for financing projects approved pursuant to this section shall be determined by the authority.

10. Section 5 of P.L.1981, c.120 (C.52:18A-78.5) is amended to read as follows:

C.52:18A-78.5 Powers of authority.

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

a. To make and alter bylaws for its organization and internal management and, subject to agreements with noteholders and bondholders, to make rules and regulations with respect to its projects, operations, properties and facilities.

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

c. To sue and be sued.

d. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the exercise of its powers under this act.

e. To enter into agreements or other transactions with and accept grants and the cooperation of the United States or any agency thereof or any State agency in furtherance of the purposes of this act, including but not limited to the development, maintenance, operation and financing of any project and to do any and all things necessary in order to avail itself of this aid and cooperation.

f. To receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this act subject to such conditions upon which this aid and these contributions may be made, including but not limited to, gifts or grants from any department or agency of the United States or any State agency for any purpose consistent with this act.

g. To acquire, own, hold, 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 this act.

h. To appoint an executive director and such other officers, employees and agents as it may require for the performance of its duties, and to fix their compensation, promote and discharge them, all without regard to the provisions of Title 11 of the Revised Statutes.

i. To acquire, construct, reconstruct, rehabilitate, renovate, preserve, improve, alter or repair or provide for the construction, reconstruction, improvement, alteration or repair of any project and let, award and enter into construction contracts, purchase orders and other contracts with respect thereto in such manner as the authority shall determine.

j. To arrange or contract with a county or municipality for the planning, replanning, opening, grading or closing of streets, roads, roadways, alleys or other places, or for the furnishing of facilities or for the acquisition by a county or municipality of property or property rights or for the furnishing of property or services, in connection with a project.

k. To sell, lease, assign, transfer, convey, exchange, mortgage or otherwise dispose of or encumber any project or other property no longer needed to carry out the public purposes of the authority and, in the case of the sale of any project or property, to accept a

purchase money mortgage in connection therewith; and to lease, repurchase or otherwise acquire and hold any project or property which the authority has theretofore sold, leased or otherwise conveyed, transferred or disposed of.

l. To grant options to purchase any project or to renew any leases entered into by it in connection with any of its projects, on such terms and conditions as it deems advisable.

m. To acquire by purchase, lease or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the power of eminent domain, except with respect to lands owned by the State or any public lands reserved for recreation and conservation purposes, any land and other property, including railroad lands and land under water, which it may determine is reasonably necessary for any of its projects or for the relocation or reconstruction of any highway by the authority and any and all rights, title and interest in that land and other property, including public lands, highways or parkways, owned by or in which a State agency or local governmental agency has any right, title or interest, or parts thereof or rights therein and any fee simple absolute or any lesser interest in private property, and any fee simple absolute in, easements upon or the benefit of restrictions upon, abutting property to preserve and protect any project.

n. To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction, reconstruction, rehabilitation, improvement, alteration or repair of any project, and from time to time to modify these plans, specifications, designs or estimates.

o. To sell, lease, rent, sublease or otherwise dispose of any project or any space embraced in any project to any State agency or to any person, firm, partnership or corporation for sale, leasing, rental or subleasing to any State agency, and, where applicable, to establish and revise the purchase price, rents or other charges therefor; provided, however, that the incurrence of any liabilities by a State agency under any agreement entered into with the authority pursuant to the aforesaid authorization, including, without limitation, the payment of any and all rentals or other amounts required to be paid by the agency thereunder, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for that purpose and approval by the presiding officers, or such other officers as may be provided by law, of both houses of any such lease.

p. To sell, lease, rent, sublease or otherwise dispose of, to any person, firm, partnership or corporation, any surplus space in any project over and above that sold, leased, rented, subleased or otherwise disposed of to State agencies and to establish and revise the purchase price, rents or charges therefor.

q. To approve of the selection of any tenant not a State agency under a lease or sublease agreement for the use or occupation of any portion of a building in which a project is located.

r. To manage or operate any project or real or personal property related thereto whether owned or leased by the authority or any State agency or any person, firm, partnership or corporation, and to enter into agreements with any State agency, or any local governmental agency, or with any person, firm, association, partnership or corporation, either public or private, for the purpose of causing any project or related property to be managed.

s. To provide advisory, consultative, training and educational services, technical assistance and advice to any person, firm, association, partnership or corporation, either public or private, in order to carry out the purposes of this act.

t. Subject to the provisions of any contract with noteholders or bondholders to consent to any modification, amendment or revision of any kind of any contract, lease or agreement of any kind to which the authority is a party.

u. To determine, after holding a public hearing in the municipality in which the project is to be located, except as otherwise provided in section 6 of this act, the location, type and character of the project or any part thereof and all other matters in connection with all or any part of the project, notwithstanding any land use plan, zoning regulation, building code or similar regulation heretofore or hereafter adopted by any municipality, county, public body corporate and politic, or any other political subdivision of the State.

v. To borrow money and to issue its bonds and notes and to secure the same and provide for the rights of the holders thereof as provided in this act.

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

x. To procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable.

y. To engage the services of architects, engineers, attorneys, accountants, building contractors, urban planners, landscape architects and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix their compensation.

z. To do any act necessary or convenient to the exercise of the foregoing powers or reasonably implied therefrom.

C.52:18A-78.5b Permitted project, certain.

11. The renovation or rehabilitation of shelving in the State Library for the Blind and Handicapped is a project the purpose of which is included among those the New Jersey Building Authority may undertake pursuant to section 8 of P.L.1992, c.174 (C.52:18A-78.5a).

12. This act shall take effect immediately, and shall apply to projects subject to approval by the authority on and after the effective date of this act.

Approved December 10, 1992.

CHAPTER 175

AN ACT concerning the payments, penalties, appeals and administration of certain State tax liabilities to provide a Taxpayers' Bill of Rights, amending, supplementing and repealing parts of the statutory law.

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

1. R.S.54:48-2 is amended to read as follows:

Definitions.

54:48-2. As used in this subtitle:

"Commissioner" means the Director of the Division of Taxation in the Department of the Treasury.

"Department" means the Division of Taxation in the Department of the Treasury.

"Director" means the Director of the Division of Taxation.

"Prime rate" means the average predominant prime rate, as determined by the Board of Governors of the Federal Reserve System, quoted by commercial banks to large businesses as of the first busi-

ness day of the calendar quarter within which the payment was due; except that as to the calculation of interest accruing on and after the July 1 next following enactment of P.L.1992, c.175 "prime rate" means that rate quoted as of December 1 of the calendar year immediately preceding the calendar year in which the payment was due, provided however, that if the director determines that the prime rate quoted by commercial banks to large businesses varies by more than one percentage point from the rate otherwise determined, the director shall redetermine the prime rate to be that quoted prime rate for subsequent calendar quarters of the calendar year in which payments become due.

"State tax" means any tax which is payable to or collectible by the director, and "State tax law" means any law which levies or imposes a State tax as herein defined.

"Taxpayer" means any person owing or liable to pay any State tax or any person deemed by the director to be so owing or liable.

2. R.S.54:49-4 is amended to read as follows:

Late filing penalty.

54:49-4. In addition thereto any taxpayer failing to file a return with the director within the time prescribed under the act imposing such tax shall be liable to a late filing penalty of $100.00 for each month or fraction thereof that such return is delinquent, plus a penalty of 5% per month or fraction thereof of the total tax liability not to exceed 25% of such tax liability. Unless any part of any underpayment of tax required to be shown on a return or report is shown to be due to reasonable cause, there shall be added to the tax an amount equal to 5% of the underpayment.

3. R.S.54:49-6 is amended to read as follows:

Examination of return, report; assessment of additional tax.

54:49-6. a. After a return or report is filed under the provisions of any State tax law, the director shall cause the same to be examined and may make such further audit or investigation as he may deem necessary, and if therefrom he shall determine that there is a deficiency with respect to the payment of any tax due under such law, he shall assess the additional taxes, penalties, if any, pursuant to any State tax law or pursuant to this subtitle, and interest at the rate of three percentage points above the prime rate due the State from such taxpayer, give notice of such assessment to the taxpayer, and make demand upon him for payment.

b. No assessment of additional tax shall be made after the expiration of more than four years from the date of the filing of a return; provided, that in the case of a false or fraudulent return with intent to evade tax, or failure to file a return, the tax may be assessed at any time. If a shorter time for the assessment of additional tax is fixed by the law imposing the tax, the shorter time shall govern. If, before the expiration of the period prescribed herein for the assessment of additional tax, a taxpayer consents in writing that such period may be extended, the amount of such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period. For purposes of this subsection, a return filed before the last day prescribed by law or by regulations promulgated pursuant to law for the filing thereof, shall be considered as filed on such last day.

4. R.S.54:49-11 is amended to read as follows:

Remittance, waiving of penalty.

54:49-11. a. If the failure to pay any such tax when due is explained to the satisfaction of the director, he may remit or waive the payment of the whole or any part of any penalty and may remit or waive the payment of any interest charge in excess of the rate of three percentage points above the prime rate including any such penalty or interest with respect to deficiency assessments made pursuant to R.S.54:49-6.

b. The director shall waive the payment of any part of any penalty or any part of any interest attributable to the taxpayer's reasonable reliance on erroneous advice furnished to the taxpayer in writing by an employee of the Division of Taxation acting in the employee's official capacity, provided that the penalty or interest did not result from a failure of the taxpayer to provide adequate or accurate information.

5. R.S.54:49-14 is amended to read as follows:

Filing of refund claim.

54:49-14. a. Any taxpayer, at any time within four years after the payment of any original or additional tax assessed against him, unless a shorter limit is fixed by the law imposing the tax, may file with the director a claim under oath for refund, in such form as the director may prescribe, stating the grounds therefor, but no claim for refund shall be required or permitted to be filed

with respect to a tax paid, after protest has been filed with the director or after proceedings on appeal have been commenced as provided in this subtitle, until such protest or appeal has been finally determined. The signing of an agreement by the taxpayer and the director extending the period for assessment shall likewise extend the period for filing a claim for refund.

b. Each taxpayer shall file a separate refund claim. A refund claim on behalf of a class is not permitted.

c. If a tax is declared to be discriminatory in a final judicial decision from which all appeals have been exhausted, the director may, within the director's sole discretion, refund or credit only the discriminatory portion of the tax.

6. R.S.54:49-15 is amended to read as follows:

Examination of claim for refund.

54:49-15. If upon examination of such claim for refund, it shall be determined by the director that there has been an overpayment of tax, the amount of such overpayment and the interest on the overpayment if any, shall be credited against any liability of the taxpayer under any State tax law and if there be no such liability the taxpayer shall be entitled to a refund of the tax so overpaid and the interest on the overpayment, if any. If the director shall reject the claim for refund in whole or in part, the director shall make an order accordingly and serve a notice upon the taxpayer.

C.54:49-15.1 Interest on overpayment.

7. For tax paid with respect to reports or returns due on and after the first day of the sixth month following the July 1 next following enactment of this section, interest shall be allowed and paid on every overpayment of tax at a rate determined by the director to be equal to the prime rate. Interest shall commence to accrue on the later of the date of the filing by the taxpayer of a claim for refund or requested adjustment, the date of the payment of the tax, or the due date of the report or the return thereof; but no interest shall be allowed or paid on an overpayment of less than $1.00, nor upon any overpayment refunded within six months after the last date prescribed, or permitted by extension of time, for filing the return or within six months after the return is filed, whichever is later.

C.54:48-6 Preparation of statements of taxpayers' rights.

8. The Director of the Division of Taxation shall prepare statements that set forth in simple and nontechnical terms:

a. the procedural and substantive rights of a taxpayer under the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., including information and notice standards, rights of representation and confrontation, and the standards for allowing closing agreements and compromises; and the obligations of the Division of Taxation under that law, including obligations of explanation, communication and confidentiality;

b. the procedures and time limits to protest an assessment or decision of the director;

c. the procedures and time limits to appeal a final decision of the director;

d. the procedures for making a claim for refund under that law, and under any other law or regulation which may prohibit the application of the refund provisions of that law; and

e. the procedures which the director may use in determining State tax liability, including the director's right to verify taxes through examination of records, hearings, and subpoena powers, and the procedures which the director may use in collecting a State tax liability, including deficiency assessment, arbitrary assessment, penalties and interest, liens, levies and criminal sanctions.

C.54:50-6.1 Notices of assessment, rights of taxpayers.

9. a. All notices of assessment related to final audit determination and "Notice and Demand for Payment of Tax" letters will be sent by registered or certified mail.

b. All taxpayers have the right to ask officers and employees of the Division of Taxation questions about:

(1) the State tax implications of any specific situation;

(2) the amount of any State tax liability and how it has been determined;

(3) any notice of underpayment or overpayment sent by the Division; and

(4) their responsibilities and rights as taxpayers.

When taxpayers contact the officers and employees of the Division of Taxation at any location, whether in person, by telephone or by letter, the Division of Taxation personnel will accurately answer their questions within a reasonable time period.

C.54:50-2.2 Taxpayer interview.

10. An employee of the Division of Taxation, in connection with an in-person interview with a taxpayer relating to the determination or collection of tax:

a. shall, upon advance request of the taxpayer, allow the taxpayer to make a recording of the interview with the taxpayer's equipment and at the taxpayer's expense, provided however that the Division of Taxation shall have the same right of recording;

b. may, upon advance notice to the taxpayer, make a recording of the interview; provided however, that the employee shall provide the taxpayer with a copy of the recording if the taxpayer provides reimbursement for the cost of the copy; and

c. shall, before or at the initial interview, provide to the taxpayer an explanation of the audit process and the taxpayer's rights under the audit process in the case of an interview relating to the determination of a tax and provide to the taxpayer an explanation of the collection process and the taxpayer's rights under the collection process in the case of an interview relating to the collection of a tax, including the taxpayer's right to consult with the taxpayer's attorney or accountant

This section shall not apply to investigations relating to the integrity of a division employee or to criminal investigations.

C.54:51A-22 Awarding of costs to prevailing taxpayer.

11. a. A prevailing taxpayer in a court proceeding in connection with the determination, collection or refund of any tax, penalty or interest may be awarded a judgment or settlement for the reasonable litigation costs, not to exceed $15,000, incurred in the proceeding, based upon:

(1) the reasonable expenses of expert witnesses,

(2) the reasonable costs of studies, reports or tests, and

(3) the reasonable fees of attorneys, not to exceed $75 per hour unless by special determination of the court of the existence of a special factor.

b. An award under subsection a. shall be made only for the costs allocable to the State, and not to any other party.

c. No award under subsection a. shall be made with respect to any portion of the proceedings during which the prevailing taxpayer has unreasonably protracted the proceedings.

d. Whenever it appears to the court that proceedings have been instituted or maintained by the taxpayer primarily for delay, that the taxpayer's position in the proceedings is without grounds, or that the taxpayer unreasonably failed to pursue administrative remedies, the State may be awarded a judgment or settlement for its reasonable litigation costs, not to exceed $15,000, incurred in the proceedings.

e. For the purposes of this section, "prevailing taxpayer" means a taxpayer that establishes that the position of the State was with-

out reasonable basis in fact or law. The determination of whether a taxpayer is a prevailing taxpayer is to be determined by the court.

C.54:51A-23 Action for damages by taxpayer.

12. If an employee of the Division of Taxation knowingly disregards any tax law, any provision of this subtitle, or any regulation promulgated thereunder, in the collection of any tax; or if an employee of the Division of Taxation knowingly, recklessly or negligently fails to release a lien against or bond on a taxpayer's property, then the taxpayer may, within two years from the date the taxpayer could reasonably discover the actions of the employee or director, bring an action for damages against the State in the tax court, provided that the damages shall be limited to the actual direct economic damages suffered by the taxpayer as a proximate result of the actions of the employee or director, plus costs, reduced by the amount of such damages and costs as could reasonably have been mitigated by the taxpayer. Such civil action shall be the exclusive remedy for recovering damages resulting from such actions.

C.54:49-3.1 Postmark date deemed delivery date.

13. Except as another payment method may be specified by law, a tax return, report, notice, petition, protest, claim or other document to be filed or remittance containing payment of tax, required to be filed within a prescribed period, or on or before a prescribed date, under the provisions of any State tax that, after the period or the date, is delivered by United States mail to the director, bureau, office, officer or person with which or with whom the document is required to be filed shall be deemed to be delivered on the date of the United States postmark stamped on the envelope. This shall apply only if the postmark date falls within the prescribed period or on or before the prescribed date for the filing of the document, determined with regard to any extension granted for filing, and the document was deposited in the mail, postage prepaid, properly addressed to the director, bureau, office, officer or person with which or with whom the document is required to be filed. If any document is sent by United States registered or certified mail, such registration or certification shall be prima facie evidence that the document was delivered to the director, bureau, office, officer or person to which or to whom addressed. This section shall also apply to postmarks not made by the United States Postal Service to the extent the Director of the Division of Taxation in the Department of the Treasury may prescribe.

14. R.S.54:49-18 is amended to read as follows:

Filing of protest.

54:49-18. a. If any taxpayer shall be aggrieved by any finding or assessment of the director, he may, within 90 days after the giving of the notice of assessment or finding, file a protest in writing signed by himself or his duly authorized agent, certified to be true, which shall set forth the reason therefor, and may request a hearing. Thereafter the director shall grant a hearing to the taxpayer, if the same shall be requested, and shall make a final determination confirming, modifying or vacating any such finding or assessment. The filing of a protest shall stay the right of the director to collect the tax in any manner if the taxpayer shall furnish security of the kind and in the amount determined pursuant to subsection b. of this section until 90 days after final determination by the director. The time for appeal to the Tax Court pursuant to subsection a. of R.S.54:51A-14, enacted pursuant to section 1 of P.L.1983, c.45, shall commence from the date of the final determination by the director.

b. Except in the case of an arbitrary assessment pursuant to R.S.54:49-5 or R.S.54:49-7, no security shall be required for an amount in controversy of less than $10,000. Contested assessments of $10,000 or more shall not require security unless the director determines that there is a substantial risk of the taxpayer's failure or inability to pay a liability, based on the compliance history and financial condition of the taxpayer.

15. R.S.54:50-6 is amended to read as follows:

Service of notice.

54:50-6. a. Any notice required to be given by the director pursuant to the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., may be served personally or by mailing the same to the person for whom it is intended, addressed to such person at the address given in the last report filed by that person pursuant to the provisions of the State Tax Uniform Procedure Law, or of any State tax law, or if no report has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom it was addressed. A notice may at the prescription of the director include on its face a designation which shall identify the notice for purposes of communication.

b. An assessment notice pursuant to R.S.54:49-5, R.S.54:49-6 or R.S.54:49-7 shall contain the statements required pursuant to subsections a., b. and f. of section 8 of P.L.1992, c.175.

c. An assessment notice pursuant to R.S.54:49-5, R.S.54:49-6 or R.S.54:49-7 shall include a statement of the reason for the assessment sufficient to inform a reasonable lay person of the statutory requirements which in the opinion of the director require the assessment, the actions or omissions of the taxpayer which require the assessment, or the nature of the insufficient documentary evidence, if any, which has prompted the assessment; including:

(1) in the case of an underpayment or failure of payment, a statement of the corresponding alleged correct amount and correct date of payment; and

(2) in the case of a failure to file a return, a statement of the alleged required filing date.

d. A refund determination notice pursuant to R.S.54:49-15 shall include the statements required pursuant to subsections b., d. and f. of section 8 of P.L.1992, c.175.

e. A final determination notice pursuant to R.S.54:49-18 shall include the statements required pursuant to subsections c. and f. of section 8 of P.L.1992, c.175.

f. The lack of any statement otherwise required to be included with a notice pursuant to this section or the lack of any description otherwise required pursuant to subsection c. of this section shall not invalidate such notice.

16. R.S.54:51A-15 is amended to read as follows:

Collection; bond; exception.

54:51A-15. Collection; bond; exception. a. Except as may otherwise be specifically provided, no complaint filed shall stay the collection of any tax or the enforcement thereof by entry of a judgment, unless security, if required pursuant to the standards and subject to the exceptions of subsection b. of R.S.54:49-18, approved by the Director of the Division of Taxation has been furnished to the Director of the Division of Taxation.

b. (Deleted by amendment, P.L.1992, c.175).

c. (Deleted by amendment, P.L.1992, c.175).

d. Except as otherwise specifically provided in R.S.54:49-5 and R.S.54:49-7 and pursuant to subsection a. of this section, a complaint filed in the Tax Court shall stay the collection of the tax at issue therein and the enforcement thereof by entry of any judgment pursuant to R.S.54:49-12. A stay of collection of tax or enforcement thereof by entry of a judgment shall expire and be of

no effect upon the entry of a judgment by the Tax Court determining that all or any part of the tax assessed is due and owing.

17. Section 7 of P.L.1975, c.387 (C.54:53-7) is amended to read as follows:

C.54:53-7 Compromise of liability, time for payment of liability.

7. a. The Director of the Division of Taxation may compromise criminal liabilities and any civil liability arising under the tax laws of the State prior to reference of a case involving such liability to the Attorney General for prosecution or defense. Any such liability may be compromised only upon one or both of the following grounds:

(1) Doubt as to liability; or

(2) Doubt as to collectability.

No such liability shall be compromised if the liability has been established by a court of competent jurisdiction or is certain, and there is no reasonable doubt as to the ability of the State to collect the amounts owing with respect to such liability.

b. The Director of the Division of Taxation may compromise the time for payment of a liability arising under the tax laws of the State. The time for payment of a liability shall be compromised under this subsection only on the grounds that the equities of the taxpayer's liability indicate that a compromise would be in the interest of the State and that without such a compromise the taxpayer would experience extreme financial hardship. A delayed payment or installment payment compromise agreement shall include interest on the unpaid balance of the liability at the rate of three percentage points above the prime rate.

18. Section 9 of P.L.1975, c.387 (C.54:53-9) is amended to read as follows:

C.54:53-9 Compromise agreement.

9. A compromise agreement shall relate to the entire liability of the taxpayer (including taxes, ad valorem penalties and interest) with respect to which the offer in compromise is submitted and all questions of such liability are conclusively settled thereby. Specific penalties, however, shall be compromised separately and not in connection with taxes, interest or ad valorem penalties. Neither the taxpayer nor the State shall, upon the acceptance of an offer in compromise, be permitted to reopen the case except by reason of the following:

a. Falsification or concealment of assets by the taxpayer;

b. Mutual mistake of a material fact sufficient to cause a contract to be set aside; or

c. The significant change in the financial condition of a taxpayer with which the director has entered into an agreement under subsection b. of section 7 of P.L.1975, c.387 (C.54:53-7).

However, acceptance of an offer in compromise of a civil liability shall not operate to remit a criminal liability, nor shall acceptance of a compromise of a criminal liability operate to remit a civil liability.

For the purpose of administering subsection c. of this section, the director may require a taxpayer to provide periodic statements of financial condition in such form as the director may prescribe. Action may be taken by the director under subsection c. only if the director gives notice to the taxpayer 30 days before the date of any action and the notice includes a statement of the reasons the director has for believing a significant change in the financial condition of the taxpayer has occurred.

19. Section 13 of P.L.1945, c.162 (C.54:10A-13) is amended to read as follows:

C.54:10A-13 Report of changed, corrected taxable income.

13. If the amount of the taxable income for any year of any taxpayer as returned to the United States Treasury Department is changed or corrected by the Commissioner of Internal Revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in said taxable income, or where a recovery of a war loss results in a computation or recomputation of any tax imposed by the United States, such taxpayer shall report such changed or corrected taxable income, or the results of such renegotiation, or such computation or recomputation, within 90 days after the final determination of such change or correction or renegotiation, or such computation or recomputation, or as required by the director, and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended return with such department shall also file within 90 days thereafter an amended report with the director. The periods of limitation to make deficiency assessments under R.S.54:49-6 and to file claims for refund under R.S.54:49-14 shall commence to run for additional four year periods from the date that taxable income is finally changed or corrected by the Commissioner of Internal Revenue; provided, that the additional periods of limitation shall only be

applicable to the increase or decrease in tax attributable to the adjustments in such changed or corrected taxable income.

20. Section 19 of P.L.1945, c.162 (C.54:10A-19) is amended to read as follows:

C.54:10A-19 Extension for filing returns; interest.

19. The director may grant a reasonable extension of time for the filing of returns or the payment of tax or both, under such rules and regulations as he shall prescribe, which rules and regulations may require the filing of a tentative return and the payment of an estimated tax. If the time for filing the return shall be extended, the payment of the portion of the tax remaining to be paid, if any, shall be postponed to the date fixed by the extension of the time for the filing of the return, but in every such case the corporation shall pay, in addition to the unpaid portion of the tax, interest thereon at the rate as provided in the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., from the time when the return originally was required to be filed to the date of actual payment under the extension; provided, that if such unpaid portion of the tax is not paid within the time fixed under the extension, the interest on such unpaid portion shall be computed at the rate as provided in the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., from the date the tax was originally due to the date of actual payment and if the amounts paid up to and including the time of the filing of the tentative return total less than the lesser of: 90% of the amount due; or for a taxpayer that had a preceding fiscal or calendar accounting year of 12 months and filed a return for that year showing a liability for tax, an amount equal to the tax computed at the rates applicable to the current fiscal or calendar accounting year but otherwise on the basis of the facts shown on the return of the taxpayer for, and the law applicable to, the preceding fiscal or calendar accounting year, the taxpayer shall be liable for a penalty of 5% per month or fraction thereof on the amount of underpayment which shall be in addition to the interest charges provided above.

21. Section 10 of P.L.1947, c.50 (C.54:10A-19.1) is amended to read as follows:

C.54:10A-19.1 Examination of returns, assessment.

10. (a) (Deleted by amendment, P.L.1992, c.175).

(b) (Deleted by amendment, P.L.1992, c.175).

(c) (Deleted by amendment, P.L.1992, c.175).

(d) The examination of returns and the assessment of additional taxes, penalties and interest shall be as provided by the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

22. Section 18 of P.L.1946, c.174 (C.54:10B-18) is amended to read as follows:

C.54:10B-18 Examination of returns, assessment, administration, collection, enforcement.

18. The examination of returns, assessment of additional taxes, penalties and interest, administration, collection and enforcement of the tax imposed by this act shall be subject to the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

23. Section 15 of P.L.1973, c.31 (C.54:10D-15) is amended to read as follows:

C.54:10D-15 Change, correction or recomputation of amount of taxable income as returned to Federal Treasury Department; amended returns; report.

15. Change, correction or recomputation of amount of taxable income as returned to Federal Treasury Department; amended returns; report. If the amount of the taxable income for any year of any taxpayer as returned to the United States Treasury Department is changed or corrected by the Commissioner of Internal Revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in said taxable income, or where a recovery of a war loss results in a computation or recomputation of any tax imposed by the United States, such taxpayer shall report such changed or corrected taxable income, or the results of such renegotiation, or such computation or recomputation, within 90 days after the final determination of such change or correction or renegotiation, or such computation or recomputation, or as required by the director, and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended return with such department shall also file within 90 days thereafter an amended report with the director. The periods of limitation to make deficiency assessments under R.S.54:49-6 and to file claims for refund under R.S.54:49-14 shall commence to run for additional four year periods from the date that taxable income is finally changed or corrected by the Commissioner of Internal Revenue; provided, that the additional periods of limita-

tion shall be applicable to the increase or decrease in tax attributable to the adjustments in such changed or corrected taxable income.

24. Section 16 of P.L.1973, c.31 (C.54:10D-16) is amended to read as follows:

C.54:10D-16. Examination of returns, additional assessments.

16. Deficiency assessment or reassessment; extension of period. a. (Deleted by amendment, P.L.1992, c.175).

b. (Deleted by amendment, P.L.1992, c.175).

c. The examination of returns and the assessment of additional taxes, penalties and interest shall be as provided by the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

25. Section 11 of P.L.1973, c.170 (C.54:10E-11) is amended to read as follows:

C.54:10E-11 Report of changed, corrected taxable income.

11. If the amount of the taxable income for any year of any taxpayer as returned to the United States Treasury Department is changed or corrected by the Commissioner of Internal Revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in said taxable income, or where a recovery of a war loss results in a computation or recomputation of any tax imposed by the United States, such taxpayer shall report such changed or corrected taxable income, or the results of such renegotiation, or such computation or recomputation, within 90 days after the final determination of such change or correction or renegotiation, or such computation or recomputation, or as required by the director, and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended return with such department shall also file within 90 days thereafter an amended report with the director. The periods of limitation to make deficiency assessments under R.S.54:49-6 and to file claims for refund under R.S.54:49-14 shall commence to run for additional four year periods from the date that taxable income is finally changed or corrected by the Commissioner of Internal Revenue; provided, that the additional periods of limitation shall only be applicable to the increase or decrease in tax attributable to the adjustments in such changed or corrected taxable income.

26. Section 19 of P.L.1973, c.170 (C.54:10E-19) is amended to read as follows:

C.54:10E-19 Filing of return, examination, assessment.

19. a. (Deleted by amendment, P.L.1992, c.175).

b. (Deleted by amendment, P.L.1992, c.175).

c. After a final return in due form is filed for an accounting period under this act, the director may, within four years of the date of filing such return, require the taxpayer to file a proper return under the Corporation Business Tax Act, P.L.1945, c.162 (C.54:10A-1 et seq.), and pay any additional tax due thereon, if he shall determine that the taxpayer was properly subject to tax under said Corporation Business Tax Act for such accounting period.

d. (Deleted by amendment, P.L.1992, c.175).

e. The examination of returns and the assessment of additional taxes, penalties and interest shall be as provided by the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

27. Section 9 of P.L.1966, c.36 (C.54:11A-9) is amended to read as follows:

C.54:11A-9 Assessment of property, examination of returns.

9. (a) Whenever property subject to taxation under this act has or shall have been omitted from assessment by failure of the taxpayer to include it in a return, or otherwise, the director may, if he finds that such property has been omitted from his assessment, cause such property to be assessed for any omitted years in accordance with the provisions of this act.

(b) The examination of returns and the assessment of additional taxes, penalties and interest shall be as provided by the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

28. Section 12 of P.L.1966, c.36 (C.54:11A-12) is amended to read as follows:

C.54:11A-12 Examination of returns, assessment.

12. (a) (Deleted by amendment, P.L.1992, c.175).

(b) (Deleted by amendment, P.L.1992, c.175).

(c) The examination of returns and the assessment of additional taxes, penalties and interest shall be as provided by the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

29. Section 5 of P.L.1980, c.141 (C.54:18A-1.3) is amended to read as follows:

C.54:18A-1.3 Examination of returns, assessment.

5. (a) (Deleted by amendment, P.L.1992, c.175).

(b) (Deleted by amendment, P.L.1992, c.175).

(c) The examination of returns and the assessment of additional taxes, penalties and interest shall be as provided in the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

30. Section 27 of P.L.1941, c.291 (C.54:29A-27) is amended to read as follows:

C.54:29A-27 Period of limitations.

27. Period of limitations. The power of the director to make reassessments or to assess omitted property under this act shall be as provided by the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

31. Section 19 of P.L.1966, c.30 (C.54:32B-19) is amended to read as follows:

C.54:32B-19 Determination of tax.

19. Determination of tax. If a return required by this act is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the director from such information as may be available. If necessary, the tax may be estimated on the basis of external indices, such as stock on hand, purchases, rental paid, number of rooms, location, scale of rents or charges, comparable rents or charges, type of accommodations and service, number of employees or other factors. Notice of such determination shall be given to the person liable for the collection or payment of the tax. Subject to the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 90 days after giving of notice of such determination, shall apply to the director for a hearing, or unless the director of his own motion shall redetermine the same. After such hearing the director shall give notice of his determination to the person against whom the tax is assessed.

32. Section 20 of P.L.1966, c.30 (C.54:32B-20) is amended to read as follows:

C.54:32B-20 Refunds.

20. Refunds. (a) In the manner provided in this section the director shall refund or credit any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the director for such refund shall be made within

four years from the payment thereof. Such application may be made by a customer who has actually paid the tax. Such application may also be made by a person required to collect the tax, who has collected and paid over such tax to the director, provided that the application is made within four years of the payment to him by the customer, but no actual refund of moneys shall be made to such person until he shall first establish to the satisfaction of the director, under such regulations as he may prescribe, that he has repaid to the customer the amount for which the application for refund is made. The director may, in lieu of any refund, allow credit on payments due from the applicant.

(b) A person shall not be entitled to a revision, refund or credit under this section of a tax, interest or penalty which had been determined to be due pursuant to the provisions of section 19 where he has had a hearing or an opportunity for a hearing as provided in said section or has failed to avail himself of the remedies therein provided. No refund or credit shall be made of a tax, interest or penalty paid after a determination by the director made pursuant to section 19 unless it be found that such determination was erroneous, illegal or unconstitutional or otherwise improper, pursuant to law, in which event refund or credit shall be made of the tax, interest or penalty found to have been overpaid.

33. Section 27 of P.L.1966, c.30 (C.54:32B-27) is amended to read as follows:

C.54:32B-27 Notice and limitations of time.

27. Notice and limitations of time. (a) Any notice authorized or required under the provisions of this act may be given by mailing the same to the person for whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by him pursuant to the provisions of this act or in any application made by him or, if no return has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this act by the giving of notice shall commence to run from the date of mailing of such notice.

(b) The provisions of law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the State or the director to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this

act. However, except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than four years from the date of the filing of a return; provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.

(c) Where, before the expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented in writing that such period be extended the amount of such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period. If a taxpayer has consented in writing to the extension of the period for assessment, the period for filing an application for credit or refund pursuant to section 20 shall not expire prior to six months after the expiration of the period within which an assessment may be made pursuant to the consent to extend the time for assessment of additional tax.

34. R.S.54:39-29 is amended to read as follows:

Refunds, determination, time limit.

54:39-29. When the director shall determine that any moneys received under this chapter were paid in error, he shall cause the same to be refunded in accordance with such rules and regulations as he may prescribe, but shall refuse to authorize a refund if more than four years have elapsed from the time the erroneous payment was made. Refunds authorized by the director shall be paid from revenues collected under this article and deposited with the State Treasurer.

35. R.S.54:39-49 is amended to read as follows:

Examination, assessment, appeals.

54:39-49. (a) The examination of returns and the assessment of additional taxes, penalties and interest shall be as provided by the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

(b) Any person who shall be aggrieved by any order of the Director of the Division of Taxation or any assessment fixing the amount of any tax to be paid by such person may appeal from the action of the Director of the Division of Taxation in making such order or assessment to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

36. Section 11 of P.L.1963, c.44 (C.54:39A-11) is amended to read as follows:

C.54:39A-11 Examination, assessment of returns.

11. The examination of returns and the assessment of additional taxes, penalties and interest shall be as provided by the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

37. Section 19 of P.L.1963, c.44 (C.54:39A-19) is amended to read as follows:

C.54:39A-19 Claim for refund.

19. Except with respect to payment of a special assessment imposed by the director pursuant to sections 11, 12 and 13 of P.L.1963, c.44 (C.54:39A-11 through 54:39-13), a user, at any time within four years after payment of a tax, may file with the director a claim under oath for refund, in such form as the director may prescribe, stating the grounds therefor, but no claim for refund shall be permitted to be filed after proceedings on appeal have been commenced as provided in section 17 of P.L.1963, c.44 (C.54:39A-17). If, upon examination of such claim for refund, it shall be determined by the director that there has been an overpayment of tax, the amount of such overpayment shall be credited against any liability of the user under this act and if there be no such liability, the user shall be entitled to a refund of the tax so overpaid. If the director shall reject the claim for refund in whole or in part, he shall make an order accordingly and serve a notice upon the user. This section shall not apply to applications for refunds provided for under section 8 of P.L.1963, c.44 (C.54:39A-8).

38. R.S.54:45-5 is amended to read as follows:

Examination, assessment, protest.

54:45-5. a. (Deleted by amendment, P.L.1992, c.175).

b. (Deleted by amendment, P.L.1992, c.175).

c. (Deleted by amendment, P.L.1992, c.175).

d. (Deleted by amendment, P.L.1992, c.175).

e. The examination of reports filed under this subtitle and the assessment of additional taxes, penalties and interest shall be as provided by the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

f. If any taxpayer shall be aggrieved by any finding or assessment of the director, he may, within 90 days of receipt of the notice of assessment or finding, file a protest in writing signed by himself or his duly authorized agent, which shall be under oath, and shall set forth the reason therefor, and may request a hearing.

Thereafter the director shall grant a hearing to the taxpayer, if the same shall be requested. He may make an order confirming, modifying or vacating any such finding or assessment. The filing of any such protest shall not abate penalties for nonpayment.

39. R.S.54:45-6 is amended to read as follows:

Claim for refund.

54:45-6. Any taxpayer, at any time within four years after the payment of any original or additional tax assessed against him may file with the director a claim under oath for refund, in such form as the director may prescribe, stating the ground therefor, but no claim for refund shall be required or permitted to be filed with respect to a tax paid after protest has been filed with the director or after proceedings on appeal have been commenced as provided in this subtitle.

40. N.J.S.54A:9-7 is amended to read as follows:

Overpayment.

54A:9-7. Overpayment. (a) General. The director, within the applicable period of limitations may credit an overpayment of income tax against any liability in respect of any tax imposed by the tax law on the person who made the overpayment, and the balance shall be refunded by the comptroller out of the proceeds of the tax retained by him for such general purpose. Any refund under this section shall be made only upon the filing of a return and upon a certificate of the director approved by the comptroller. The State Treasurer, as a condition precedent to the approval of such a certificate, may examine into the facts as disclosed by the return of the person who made the overpayment and other information and data available in the files of the director.

(b) Excessive withholding. If the amount allowable as a credit for tax withheld from the taxpayer exceeds his tax to which the credit relates, the excess shall be considered an overpayment.

(c) Overpayment by employer. If there has been an overpayment of tax required to be deducted and withheld under section 54A:7-4, refund shall be made to the employer only to the extent that the amount of the overpayment was not deducted and withheld by the employer.

(d) Credits against estimated tax. The director may prescribe regulations providing for the crediting against the estimated income tax for any taxable year of the amount determined to be an overpayment of the income tax for a preceding taxable year. If any overpayment of income tax is so claimed as a credit against

estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the income tax for the succeeding taxable year (whether or not claimed as a credit in the declaration of estimated tax for such succeeding taxable year), and no claim for credit or refund of such overpayment shall be allowed for the taxable year for which the overpayment arises.

(e) Rule where no tax liability. If there is no tax liability for a period in respect of which an amount is paid as income tax, such amount shall be considered an overpayment.

(f) Under regulations prescribed by the director with approval of the State Treasurer interest shall be allowed and paid at the rate determined by the director to be equal to the prime rate pursuant to R.S.54:48-2 upon any overpayment in respect of the tax imposed by this act; but no interest shall be allowed or paid on an overpayment of less than $1.00, nor upon any overpayment refunded within six months after the last date prescribed, or permitted by extension of time, for filing the return or within six months after the return is filed, whichever is later.

Repealer.

41. The following are repealed:

Section 20 of P.L.1973, c.170 (C.54:10E-20); and

Sections 14 and 15 of P.L.1963, c.44 (C.54:39A-14 and 54:39A-15).

C.54:48-7 Applicability of act.

42. a. Sections 2 and 3 of this act concerning the assessment of penalties shall apply to penalties for failures to file, underpayments and deficiencies first assessed on and after the July 1 next following their enactment.

b. Section 3 of this act concerning periods of limitation shall apply to tax liabilities accruing on and after the July 1 next following its enactment and, notwithstanding the provisions of sections 3, 21, 24 and 26 through 30 of this act, any unexpired fifth year of a five year period of limitation remaining on the July 1 next following the enactment of those sections shall continue to be in full force and effect.

c. Section 5 of this act concerning claims for refunds shall apply to claims accruing on and after the July 1 next following its enactment, and, notwithstanding the provisions of sections 5, 32, 34, 37 and 39 of this act to the contrary, all claims barred by the applicable statutes of limitation on the July 1 next following the enactment of those sections shall continue to be barred as if those sections had not been enacted.

d. Section 11 of this act shall apply to determinations, collections, refund applications, and assessments of penalties and interest made on and after the July 1 next following enactment of that section.

e. Section 12 of this act shall apply to employee actions taken on and after the July 1 next following enactment of that section.

f. Sections 14 and 16 of this act shall apply to protests of the director's actions made, or complaints filed, on and after the July 1 next following its enactment and, notwithstanding the provisions of sections 14 and 33 of this act and the repeal of section 20 of P.L.1973, c.170 (C.54:10E-20) set forth in section 41 of this act, the time for filing a protest concerning a finding or assessment of the director made prior to the July 1 next following enactment of those sections shall continue to apply as if those provisions had not been enacted and the determination of any bond or bond amount required by law prior to that date shall remain in effect as if those sections had not been enacted.

g. Notwithstanding the repeal of sections 14 and 15 of P.L.1963, c.44 (C.54:39A-14 and 54:39A-15) set forth in section 41 of this act, the obligation, lien or duty to pay any taxes, interest or penalties which have accrued or may accrue by virtue of any assessment made or which may be made with respect to taxes due on sales made prior to the July 1 next following enactment of section 41 shall remain as if that section had not been enacted, nor shall this act affect the legal authority to assess and collect the taxes which may be or have been due and payable under P.L.1963, c.44, together with such interest and penalties as would have accrued thereon under any provision of law; nor shall this act invalidate any assessments or affect any proceeding for the enforcement thereof.

43. N.J.S.54A:9-5 is amended to read as follows:

Interest on underpayment.

54A:9-5. Interest on underpayment. (a) General. If any amount of income tax is not paid on or before the last date prescribed in this act for payment, interest on such amount at the rate as is required under the State Tax Uniform Procedure Law, R.S.54:48-1 et seq. If the time for filing of a return of tax withheld by an employer is extended, the employer shall pay interest for the period for which the extension is granted and may not charge such interest to the employee.

(b) Exception as to estimated tax. This section shall not apply to any failure to pay estimated tax under section 54A:8-5.

(c) (Deleted by amendment, P.L.1987, c.76.)

(d) (Deleted by amendment, P.L.1987, c.76.)

(e) Suspension of interest on deficiencies. If a waiver of restrictions on assessment of a deficiency has been filed by the taxpayer, and if notice and demand by the director for payment of such deficiency is not made within 30 days after the filing of such waiver, interest shall not be imposed on such deficiency for the period beginning immediately after such 30th day and ending with the date of notice and demand.

(f) Interest treated as tax. Interest under this section shall be paid upon notice and demand and shall be assessed, collected and paid in the same manner as income tax. Any reference in this act to the tax imposed by this act shall be deemed also to refer to interest imposed by this section on such tax.

(g) (Deleted by amendment, P.L.1992, c.175.)

(h) Payment prior to notice of deficiency. If, prior to the mailing to the taxpayer of a notice of deficiency under subsection (b) of section 54A:9-2, the director mails to the taxpayer a notice of proposed increase of tax and within 30 days after the date of the notice of proposed increase the taxpayer pays all amounts shown on the notice to be due to the director, no interest under this section on the amount so paid shall be imposed for the period after the date of such notice of proposed increase.

(i) Payment within 10 days after notice and demand. If notice and demand is made for payment of any amount under subsection (b) of section 54A:9-12, and if such amount is paid within 10 days after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand.

(j) Limitation on assessment and collection. Interest prescribed under this section may be assessed and collected at any time during the period within which the tax or other amount to which such interest relates may be assessed and collected, respectively.

(k) Interest on erroneous refund. Any portion of tax or other amount which has been erroneously refunded, and which is recoverable by the director, shall bear interest as is required under the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

(l) Satisfaction by credits. If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under this section on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowable with respect to such overpayment.

44. This act shall take effect immediately, provided however that sections 1 through 41 and section 43 shall remain inoperative until the July 1 next following enactment, provided however that sections 9, 10, 13, 17 and 18 shall remain inoperative until the January 1 next following enactment.

Approved December 10, 1992.

CHAPTER 176

AN ACT providing for the filing of reports concerning certain local housing authorities, supplementing P.L.1966, c.293 (C.52:27D-1 et seq.) and amending P.L.1992, c.79.

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

C.52:27D-3.3 Annual reports on local housing authorities.

1. a. In addition to the annual report required under the provisions of subsection (h) of section 3 of P.L.1966, c.293 (C.52:27D-3) and such other reports as may otherwise be required by law, the Commissioner of Community Affairs shall submit a separate annual report to the Governor and the Legislature concerning the activities and management of each local or regional housing authority which operates pursuant to the "Local Housing Authorities Law," R.S.55:14A-1 et seq. or the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.).

b. The report, which shall be presented in a manner and form prescribed by the commissioner, shall be designed to provide the Governor and the Legislature with an assessment of the effectiveness of each of those local housing authorities subject to the provisions of this act. In developing the manner and form of the report, the commissioner shall consult with the Council of Large Public Housing Authorities regarding appropriate performance measurements of the effectiveness of those local housing authorities subject to the provisions of this act. The measures of effectiveness shall include, but not be limited to: vacancy number and percentage thereof; use of modernization grants; rent collection; energy consumption; unit turnaround time; work order completion time; unit and system inspections; tenant accounts receivable; operating reserves; expense to income ratio; and initiatives relating to the creation of a drug-free environment, the promotion of homeownership opportunities, resi-

dent management, economic development, and the use of grants to develop new public housing. The report shall include a synopsis, explanation, and evaluation of the information contained in the reports prepared by the U.S. Department of Housing and Urban Development as part of the Public Housing Management Assessment Program or any similar public housing assessment program administered by the federal government. The report shall include also any evaluation of the status of any improvement plans or memoranda of agreement between the federal government and a local housing authority which the federal government required for the purpose of improving the effectiveness of that local housing authority.

2. Section 43 of P.L.1992, c.79 (C.40A:12A-43) is amended to read as follows:

C.40A:12A-43 Submission of annual report.

43. Any municipality, county, redevelopment entity or housing authority utilizing the powers authorized herein shall submit an annual report to the Commissioner of Community Affairs indicating the name, location and size of all projects under its management. In addition, the annual report shall contain such information as the commissioner shall deem necessary in order to fulfill the reporting requirements set forth in section 1 of P.L.1992, c.176 (C.52:27D-3.3).

3. This act shall take effect immediately.

Approved December 10, 1992.

CHAPTER 177

AN ACT concerning certain county pension commissions and amending P.L.1948, c.310.

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

1. Section 3 of P.L.1948, c.310 (C.43:10-18.52) is amended to read as follows:

C.43:10-18.52 Pension commission.

3. There shall be authorized to carry out the provisions of this act and charged with the duty of administering the pension fund

herein provided for, a pension commission composed of five members, consisting of the county supervisor or similar officer of the county, the treasurer of the county, two county employees or retirees, and a citizen of the county who is not a public office holder in the county or any municipality therein and who shall be selected by the other four members of the commission. The two county employee or retiree members of the pension commission shall be elected within sixty days after the passage of this act at a meeting held by the county employees and retirees affected by this act after thirty days' written notice of the time and place thereof has been given by the county supervisor or similar county officer to all such employees and retirees. Nominations shall be made only by written petitions filed with the secretary of the pension commission at least fifteen days prior to the election and each containing the signatures of at least 10% of the currently employed county employees or retirees, as certified by the secretary of the pension commission. The county supervisor shall provide a suitable method of balloting whereby secrecy shall be assured. Ballots shall be distributed among the county employees and retirees affected by this act at least seven days prior to the election and the voted ballot shall be returned to the secretary of the pension commission at any time prior to twelve o'clock noon of the day fixed for the holding of the meeting and election. Employees who become members of the retirement system created by this act or who are members of any of the county employees' retirement systems referred to in this act and merged thereunder shall be eligible to participate in the nomination and election of the two county employee or retiree members of the pension commission. The two county employees or retirees shall hold office until their successors are elected in the same manner as aforesaid at a meeting of the employees and retirees held on the third Wednesday of December of the second year following the adoption of this act. Thereafter two county employee or retiree members shall be elected as members of the pension commission, in the same manner, on the third Wednesday of December every second year, for a term of two years commencing January first following their election.

In case of vacancy for any cause, the commission may fill it until the next election. Any member of said pension commission who shall leave the service of the county shall automatically cease to be a member of said commission except for retirees who may be eligible as members of the commission.

The commission shall hold its annual meeting between the first and fifteenth days of January in each year and elect its president and such other officers as it deems advisable. The commission shall serve without compensation, but shall be reimbursed for any necessary expenditures and shall suffer no loss of salary or other wages through service on the commission. The treasurer of the county, who shall be treasurer of the commission, shall appoint the secretary of this commission, who shall be a person chosen by him from among persons employed by the county who is versed in the affairs of the treasurer's office and the treasurer shall fix the compensation of the appointee, subject to approval of the board of chosen freeholders. The commission shall secure the services of any physicians necessary to make the medical examinations required by this act.

The chief legal officer of the county shall be the legal adviser of and attorney for the pension commission.

The pension commission shall have control and management of the funds and of the retirement of the county employees. The commission shall, from time to time, subject to the limitations of this act, establish rules and regulations for the transaction of its business and the administration of this act. Under the direction of the pension commission, the head of each county department shall furnish the information and shall keep the records that the commission may require for the discharge of its duties.

The pension commission may require each employee of the county to file a statement or statements, in the form that the commission shall direct, concerning his service or other matters covered by this act.

The commission shall have power to compel witnesses to attend and testify before it upon any matter concerning the retirement system and allow fees not in excess of three dollars ($3.00) to any witness for attendance upon any one day. The president and other members of the pension commission are empowered to administer oaths to any witnesses. All retirements shall be made and pensions allowed by the pension commission in accordance with the provisions of this act.

The pension commission shall be known as the "Pension Commission of the Employees' Retirement System of (name of county)."

2. This act shall take effect immediately.

Approved December 10, 1992.

CHAPTER 178

AN ACT concerning the publication of a notice of the sale of Type II school district and municipal bonds and amending N.J.S.18A:24-36, N.J.S.18A:24-37, N.J.S.40A:2-30, and N.J.S.40A:2-31.

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

1. N.J.S.18A:24-36 is amended to read as follows:

Public sale of bonds.

18A:24-36. All bonds authorized and issued by type II school districts in accordance with chapter 24 of Title 18A of the New Jersey Statutes, except bonds of authorized issues of $10,000.00 or less, shall be sold at public sale upon sealed proposals provided that a summary of the notice of public sale of these bonds as described in subsection b. of N.J.S.18A:24-37 shall be advertised at least once at least seven days prior thereto in a publication carrying municipal bond notices and devoted primarily to financial news or the subject of state and municipal bonds, published in New York City or New Jersey, and a notice of public sale containing the provisions described in subsection a. of N.J.S.18A:24-37 shall be advertised at least once at least seven days prior thereto in a newspaper published in the county and having a substantial circulation in the school district. Bonds of authorized issues of $10,000.00 or less may be sold at private sale without previous public offering.

2. N.J.S.18A:24-37 is amended to read as follows:

Notice of sale of bonds.

18A:24-37. a. The notice of sale of Type II school district bonds required to be advertised pursuant to N.J.S.18A:24-36 shall describe the bonds and set forth in substance the terms and conditions of sale, including the principal amount, date, denomination and maturities of the bonds offered for sale and such other provisions as may be determined by the Type II school district. As to interest to be borne by the bonds, it shall specify a rate or rates or maximum rate, which rate or the maximum rate shall in no event exceed 6% per annum. If proposals are invited at more than one interest rate, the notice shall also state that no proposals will be considered for bonds of a rate higher than the lowest rate at which a legally acceptable proposal is received.

b. A summary of the notice of public sale of Type II school district bonds required to be advertised pursuant to N.J.S. 18A:24-36 shall set forth: the principal amount, date, denomination and maturities of the bonds offered for sale; the rate or rates of interest or maximum rate or rates of interest to be borne by the bonds; and a reference to where additional terms and conditions of the public sale may be obtained.

3. N.J.S.40A:2-30 is amended to read as follows:

Advertisement of public sale of bonds.

40A:2-30. A notice of public sale of bonds containing the provisions described in subsection a. of N.J.S. 40A:2-31 shall be advertised at least once at least seven days prior thereto in a newspaper qualified for publication of a bond ordinance of the local unit. A summary of the notice of public sale of bonds as provided for in subsection b. of N.J.S.40A:2-31 shall be advertised at least once at least seven days prior thereto in a publication carrying municipal bond notices and devoted primarily to financial news or the subject of state and municipal bonds and published in the City of New York or in New Jersey.

4. N.J.S.40A:2-31 is amended to read as follows:

Contents of notice.

40A:2-31. a. A notice of public sale of bonds required to be advertised pursuant to N.J.S.40A:2-30 shall set forth:

(1) the principal amount, date, denomination and maturities of the bonds offered for sale;

(2) the rate or rates of interest or maximum rate or rates of interest to be borne by the bonds;

(3) the terms and conditions of such public sale; and

(4) such other provisions as may be determined by the governing body.

b. A summary of the notice of public sale of bonds required to be advertised pursuant to N.J.S.40A:2-30 shall set forth:

(1) the principal amount, date, denomination and maturities of the bonds offered for sale;

(2) the rate or rates of interest or maximum rate or rates of interest to be borne by the bonds; and

(3) a reference to where additional terms and conditions of the public sale may be obtained.

5. This act shall take effect immediately.

Approved December 10, 1992.

CHAPTER 179

AN ACT concerning the sale of nitrous oxide and amending P.L.1982, c.127.

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

1. Section 2 of P.L.1982, c.127 (C.24:6G-2) is amended to read as follows:

C.24:6G-2 Sale of nitrous oxide for nonmedical use.

2. When nitrous oxide is sold for nonmedical use, both the seller and buyer shall obtain a written permit issued by the Department of Health; except that if the seller is registered with the Department of Health as a distributor or wholesaler of nitrous oxide or if the nitrous oxide is to be used in food preparation, the seller or buyer does not have to obtain a permit. A permit shall contain the name, address and other location of the person who requests the permit and a registration number assigned by the Department of Health. The buyer shall state the intended use of the nitrous oxide on the permit.

Notwithstanding the provisions of sections 1 and 2 of this act, no person shall sell, distribute or dispense nitrous oxide to any person under 19 years of age.

2. This act shall take effect immediately.

Approved December 10, 1992.

CHAPTER 180

AN ACT to validate certain proceedings of fire districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

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

1. All proceedings heretofore had or taken by any board of fire commissioners or at any fire district meeting or election for the authorization or issuance of bonds or other obligations of the fire

district, and any bonds or other obligations of the fire district issued or to be issued pursuant to a resolution of the board of commissioners of such fire district approved by the legal voters at such fire district election, are hereby ratified, validated and confirmed, notwithstanding that notices to military service voters and to their friends and relatives and to persons desiring civilian absentee ballots were not published in accordance with the provisions of section 7 of the "Absentee Voting Law (1953)," P.L.1953, c.211 (C.19:57-1 et seq.); provided, however, that no action, suit or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date on which this act takes effect, and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved December 10, 1992.

CHAPTER 181

AN ACT providing for the designation of a children's hospital for central New Jersey, amending P.L.1985, c.306 and P.L.1987, c.299 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-18d Designation of specialty acute care children's hospital for central New Jersey.

1. a. The Commissioner of Health, subject to the provisions of subsection b. of this section, shall designate Robert Wood Johnson University Hospital/St. Peter's Medical Center in the City of New Brunswick as the State's specialty acute care children's hospital in central New Jersey for the counties of Hunterdon, Mercer, Middlesex, Monmouth and Somerset.

b. The designation by the Commissioner of Health pursuant to subsection a. of this section shall be made subsequent to, and shall be contingent upon, the execution of a written agreement between Robert Wood Johnson University Hospital/St. Peter's

Medical Center and a majority of the acute care hospitals providing inpatient pediatric services which are located in the counties listed in subsection a. of this section.

The written agreement shall state that the other facility recognizes Robert Wood Johnson University Hospital/St. Peter's Medical Center as the State's specialty acute care children's hospital for the counties listed in subsection a. of this section and shall set forth the basis on which the other facility shall make referrals to Robert Wood Johnson University Hospital/St. Peter's Medical Center.

2. Section 2 of P.L.1985, c.306 (C.26:2H-18a) is amended to read as follows:

C.26:2H-18a Designation of specialty acute care children's hospital for northern New Jersey.

2. The Commissioner of Health shall designate Children's Hospital of New Jersey, a unit of United Hospitals Medical Center, as the State's specialty acute care children's hospital for northern New Jersey.

3. Section 3 of P.L.1987, c.299 (C.26:2H-18c) is amended to read as follows:

C.26:2H-18c Designation of specialty acute care children's hospital for southern New Jersey.

3. a. The Commissioner of Health, subject to the provisions of subsection b. of this section, shall designate Cooper Hospital/University Medical Center in the City of Camden as the State's specialty acute care children's hospital in southern New Jersey for the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem.

b. The designation by the Commissioner of Health pursuant to subsection a. of this section shall be made subsequent to, and shall be contingent upon, the execution of a written agreement between Cooper Hospital/University Medical Center and a majority of the acute care hospitals providing inpatient pediatric services which are located in the counties listed in subsection a. of this section.

The written agreement shall state that the other facility recognizes Cooper Hospital/University Medical Center as the State's specialty acute care children's hospital for the counties listed in subsection a. of this section and shall set forth the basis on which the other facility shall make referrals to Cooper Hospital/University Medical Center.

4. This act shall take effect on the 30th day after enactment.

Approved December 10, 1992.

CHAPTER 182

AN ACT concerning the refinancing of certain bonds pursuant to the "Refunding Bond Act of 1985," amending P.L.1985, c.74.

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

1. Section 3 of P.L.1985, c.74 (C.49:2B-3) is amended to read as follows:

C.49:2B-3 Definitions.

3. As used in this act:

a. "Outstanding bonds" means any bonds of the State of New Jersey, and the interest coupons, if any, appertaining thereto, which have heretofore been issued or which are hereafter issued pursuant to any law of the State and which are direct obligations of the State for which the faith and credit of the State are pledged for the payment of the interest thereon as it shall become due and the payment of the principal at maturity.

b. "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 any ownership interest in those obligations of, or unconditionally guaranteed by, the United States of America or in specified portions of those obligations (which may consist of the principal of, or the interest on, those obligations).

c. "State Treasurer" means the Treasurer of the State of New Jersey.

d. "Refinancing" means providing for the payment of an obligation at or prior to its maturity or upon redemption, as provided in this act.

e. "Refunding bonds" means bonds of the State issued under this act.

2. Section 10 of P.L.1985, c.74 (C.49:2B-10) is amended to read as follows:

C.49:2B-10 Issues as separate series, interest payable.

10. When refunding bonds are issued from time to time, the refunding bonds of each issue shall constitute a separate series to be designated by the issuing officials. Each series of refunding

bonds shall bear rates of interest as may be determined by the issuing officials, which interest shall be payable at such times and in such manner as may be determined by the issuing officials.

3. This act shall take effect immediately.

Approved December 14, 1992.

CHAPTER 183

AN ACT concerning boards of public works in certain municipalities operating under the borough form of government and amending P.L.1990, c.65.

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

1. Section 1 of P.L.1990, c.65 (C.40A:60-8.1) is amended to read as follows:

C.40A:60-8.1 Continuation of certain borough boards.

1. Any board of public works which was in existence at the time P.L.1987, c.379 was enacted in a municipality with a population greater than 12,500 but not more than 13,000 according to the 1980 federal decennial census, in a county of the first class, or in a municipality with a population greater than 500 but less than 3,500 according to the 1980 federal decennial census, and operating under the borough form of government may continue to operate unless the borough dissolves the board in the manner prescribed by law prior to the enactment of P.L.1987, c.379.

2. All actions taken since the effective date of P.L.1987, c.379 by a board of public works in a municipality meeting the requirements of section 1 of this act, are valid and confirmed.

3. This act shall take effect immediately.

Approved December 16, 1992.

CHAPTER 184

AN ACT permitting, under certain circumstances, the conversion of certain State chartered savings banks into State chartered banks and State chartered banks into certain State chartered savings banks, amending and supplementing P.L.1948, c.67.

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

C.17:9A-17.1 Definitions.

1. As used in this act:

"Corporation" means either a capital stock savings bank or a bank, as the case may be.

"Federal Deposit Insurance Corporation" means the corporation so named, organized pursuant to an Act of Congress, or any federal corporation, instrumentality or agency which succeeds to the powers and functions of the Federal Deposit Insurance Corporation or undertakes to discharge the purpose for which that corporation was created.

C.17:9A-17.2 Conversion of capital stock savings bank, bank; proceedings.

2. A capital stock savings bank may apply to the commissioner to convert itself to a bank by organizing and transferring its assets and liabilities to a newly-chartered bank, and a bank may apply to the commissioner to convert itself to a capital stock savings bank by organizing and transferring its assets and liabilities to a newly-chartered capital stock savings bank, and the proceedings to effect either application for conversion shall be as follows:

a. When, in the judgment of the board of directors of a State chartered capital stock savings bank or bank which intends to convert its charter, it shall be deemed advisable and in the best interests of its stockholders that the same shall be converted into a bank or capital stock savings bank of this State, as the case may be, the board of directors shall adopt a resolution to that effect.

b. After adoption of the resolution, a meeting of the stockholders of the State capital stock savings bank or bank, as the case may be, shall be held upon not less than 10 days' written notice to the stockholders by mail, postage prepaid, directed to the addresses appearing on the books of the corporation, which notice shall contain a statement of the time, place and purpose for which the meeting is called.

c. At the meeting, stockholders may by the affirmative vote of two-thirds of those present, or shares eligible to be voted which are

represented at the meeting, either in person or by proxy, declare by resolution the determination to convert the State capital stock savings bank into a State chartered bank or to convert the State bank into a State chartered capital stock savings bank, as the case may be.

d. If the authority for the proposed conversion has been approved by the board of directors and by the stockholders as required by this section, the board of directors of the corporation may apply to the commissioner to convert the charter pursuant to this act.

C.17:9A-17.3 Contents of application.

3. An application by a State bank or capital stock savings bank to convert its charter pursuant to this act shall contain the following:

a. Duplicate copies of the minutes of the proceedings of the meeting of stockholders, verified by the affidavit of the president or vice-president, and the secretary of the meeting;

b. A certified copy of the resolution of the board of directors authorizing the conversion;

c. A certificate of incorporation meeting the requirements set forth in section 3 of P.L.1948, c.67 (C.17:9A-3), for conversion to a bank, or section 2 of P.L.1982, c.9 (C.17:9A-8.2) for conversion to a capital stock savings bank;

d. Copies of all applications and approvals required from federal regulators incident to the conversion; and

e. Such other information or materials as the commissioner may require by regulation.

C.17:9A-17.4 Requirements for conversion approval.

4. The commissioner shall not approve the application of a State bank or capital stock savings bank to convert pursuant to this act unless the commissioner finds, after appropriate investigation, and a public hearing if deemed necessary by the commissioner, that the following requirements have been met:

a. The application is complete;

b. The converting corporation is insured by the Federal Deposit Insurance Corporation, and the resulting corporation will also be insured by that agency;

c. The converting corporation satisfies all capital maintenance requirements for banks or capital stock savings banks, as the case may be, set forth by the Federal Deposit Insurance Corporation, by any other federal regulator and by the department;

d. The converting corporation is not subject to any outstanding supervisory order, agreement or memorandum of understanding

of the Federal Deposit Insurance Corporation, any other federal regulator or the department;

e. The proposed conversion will result in a bank or capital stock savings bank, as the case may be, that will satisfy all capital maintenance requirements for savings banks or banks, as the case may be, set forth by the Federal Deposit Insurance Corporation, any other federal regulator and the department;

f. Directors designated in the certificate of incorporation possess the qualifications, experience and character required for the duties and responsibilities with which they will be charged; and

g. The interests of the converting corporation's depositors and creditors, and the public generally, will not be jeopardized by the proposed conversion.

C.17:9A-17.5 Other conditions for conversions under mergers.

5. The commissioner may approve the conversion of a corporation which does not satisfy the capital maintenance requirements set forth in subsection c. of section 4 of this act or which is subject to an outstanding supervisory order, agreement or memorandum of understanding, as provided by subsection d. of section 4 of this act, relating only to its capital condition, or which fails to meet both requirements, when the following requirements, in addition to the requirements set forth in section 4 of this act other than the requirements set forth in subsections c. and d. of section 4 relating to the capital condition of the converting corporation have been met:

a. Simultaneous with the conversion to a capital stock savings bank or bank the converting corporation shall merge with and into or be acquired by, a bank, if the conversion is to a bank; or shall merge with, into or be acquired by a capital stock savings bank if the conversion is to a capital stock savings bank; and

b. The resulting capital stock savings bank or bank immediately after the conversion and merger or acquisition will satisfy all capital maintenance requirements for capital stock savings banks or banks, as the case may be, set forth by the Federal Deposit Insurance Corporation, any other federal regulator and the department.

C.17:9A-17.6 Notification to applicant.

6. a. Within 60 days of receipt of the information and documents specified in section 3 of this act, the commissioner shall notify the applicant of his intent to approve or deny the application. Approval may be conditional, requiring the applicant to satisfy conditions set by the commissioner. If the commissioner

denies the application, the commissioner shall notify the applicant in writing and shall state the basis for the denial.

b. Upon finding that the applicant has met all of the requirements of this act and all conditions imposed under a conditional approval granted by the commissioner pursuant to subsection a. of this section, the commissioner shall issue a certificate of approval of the conversion which shall be endorsed upon or annexed to the certificate of incorporation.

C.17:9A-17.7 Filing of certificate of incorporation.

7. The certificate of incorporation with the commissioner's approval endorsed thereon or annexed thereto shall be filed in the department, and shall be recorded within 30 days after such approval in the same manner and places as required by section 12 of P.L.1948, c.67 (C.17:9A-12). Upon the approval by the commissioner, the filing of the certificate of incorporation, and the transfer of assets and liabilities, the converting corporation shall cease to be a capital stock savings bank or bank, as the case may be, its legal existence as a corporate entity shall terminate and the bank or capital stock savings bank, as the case may be, shall succeed to all property of the converted corporation, including the right, title and interest in and to all property of whatsoever kind and nature, whether real, personal or mixed and things, and choses in action, and every right, privilege, interest and asset of every conceivable value or benefit then existing or pertaining to it, or which would inure to it, immediately by operation of law and without the necessity for any conveyance or transfer and without any further act or deed, shall vest in the bank or capital stock savings bank which is the resulting entity. The resulting bank or capital stock savings bank, as the case may be, shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by the converted corporation. All pending actions and other judicial or administrative proceedings to which the converting corporation was a party shall not be discontinued by reason of the conversion, but may be prosecuted to final judgment or order in the same manner as if the conversion had not been made and the corporation resulting from the conversion may continue such actions in its name after conversion. Any judgment or order may be rendered for or against it which might have been rendered for or against the converting corporation theretofore involved in the judicial proceedings.

8. The commissioner may promulgate and adopt 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.

9. Section 333 of P.L.1948, c.67 (C.17:9A-333) is amended to read as follows:

C.17:9A-333 Department of Banking fees.

333. A bank or savings bank shall pay to the commissioner for the use of the State a fee, to be prescribed by the commissioner by regulation, in an amount not less than or not more than, the following minimum and maximum amounts:

	Minimum	Maximum
(1) For filing an application for charter	$10,000.00	$20,000.00
(2) For the issuance by the commissioner of a certificate of authority	500.00	1,000.00
(3) For filing a certificate of amendment of a certificate of incorporation, or an amended certificate of incorporation	200.00	500.00
(4) For filing any other certificate	50.00	250.00
(5) (a) For filing an application for approval of the establishment of a full branch office	1,000.00	3,000.00
(b) For filing an application for approval of the establishment of a mini-branch office	1,000.00	3,000.00
(c) For filing an application for approval of the establishment of a communication terminal branch office	500.00	2,000.00
(6) For filing an agreement of merger, per bank	1,500.00	4,000.00
(7) For filing a copy of a plan of reorganization	250.00	1,000.00
(8) For filing a report required by this act	100.00	250.00
(9) For filing an affidavit required by this act	50.00	100.00
(10) For filing proof of publication and mailing, or other proof required by this act	50.00	100.00
(11) For filing application for approval of a change in location of principal office or full branch office	500.00	2,000.00

(12) For filing an application for approval of the cost of the establishment of an auxiliary office	500.00	2,000.00
(13) For the issuance of a certified copy of any certificate of incorporation or merger or plan of reorganization or any other certificate or affidavit filed in the department plus $2.00 per page	25.00	100.00
(14) For filing an application for approval of an interchange between principal office and full branch office	250.00	1,000.00
(15) For the issuance of any other approval by the commissioner plus per diem charges where applicable	100.00	250.00
(16) For the issuance of any extension by the commissioner plus per diem charges where applicable	50.00	150.00
(17) For filing a pension plan	250.00	500.00
(18) For filing an amendment or alteration to a pension plan	100.00	250.00
(19) For filing plans of acquisition, per company, per bank or savings bank	1,500.00	4,000.00
(20) Conversion from mutual to stock savings bank	3,500.00	10,000.00
(21) Request to commissioner to require an institution to share access to its communication terminal branch office	100.00	250.00
(22) Conversion from savings bank to State association	5,000.00	10,000.00
(23) Conversion from stock savings bank to bank or conversion from bank to stock savings bank	5,000.00	10,000.00
(24) In addition to above fees, a per diem charge may be assessed when a special investigation of a filing is required.		

10. This act shall take effect immediately.

Approved December 16, 1992.

CHAPTER 185

AN ACT concerning the New Jersey Transit Corporation and chapter 25 of Title 27 of the Revised Statutes.

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

C.27:25-5a Collapsible bicycles permitted on NJT passenger trains.

1. The provisions of any law, rule or regulation to the contrary notwithstanding, the New Jersey Transit Corporation shall not, at any time, prohibit any person transporting a collapsible bicycle from passing or repassing upon any of the corporation's railroads operating rail passenger service. For the purposes of this act, "collapsible bicycle" means any two-wheeled vehicle having a rear drive wheel which is solely human-powered, and has a frame and other constituent parts that can be readily manipulated, folded or placed together into a more compact form.

2. This act shall take effect immediately.

Approved December 16, 1992.

CHAPTER 186

AN ACT concerning the development of programs to extend homeownership opportunities for certain tenants and supplementing P.L.1983, c.530 (C.55:14K-1 et seq.).

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

C.55:14K-5.2 Additional powers of New Jersey Housing and Mortgage Finance Agency.

1. In addition to the powers otherwise granted in P.L.1983, c.530 (C.55:14K-1 et seq.), the New Jersey Housing and Mortgage Finance Agency shall set aside and designate, out of the funds that are or may become available to it for the purpose of assisting the production of affordable housing in the State, certain amounts to be used for assisting in the development of homeownership opportunities for residents of public housing who seek to acquire ownership of their residential

units as part of a resident management corporation, a cooperative corporation or a condominium association formed by the residents of that public housing project through the program established pursuant to Subtitle B of Title IV of Pub.L.101-625 (42 U.S.C. §12871 et seq.) or any other program administered by the federal government for extending homeownership opportunities to residents of public housing. Nothing in this act shall, in any way, relieve a housing authority of the need to submit a plan for replacement housing, as required under 24 CFR 970.11.

2. This act shall take effect immediately.

Approved December 16, 1992.

CHAPTER 187

AN ACT concerning savings banks, amending P.L.1948, c.67 and P.L.1982, c.9.

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. Definitions.

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, savings bank, and a national banking association having its principal 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 of New Jersey;

(7) "Department" shall mean the Department of Banking 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 which has heretofore been authorized or which shall hereafter be authorized to exercise any of the powers authorized by section 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; and

(c) A national banking association having its principal 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 this act;

(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, 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 full branch offices, minibranch offices and communication terminal branch offices;

(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 secu-

rity 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.

2. Section 188 of P.L.1948, c.67 (C.17:9A-188) is amended to read as follows:

C.17:9A-188 Board of managers; number; qualifications; oath.

188. Board of managers; number; qualifications; oath.

A. Except as otherwise provided by subsection L. of this section, every savings bank shall be managed by a board of not less than five and not more than twenty-one managers. Not less than two-thirds of the managers shall be residents and citizens of this State.

B. Each manager shall, following his election and before he assumes office, take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of the savings bank, and that he will not knowingly violate or knowingly permit to be violated, any provisions of law applicable to the savings bank. Such oath shall be subscribed by the manager making it, certified by the officer before whom it is taken, and shall be transmitted to the commissioner and filed in the department.

C. A manager who, within thirty days after his election, or, in case of his disability, within such further time as the commissioner shall fix, fails to subscribe the oath specified in subsection B of this section, shall cease to be a manager.

D. Vacancies in the board of managers shall be filled by the board within one year after the vacancies occur. If the board fails to do so, the commissioner may fill any vacancy with a person qualified under this article.

E. The board of managers may meet at such times and so often as they shall deem necessary, but shall meet at least once in each calendar month excepting July and August. A meeting held in January of each year shall be designated the annual meeting of the board; or, in the case of a savings bank operating on a fiscal-

year basis, the annual meeting shall be held no later than 120 days after the closing of the fiscal year.

F. Managers shall be elected by a plurality of the votes of the members of the board of managers at the time in office, present and voting at such election, including those managers whose terms are then expiring. Except as hereinafter provided, each manager shall be elected for a term of three years, and until his successor is elected and shall have qualified. Managers shall be eligible for election to succeed themselves. Elections of managers shall be held annually at an annual meeting of the board.

G. Every savings bank hereafter organized shall, at the first meeting of its board of managers, divide the managers named in its certificate of incorporation into three classes of equal size; the members of one class shall hold office until the first annual meeting of the board next succeeding the first meeting; the members of one class shall hold office until the second annual meeting next succeeding the first meeting; and the members of one class shall hold office until the third annual meeting next succeeding the first meeting, so that, at each election of managers following the first meeting, an equal number of managers shall be elected.

H. Every savings bank organized prior to the effective date of this 1992 amendatory act shall, commencing with the first annual meeting of the board following the effective date of this 1992 amendatory act, elect managers as terms expire for terms of three years.

I. The requirements of subsections G and H of this section shall be satisfied if the number of managers in any one class of managers does not exceed by more than one the number of managers in any other class.

J. All classifications and elections of managers made pursuant to this section shall be certified by any two officers of the savings bank, and shall be filed in the department within fifteen days after such classification or election.

K. Except as herein otherwise provided, the acts of a majority of the board of managers at any time in office shall be the acts of the savings bank.

L. Upon the merger of two or more savings banks, the board of managers of the receiving savings bank, as defined in section 205 of P.L.1948, c.67 (C.17:9A-205), may consist of not less than five and not more than the total number then in office of the managers of all the savings banks which are parties to the merger. So long as the board of managers of such receiving bank shall exceed twenty-one in number (1) the number of managers shall not be

increased, but may be decreased to any number not less than five; (2) vacancies in the board of managers shall not be filled; and (3) the requirements of subsections G and H of this section shall be satisfied if the number of managers in any one class or in any two classes of managers does not exceed by more than one the managers in the remaining classes or class. For the purposes of this subsection, the expiration of the term for which a manager is elected shall not be deemed to create a vacancy.

3. 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. Officers; tenure.

The board of managers may elect from its own number or otherwise, such officers as it may from time to time see fit. The tenure of officers shall be fixed in the bylaws or by resolution of the board of managers.

4. Section 12 of P.L.1982, c.9 (C.17:9A-8.12) is amended to read as follows:

C.17:9A-8.12 Savings bank laws control.

12. All other powers, rights, and privileges not expressly provided for in this act shall be governed by the laws of this State relating to savings banks. If a capital stock savings bank engages in an activity pursuant to the authority of this act, or any other act, which is governed by a statute originally applicable to mutual savings banks, "manager" shall mean "director." In any case where any power of investment of a mutual savings bank is limited to a percentage of its capital deposits or surplus, any limitation upon a stock savings bank shall be expressed in terms of total capital funds, as defined by the commissioner by regulation.

5. Section 79 of P.L.1948, c.67 (C.17:9A-79) is amended to read as follows:

C.17:9A-79 Annual meetings; notice.

79. Annual meetings; notice.

A. The annual meeting of the stockholders of every bank shall be held on such day in January, February, March or April in each year as the bylaws shall provide; or, if there be no governing bylaw, then on the fourth Tuesday in March; or, in the case of a savings bank operating on a fiscal-year basis, the annual meeting shall be held no

later than 120 days after the closing of the fiscal year. The commissioner may require that prior notice be given to him of a change in the date of an annual meeting, and may prescribe the form of such notice and the time when such notice shall be given.

B. Not less than 10 days prior to the date fixed for such meeting, notice of the annual meeting shall be published once in a newspaper published and circulated in the municipality in which the bank maintains its principal office, or, if there be no such newspaper, then in one published in the county in which the bank maintains its principal office or in an adjoining county, and which has general circulation in the municipality in which the bank maintains its principal office. In addition, notice of such meeting shall be given as provided in section 81. At such annual meeting, directors shall be elected and such other business may be transacted as may properly be brought before a meeting of stockholders, except that no business other than the election of directors shall be transacted at such meeting unless notice of such other business shall have been given in the manner provided by section 81. Notice of such other business need not be included in the publication of notice required by this section.

6. This act shall take effect immediately.

Approved December 16, 1992.

CHAPTER 188

AN ACT to provide a stable funding source for enforcement of the Alcoholic Beverage Law, to more equitably distribute the cost of regulating the industry by increasing fees assessed under Title 33, amending various sections of statutory law, and supplementing Title 33 of the Revised Statutes.

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

1. R.S.33:1-2 is amended to read as follows:

License required, terms; personal use; brand registration; fees.

33:1-2. a. It shall be unlawful to manufacture, sell, possess with intent to sell, transport, warehouse, rectify, blend, treat, fortify, mix, process, bottle or distribute alcoholic beverages in this State, except pur-

suant to and within the terms of a license, or as otherwise expressly authorized, under this chapter; but any drink actually intended for immediate personal use may be mixed by any person. Except as hereinafter provided, a person may, without limitation, purchase any amount of alcoholic beverages intended in good faith to be used solely for personal use and may personally transport those alcoholic beverages so purchased for personal use in any vehicle from a point within this State. Alcoholic beverages intended in good faith solely for personal use may be transported, by the owner thereof, in a vehicle other than that of the holder of a transportation license, from a point outside this State to the extent of, not exceeding 1/4 barrel or one case containing not in excess of 12 quarts in all, of beer, ale or porter, and one gallon of wine and two quarts of other alcoholic beverages within any consecutive period of 24 hours; provided, however, that except pursuant to and within the terms of a license or permit issued by the director, no person shall transport into this State or receive from without this State into this State, alcoholic beverages where the alcoholic beverages are transported or received from a state which prohibits the transportation into that state of alcoholic beverages purchased or otherwise obtained in the State of New Jersey. If any person or persons desire to transport alcoholic beverages intended only for personal use in quantities in excess of those above-mentioned, an application may be made to the director who may, upon being satisfied of the good faith of the applicant, and upon payment of a fee of $25.00 issue a special permit limited by such conditions as the director may impose, authorizing the transportation of alcoholic beverages in quantities in excess of those above-mentioned.

b. A holder of a Class B license under R.S.33:1-11 shall not sell or deliver for sale in New Jersey any brand of alcoholic beverage for resale in this State unless the alcoholic beverage is acquired from the brand owner, or his authorized agent, or a wholesale licensee designated as the registered distributor by the brand owner, or his authorized agent.

c. No licensee shall knowingly sell, offer for sale, deliver, receive or purchase, for resale in this State, any alcoholic beverage, including private label brands owned by a retailer and exclusive brands owned by a manufacturer or wholesaler and offered for sale or sold by such manufacturer or wholesaler exclusively to one New Jersey retailer or affiliated retailer, unless the brand owner or his authorized agent files with the Director of the Division of Alcoholic Beverage Control a brand registration

schedule containing such information as the director shall by rule or regulation require. Each brand registration schedule must be renewed annually by January 1 of each year.

d. Each person who files a brand registration schedule and amendments thereto shall pay a filing fee of $20.00 per filing for each initial brand registration and annual renewal and $10.00 for each amendment. Any registration may be suspended or revoked in the same manner as an alcoholic beverage license for any violation of Title 33 of the Revised Statutes and the rules and regulations promulgated thereto.

e. Nothing contained in this section shall be deemed to limit or modify the prohibition against discrimination in the sale of any nationally advertised brand of alcoholic beverages to currently authorized wholesalers as set forth in P.L.1966, c.59 (C.33:1-93.6 et seq.) nor shall this section be deemed to require the sale to anyone other than authorized retailers of private label brands which are owned by a retailer or exclusive brands which are owned by a manufacturer or wholesaler and offered for sale or sold by the manufacturer or wholesaler exclusively to one retailer or affiliated retailer, in this State.

2. R.S.33:1-22 is amended to read as follows:

Appeal to director from action of issuing authority; fee; procedure.

33:1-22. If the other issuing authority shall refuse to issue any license, or if the other issuing authority shall refuse to extend the license for a limited time not exceeding its term, to the executor or administrator of a deceased licensee, or to a person who shall be appointed by the courts having jurisdiction, in the event of the incompetency of any licensee, the applicant shall be notified forthwith of the refusal by a notice served personally upon the applicant, or sent to him by registered mail addressed to him at the address stated in the application. The applicant may within 30 days after the date of service or of mailing of the notice, upon payment to the director of a nonreturnable filing fee of $100.00, appeal to the director from the action of the issuing authority. If the other issuing authority shall issue a license, or grant an extension of the license for a limited time not exceeding its term, to the executor or administrator of a deceased licensee, or to a person who shall be appointed by the courts having jurisdiction, in the event of the incompetency of any licensee, any taxpayer or other aggrieved person opposing the issuance of the license may, within 30 days after

the issuance of the license, upon payment to the director of a non-returnable filing fee of $100.00, appeal to the director from the action of the issuing authority. The director shall fix a time for the hearing of the appeal and before hearing the same, shall give at least five days' notice of the time so fixed to the applicant, taxpayer, or other aggrieved person and other issuing authority.

Where an appeal is taken from the denial of an application for a renewal of a license, the director may, in his discretion, issue an order upon the respondent issuing authority to show cause why the term of the license should not be extended pending the determination of the appeal, together with ad interim relief extending the term of the license pending the return of the order to show cause. If it shall appear upon the return of the order to show cause that the action of the respondent issuing authority is prima facie erroneous and that irreparable injury to the appellant would otherwise result, the director may, subject to conditions as he may impose, order that the term of the license be extended pending a final determination of the appeal.

3. R.S.33:1-25 is amended to read as follows:

Issuance of license, application, qualifications; fee.

33:1-25. No license of any class shall be issued to any person under the age of 21 years or to any person who has been convicted of a crime involving moral turpitude.

In applications by corporations, except for club licenses, the names and addresses of, and the amount of stock held by, all stockholders holding 1% or more of any of the stock thereof, and the names and addresses of all officers and of all members of the board of directors must be stated in the application, and if one or more of the officers or members of the board of directors or one or more of the owners, directly or indirectly, of more than 10% of the stock would fail to qualify as an individual applicant in all respects, no license of any class shall be granted.

In applications for club licenses, the names and addresses of all officers, trustees, directors, or other governing official, together with the names and addresses of all members of the corporation, association or organization, must be stated in the application.

In applications by partnerships, the application shall contain the names and addresses of all of the partners. No license shall be issued unless all of the partners would qualify as individual applicants.

A photostatic copy of all federal permits necessary to the lawful conduct of the business for which a State license is sought and which

relate to alcoholic beverages, or other evidence in lieu thereof satisfactory to the director, must accompany the license application, together with a deposit of the full amount of the required license fee, which deposit to the extent of 90% thereof shall be returned to the applicant by the director or other issuing authority if the application is denied, and the remaining 10% shall constitute an investigation fee and be accounted for as other license fees.

Every applicant for a license that is not a renewal of an annual license shall cause a notice of the making of the application to be published in a form prescribed by rules and regulations, once per week for two weeks successively in a newspaper printed in the English language, published and circulated in the municipality in which the licensed premises are located; but if there shall be no such newspaper, then the notice shall be published in a newspaper, printed in the English language, published and circulated in the county in which the licensed premises are located. No publication shall be required with respect to applications for transportation or public warehouse licenses or with respect to applications for renewal of licenses.

The Division of Alcoholic Beverage Control shall cause a general notice of the making of annual renewal applications and the manner in which members of the public may object to the approving of the applications to be published in a form prescribed by rules and regulations, once per week from the week of April 1 through the week of June 1 in a newspaper printed in the English language published and circulated in the counties in which the premises of applicants for renewals of annual licenses are located. Any application for the renewal of an annual license shall be made by May 1, and none shall be approved before May 1.

Every person filing an application for license, renewal of license or transfer of license with a municipal issuing authority shall, within 10 days of such filing, file with the director a copy of the application together with a nonreturnable filing fee of $100.00.

Applicants for licenses shall answer questions as may be asked and make declarations as shall be required by the form of application for license as may be promulgated by the director from time to time. All applications shall be duly sworn to by each of the applicants, except in the case of applicants in the military service of the United States whose applications may be signed in their behalf by an attorney-in-fact holding a power of attorney in form approved by the director, and except in cases of applications by corporations which shall be duly sworn to by the president or

vice-president. All statements in the applications required to be made by law or by rules and regulations shall be deemed material, and any person who shall knowingly misstate any material fact, under oath, in the application shall be guilty of a misdemeanor. Fraud, misrepresentation, false statements, misleading statements, evasions or suppression of material facts in the securing of a license are grounds for suspension or revocation of the license.

4. R.S.33:1-26 is amended to read as follows:

License, term, transfer; fee.

33:1-26. All licenses shall be for a term of one year from July 1 in each year. The respective fees for any such license shall be prorated according to the effective date of the license and based on the respective annual fee as in this chapter provided. Where the license fee deposited with the application exceeds the prorated fee, a refund of the excess shall be made to the licensee. Licenses are not transferable except as hereinafter provided. A separate license is required for each specific place of business and the operation and effect of every license is confined to the licensed premises. No retail license of any class shall be issued to any holder of manufacturer's or wholesaler's license, and no manufacturer's or wholesaler's license shall be issued to the holder of a retail license of any class. Any person who shall exercise or attempt to exercise, or hold himself out as authorized to exercise, the rights and privileges of a license except the licensee and then only with respect to the licensed premises, shall be guilty of a misdemeanor.

In case of death, bankruptcy, receivership or incompetency of the licensee, or if for any other reason whatsoever the operation of the business covered by the license shall devolve by operation of law upon a person other than the licensee, the director or the issuing authority may, in his or its discretion, extend the license for a limited time, not exceeding its term, to the executor, administrator, trustee, receiver or other person upon whom the same has devolved by operation of law as aforesaid. Under no circumstances, however, shall a license, or rights thereunder, be deemed property, subject to inheritance, sale, pledge, lien, levy, attachment, execution, seizure for debts, or any other transfer or disposition whatsoever, except to the extent expressly provided by this chapter.

On application made therefor setting forth the same matters and things with reference to the premises to which a transfer of license is sought as are required to be set forth in connection with

an original application for license, as to the premises, and after publication of notice of intention to apply for transfer, in the same manner as is required in case of an application for license as to the premises, the director or other issuing authority may transfer, upon payment of a fee of 10% of the annual license fee for the license sought to be transferred, any license issued by him or it respectively to a different place of business than that specified therein, by endorsing permission upon the license.

On application made therefor setting forth the same matters and things with reference to the person to whom a transfer of license is sought as are required to be set forth in connection with an original application for license, which application for transfer shall be signed and sworn to by the person to whom the transfer of license is sought and shall bear the consent in writing of the licensee to the transfer, and after publication of notice of intention by the person to whom the transfer of license is sought, to apply for transfer in the same manner as is required in the case of an original application for license, the director or other issuing authority, as the case may be, may transfer any license issued by him or it respectively to the applicant for transfer by endorsing the license. The application and the applicant shall comply with all requirements of this chapter pertaining to an original application for license and shall be accompanied, in lieu of the license fee required on the original application, by a fee of 10% of the annual license fee for the license sought to be transferred, which 10% shall be retained by the director or other issuing authority, as the case may be, whether the transfer be granted or not, and accounted for as other license fees.

If the other issuing authority shall refuse to grant a transfer the applicant shall be notified forthwith of the refusal by a notice served personally upon the applicant, or sent to him by registered mail addressed to him at the address stated in the application, and the applicant may, within 30 days after the date of service or mailing of the notice, appeal to the director from the action of the issuing authority. If the other issuing authority shall grant a transfer, any taxpayer or other aggrieved person opposing the grant of the transfer may, within 30 days after the grant of the transfer, appeal to the director from the action of the issuing authority.

No person who would fail to qualify as a licensee under this chapter shall be knowingly employed by or connected in any business capacity whatsoever with a licensee. A person failing to qualify as to age or by reason of conviction of a crime involving moral turpitude may, with the approval of the director, and sub-

ject to rules and regulations, be employed by any licensee, but the employee if disqualified by age shall not, in any manner whatsoever serve, sell or solicit the sale or participate in the manufacture, rectification, blending, treating, fortification, mixing, processing or bottling of any alcoholic beverage; and further provided, that no permit shall be necessary for the employment in a bona fide hotel or restaurant of any person failing to qualify as to age so long as the person shall not in any manner whatsoever serve, sell or solicit the sale of any alcoholic beverage, or participate in the mixing, processing or preparation thereof.

Any request for relief under this section shall be accompanied by a nonreturnable filing fee of $100.00 payable to the director.

5. R.S.33:1-31.2 is amended to read as follows:

Application for removal of statutory disqualification; fee.

33:1-31.2. Any person convicted of a crime involving moral turpitude may, after the lapse of five years from the date of conviction, apply to the commissioner for an order removing the resulting statutory disqualification from obtaining or holding any license or permit under this chapter. Whenever any such application is made and it appears to the satisfaction of the commissioner that at least five years have elapsed from the date of conviction, that the applicant has conducted himself in a law-abiding manner during that period and that his association with the alcoholic beverage industry will not be contrary to the public interest, the commissioner may, in his discretion and subject to rules and regulations, enter an order removing the applicant's disqualification from obtaining or holding a license or permit because of the conviction.

On and after the date of the entry of the order, the person therein named shall be qualified to obtain and hold a license or permit under this chapter, notwithstanding the conviction therein referred to, provided he is, in all other respects, qualified under this chapter.

Any request for relief under this section shall be accompanied by a nonreturnable filing fee of $100.00 payable to the director.

6. Section 2 of P.L.1982, c.166 (C.33:1-11.6) is amended to read as follows:

C.33:1-11.6 Active use required for renewal; fee.

2. No State beverage distributor's license, as defined in subsection c. of section 2 of R.S.33:1-11, shall be renewed if it has not been actively used in connection with the operation of a licensed premises within a period of two years prior to the com-

mencement date of the license period for which the renewal application is filed, unless the director, for good cause and after a hearing, authorizes a further application for renewal; provided, however, that, if the licensee has been deprived of the use of the licensed premises as a result of eminent domain, fire or other casualty, and establishes by affidavit filed with the director that he is making a good faith effort to resume active use of the license in connection with the operation of a licensed premises, then the period of two years provided for in this section shall be automatically extended for an additional two years. Commencing on the effective date of this act, no additional State beverage distributors' licenses shall be issued to exceed the number in existence on the date this act takes effect.

Any request for relief under this section shall be accompanied by a nonreturnable filing fee of $100.00 payable to the director.

7. Section 6 of P.L.1947, c.94 (C.33:1-12.18) is amended to read as follows:

C.33:1-12.18 Issuance of new license permitted to applicants filing within 60 days of expiration; fee.

6. Nothing in this act shall be deemed to prevent the issuance of a new license to a person who files application therefor within 60 days following the expiration of the license renewal period if the director shall determine in writing that the applicant's failure to apply for a renewal of his license was due to circumstances beyond his control.

Any request for relief under this section shall be accompanied by a nonreturnable filing fee of $100.00 payable to the director.

8. Section 1 of P.L.1977, c.246 (C.33:1-12.39) is amended to read as follows:

C.33:1-12.39 Active use required for renewal of Class C license; fee.

1. No Class C license, as the same is defined in R.S.33:1-12, shall be renewed if the same has not been actively used in connection with the operation of a licensed premises within a period of two years prior to the commencement date of the license period for which the renewal application is filed unless the director, for good cause and after a hearing, authorizes a further application for renewal; provided, however that, if the licensee has been deprived of the use of the licensed premises as a result of eminent domain, fire or other casualty, and establishes by affidavit filed with the director that he is making a good faith effort to resume active use of the

license in connection with the operation of a licensed premise then the period of two years provided for in this section shall be automatically extended for an additional period of two years.

Any request for relief under this section shall be accompanied by a nonreturnable filing fee of $100.00 payable to the director.

9. Section 2 of P.L.1966, c.59 (C.33:1-93.7) is amended to read as follows:

C.33:1-93.7 Refusal to sell; hearing; fee.

2. In the event any such importer, blender, distiller, rectifier or winery shall refuse to sell alcoholic beverages, other than malt alcoholic beverages, to any such individual wholesaler or comply with the provisions of this act, then the wholesaler shall petition the director setting forth the facts and demanding a hearing thereon to determine whether or not the refusal to sell was discriminatory.

Any petition under this section shall be accompanied by a nonreturnable filing fee of $100.00 payable to the director.

10. R.S.33:1-27 is amended to read as follows:

Fee for issuance of license; exceptions.

33:1-27. Any statute or exemption to the contrary notwithstanding, no license shall be issued to any person except upon payment of the full fee therefor or as above prorated; but no license shall be required and no fee charged in connection with the retail sale of alcoholic beverages for consumption on the premises where sold, when sold at any camp, post or regimental exchange duly organized under the regulations of the United States Army or Navy or Marine Corps or Coast Guard or when sold by any voluntary unincorporated organization of the Armed Forces operating a place for the sale of goods pursuant to the regulations promulgated by the Secretaries of the respective Departments of National Government under which the Armed Services operate or, if the consent of the State Military Board shall have been first obtained, under the State National Guard regulations.

11. R.S.33:1-31 is amended to read as follows:

Suspension, revocation of license.

33:1-31. Any license, whether issued by the director or any other issuing authority, may be suspended or revoked by the director, or the other issuing authority may suspend or revoke any license issued by it, for any of the following causes:

a. Violation of any of the provisions of this chapter;

b. Manufacture, transportation, distribution or sale of alcoholic beverages in a manner or to an extent not permitted by the license or by law;

c. Nonpayment of any excise tax or other payment required by law to be paid to the State Tax Commissioner;

d. Failure to comply with any of the provisions of subtitle 8 of the Title Taxation (§54:41-1 et seq.);

e. Failure to have at all times a valid, unrevoked permit, license or special tax stamp, or other indicia of payment, of all fees, taxes, penalties and payments required by any law of the United States;

f. Failure to have at all times proper stamps or other proper evidence of payment of any tax required to be paid by any law of this State;

g. Any violation of rules and regulations;

h. Any violation of any ordinance, resolution or regulation of any other issuing authority or governing board or body;

i. Any other act or happening, occurring after the time of making of an application for a license which if it had occurred before said time would have prevented the issuance of the license; or

j. For any other cause designated by this chapter.

No suspension or revocation of any license shall be made until a five-day notice of the charges preferred against the licensee shall have been given to him personally or by mailing the same by registered mail addressed to him at the licensed premises and a reasonable opportunity to be heard thereon afforded to him.

A suspension or revocation of license shall be effected by a notice in writing of such suspension or revocation, designating the effective date thereof, and in case of suspension, the term of such suspension, which notice may be served upon the licensee personally or by mailing the same by registered mail addressed to him at the licensed premises. Such suspension or revocation shall apply to the licensee and to the licensed premises.

A revocation shall render the licensee and the officers, directors and each owner, directly or indirectly, of more than 10% of the stock of a corporate licensee ineligible to hold or receive any other license, of any kind or class under this chapter, for a period of two years from the effective date of such revocation and a second revocation shall render the licensee and the officers, directors and each owner, directly or indirectly, of more than 10% of the stock of a corporate licensee ineligible to hold or receive any such license at any time thereafter. Any revocation may, in the discretion of the director or other issuing authority as the case may be, render the

licensed premises ineligible to become the subject of any further license, of any kind or class under this chapter, during a period of two years from the effective date of the revocation.

The director may, in his discretion and subject to rules and regulations, accept from any licensee an offer in compromise in such amount as may in the discretion of the director be proper under the circumstances in lieu of any suspension of any license by the director or any other issuing authority.

No refund, except as expressly permitted by section 33:1-26 of this Title, shall be made of any portion of a license fee after issuance of a license; but if any licensee, except a seasonal retail consumption licensee, shall voluntarily surrender his license, there shall be returned to him, after deducting as a surrender fee 50% of the license fee paid by him, the prorated fee for the unexpired term; provided, that such licensee shall not have committed any violation of this chapter or of any rule or regulation or done anything which in the fair discretion of the director or other issuing authority, as the case may be, should bar or preclude such licensee from making such claim for refund and that all taxes and other set-offs or counterclaims which shall have accrued and shall have become due and payable to this State or any municipality, or both, have been paid. Such refund, if any, shall be made as of the date of such surrender. The surrender of a license shall not bar proceedings to revoke such license. The refusal of the other issuing authority to grant any refund hereunder shall be subject to appeal to the director within 30 days after notice of such refusal is mailed to or served upon the licensee. Surrenders of retail licenses shall be promptly certified by the issuing authority to the director. Surrender fees shall be accounted for as are investigation fees. If any licensee to whom a refund shall become due under the provisions of this section shall be indebted to the State of New Jersey for any taxes, penalties or interest by virtue of the provisions of subtitle 8 of the Title Taxation (§54:41-1 et seq.), it shall be the duty of the issuing authority before making any such refund, upon receipt of a certificate of the State Tax Commissioner evidencing the said indebtedness to the State of New Jersey, to deduct therefrom, and to remit forthwith to the State Tax Commissioner the amount of such taxes, penalties and interest.

In the event of any suspension or revocation of any license by the other issuing authority, the licensee may, within 30 days after the date of service or of mailing of said notice of suspension or of revocation, upon payment to the director of a nonreturnable filing fee of $100.00, appeal to the director from the action of the other issuing authority in suspending or revoking such license which

appeal shall act as a stay of such suspension or revocation pending the determination thereof unless the director shall otherwise order. When any person files with any other issuing authority written complaint against a licensee specifying charges and requesting that proceedings be instituted to revoke or suspend such license, he may appeal to the director from its refusal to revoke or suspend such license or other action taken by it in connection therewith within 30 days from the time of service upon or mailing of notice to him of such refusal or action. The director shall thereupon fix a time for the hearing of the appeal and before hearing the same shall give at least five days' notice of the time so fixed to such licensee, other issuing authority and appellant.

12. R.S.33:1-28 is amended to read as follows:

Transportation of alcoholic beverages by licensees.

33:1-28. Licensees, except public warehouse licensees, may transport alcoholic beverages in their own vehicles, solely, however, for their own respective business in connection with and as defined in their respective licenses, without possessing a transportation license; provided, however, that such vehicles while so used shall be marked in the manner prescribed for all vehicles authorized to transport alcoholic beverages as shall be provided in rules and regulations. Each vehicle so used shall bear a transit insignia to be furnished by the director at a fee of $50.00 each.

13. R.S.33:1-74 is amended to read as follows:

Temporary permits.

33:1-74. a. To provide for contingencies where it would be appropriate and consonant with the spirit of this chapter to issue a license but the contingency has not been expressly provided for, the director of the division may for special cause shown, subject to rules and regulations, issue temporary permits. The fee for a one-day permit authorizing the sale of alcoholic beverages for consumption on a designated premises by a civic, religious, educational or veterans organization shall be $50.00 and for a one-day permit authorizing such sale by any other organization, $75.00. The fee for any other type of temporary permit shall be determined in each case by the director of the division and shall not be less than $5.00 nor more than $1,000.00, payable to the director of the division and to be accounted for by the director as are license fees.

b. As to any designated premises such temporary permits shall not exceed in the aggregate 25 in any one calendar year, but the director of the division may by said rules and regulations provide for a lesser number in the aggregate for any such designated premises in any one calendar year.

c. The issuance of temporary permits to authorize the sale of alcoholic beverages by the glass or other open receptacle by civic, religious, educational, veterans or other qualified organizations shall be permissible, notwithstanding that the sale of alcoholic beverages has otherwise been prohibited by referendum under R.S.33:1-44 through R.S.33:1-47 or municipal ordinance or resolution.

C.33:1-4.1 Use of funds collected as fees, penalties.

14. All fees and penalties collected by the Director of the Division of Alcoholic Beverage Control pursuant to the provisions of Title 33 of the Revised Statutes shall be forwarded to the State Treasurer for deposit in a special nonlapsing fund. Monies in the fund shall be used exclusively for the operation of the Alcoholic Beverage Control Enforcement Bureau in the Division of State Police and the Division of Alcoholic Beverage Control and for reimbursement of all additional costs of enforcement of the provisions of Title 33 incurred by the Department of Law and Public Safety.

15. Notwithstanding the provisions of R.S.33:1-25 to the contrary, a person whose renewal for an annual license for the period from July 1, 1992, to July 1, 1993, pursuant to R.S.33:1-25 was approved on or after July 1, 1992, and prior to the effective date of P.L.1992, c.188, is assessed an additional filing fee of $50, which shall be paid to the director on or before February 1, 1993, accompanied by such information in such form as the director may prescribe.

16. This act shall take effect immediately, but section 14 shall remain inoperative until July 1, 1993.

Approved December 16, 1992.

CHAPTER 189

AN ACT concerning the operation of motor vehicles by certain persons and providing penalties 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.39:4-50.14 Penalties for underage person operating motor vehicle after consuming alcohol.

1. Any person under the legal age to purchase alcoholic beverages who operates a motor vehicle with a blood alcohol concentration of 0.01% or more, but less than 0.10%, by weight of alcohol in his blood, shall forfeit his right to operate a motor vehicle over the highways of this State or shall be prohibited from obtaining a license to operate a motor vehicle in this State for a period of not less than 30 or more than 90 days beginning on the date he becomes eligible to obtain a license or on the day of conviction, whichever is later, and shall perform community service for a period of not less than 15 or more than 30 days.

In addition, the person shall satisfy the program and fee requirements of an Intoxicated Driver Resource Center or participate in a program of alcohol education and highway safety as prescribed by the Director of the Division of Motor Vehicles.

The penalties provided under the provisions of this section shall be in addition to the penalties which the court may impose under N.J.S.2C:33-15, R.S.33:1-81, R.S.39:4-50 or any other law.

2. This act shall take effect immediately.

Approved December 17, 1992.

CHAPTER 190

AN ACT concerning certain insurable interests and amending P.L.1991, c.369.

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

1. Section 1 of P.L.1991, c.369 (C.17B:24-1.1) is amended to read as follows:

C.17B:24-1.1 Insurable interests.

1. a. For the purpose of life insurance, health insurance or annuities:

(1) An individual has an insurable interest in his own life, health and bodily safety.

(2) An individual has an insurable interest in the life, health and bodily safety of another individual if he has an expectation of pecuniary advantage through the continued life, health and bodily safety of that individual and consequent loss by reason of his death or disability.

(3) An individual has an insurable interest in the life, health and bodily safety of another individual to whom he is closely related by blood or by law and in whom he has a substantial interest engendered by love and affection. An individual liable for the support of a child or former wife or husband may procure a policy of insurance on that child or former wife or husband.

(4) A corporation has an insurable interest: (a) in the life or physical or mental ability of any of its directors, officers, or employees, or the directors, officers, or employees of any of its subsidiaries or any other person whose death or physical or mental disability might cause financial loss to the corporation; (b) pursuant to any contractual arrangement with any shareholder concerning the reacquisition of shares owned by him at the time of his death or disability, in the life or physical or mental ability of that shareholder for the purpose of carrying out that contractual arrangement; (c) pursuant to any contract obligating the corporation as part of compensation arrangements, in the life of the individual for whom compensation is to be provided; or (d) pursuant to a contract obligating the corporation as guarantor or surety, in the life of the principal obligor. The trustee of a trust established and fully funded by a corporation providing solely life, health, disability, retirement, or similar benefits to employees of the corporation or its affiliates and acting in a fiduciary capacity with respect to those employees, retired employees, or their dependents or beneficiaries, has an insurable interest in the lives of employees for whom such benefits are to be provided.

(5) A nonprofit or charitable entity qualified pursuant to section 501 (c) (3) of the Internal Revenue Code of 1986 (26 U.S.C. §501(c)(3)), or a government entity has an insurable interest in the life or physical or mental ability of its directors, officers, employees, supporters or their designees or others to whom it may look for counsel, guidance, fundraising or assistance in the execution of its legally established purpose, who either: (a) join with the entity in signing the application for insurance, which application names the entity as the owner and irrevocable beneficiary of the policy; or (b) after having been listed as owner, subsequently transfer ownership of the insurance to the entity and name the entity as the irrevocable beneficiary of the policy. The trustee of a trust established and fully funded by a nonprofit or charita-

ble entity qualified pursuant to section 501 (c) (3) of the Internal Revenue Code of 1986 (26 U.S.C. §501(c)(3)), or a government entity providing solely life, health, disability, retirement, or similar benefits to employees of the entity or its affiliates and acting in a fiduciary capacity with respect to those employees, retired employees, or their dependents or beneficiaries, has an insurable interest in the lives of employees for whom such benefits are to be provided.

b. No person shall procure or cause to be procured any insurance contract upon the life, health or bodily safety of another individual unless the benefits under that contract are payable to the individual insured or his personal representative, or to a person having, at the time when that contract was made, an insurable interest in the individual insured.

c. If the beneficiary, assignee, or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement, or injury of the individual insured, the individual insured, or his executor or administrator, as the case may be, may maintain an action to recover those benefits from the person so receiving them.

d. An insurer shall be entitled to rely upon all statements, declarations and representations made by an applicant for insurance relating to the insurable interest of the applicant in the insured and no insurer shall incur legal liability, except as set forth in the policy, by virtue of any untrue statements, declarations or representations so relied upon in good faith by the insurer.

e. This section shall not apply to group life insurance, group health insurance, blanket insurance or group annuities.

2. This act shall take effective immediately.

Approved December 18, 1992.

CHAPTER 191

AN ACT concerning assessments against certain insurers and amending P.L.1974, c.17.

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

1. Section 8 of P.L.1974, c.17 (C.17:30A-8) is amended to read as follows:

C.17:30A-8 Association's obligations, powers and duties.

8. a. The association shall:

(1) Be obligated to the extent of the covered claims against an insolvent insurer incurred, in the case of private passenger automobile insurance, prior to or after the determination of insolvency, but before the policy expiration date or the date upon which the insured replaces the policy or causes its cancellation, or in the case of insurance other than private passenger automobile insurance, covered claims against such insolvent insurer incurred prior to or 90 days after the determination of insolvency, or before the policy expiration date if less than 90 days after said determination, or before the insured replaces the policy or causes its cancellation, if he does so within 90 days of the determination, but such obligation shall include only that amount of each covered claim which is less than $300,000.00 and subject to any applicable deductible contained in the policy, except that the $300,000.00 limitation shall not apply to a covered claim arising out of insurance coverage mandated by section 4 of P.L.1972, c.70 (C.39:6A-4). In the case of benefits payable under subsection a. of section 4 of P.L.1972, c.70 (C.39:6A-4), the association shall be liable for payment of benefits in an amount not to exceed $75,000.00. Benefits paid in excess of such amount shall be recoverable by the association from the Unsatisfied Claim and Judgment Fund pursuant to the provisions of section 2 of P.L.1977, c.310 (C.39:6-73.1). In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the limits of liability stated in the policy of the insolvent insurer from which the claim arises;

(2) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(3) Assess member insurers in amounts necessary to pay:

(a) The obligation of the association under paragraph (1) of this subsection;

(b) The expenses of handling covered claims;

(c) The cost of examinations under section 13; and

(d) Other expenses authorized by this act, excluding expenses incurred by the association pursuant to paragraphs (9) and (10) of this subsection.

The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment.

Each member insurer shall be notified of the assessment not later than 30 days before it is due. No member insurer may be assessed pursuant to this paragraph (3) in any year in an amount greater than 2% of that member insurer's net direct written premiums for the calendar year preceding the assessment.

The association may, subject to the approval of the commissioner, exempt, abate or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. In the event an assessment against a member insurer is exempted, abated, or deferred, in whole or in part, because of the limitations set forth in this section, the amount by which such assessment is exempted, abated, or deferred shall be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. If the maximum assessment, together with the other assets of the association, does not provide in any one year an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as it is permitted by this act. Each member insurer serving as a servicing facility may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by such member insurer;

(4) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims and may review settlements, releases and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements, releases and judgments may be properly contested;

(5) Notify such persons as the commissioner directs under paragraph (1) of subsection b. of section 10 of P.L.1974, c.17 (C.17:30A-10);

(6) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer;

(7) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this act;

(8) Make loans to the New Jersey Surplus Lines Insurance Guaranty Fund in accordance with the provisions of the "New Jersey Surplus Lines Insurance Guaranty Fund Act," P.L.1984, c.101 (C.17:22-6.70 et al.);

(9) Assess member insurers in amounts necessary to make loans pursuant to paragraph (10) of this subsection. The estimated assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment with actual assessments adjusted in the succeeding year based on the proportion that the assessed member insurer's net direct written premiums in the year of assessment bears to the net direct written premiums of all member insurers for that year. For the purposes of this paragraph, "net direct written premiums" shall not include medical malpractice liability insurance premiums paid to member insurers to which an additional charge has been applied for deposit in the New Jersey Medical Malpractice Reinsurance Recovery Fund as provided in the "Medical Malpractice Liability Insurance Act," P.L.1975, c.301 (C.17:30D-1 et seq.) and the regulations promulgated pursuant thereto;

(10) Make loans in the amount of $160 million per calendar year, beginning in calendar year 1990, to the New Jersey Automobile Insurance Guaranty Fund created pursuant to section 23 of P.L.1990, c.8 (C.17:33B-5), except that no loan shall be made pursuant to this paragraph after December 31, 1997.

b. The association may:

(1) Employ or retain such persons as are necessary to handle claims and perform such other duties of the association;

(2) Borrow funds necessary to effectuate the purpose of this act in accordance with the plan of operation;

(3) Sue or be sued;

(4) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this act;

(5) Perform such other acts as are necessary or proper to effectuate the purpose of this act;

(6) Refund to the member insurers in proportion of the contribution of each member insurer that amount by which the assets

exceed the liabilities if, at the end of any calendar year, the board of directors finds that the assets of the association exceed the liabilities, as estimated by the board of directors for the coming year.

2. This act shall take effect immediately and shall be retroactive to March 8, 1990.

Passed December 17, 1992.

CHAPTER 192

AN ACT concerning certain paratransit vehicles and amending P.L.1991, c.154 and R.S.48:4-1.

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

1. Section 1 of P.L.1991, c.154 (C.17:28-1.5) is amended to read as follows:

C.17:28-1.5 Definitions.

1. As used in this act:

"Commissioner" means the Commissioner of Insurance.

"Hospital expenses" means:

a. The cost of a semiprivate room, based on rates customarily charged by the institution in which the recipient of benefits is confined;

b. The cost of board, meals and dietary services;

c. The cost of other hospital services, such as operating room; medicines, drugs, anesthetics; treatments with X-ray, radium and other radioactive substances; laboratory tests, surgical dressings and supplies; and other medical care and treatment rendered by the hospital;

d. The cost of treatment by a physiotherapist;

e. The cost of medical supplies, such as prescribed drugs and medicines; blood and blood plasma; artificial limbs and eyes; surgical dressings, casts, splints, trusses, braces, crutches; rental of wheelchair, hospital bed or iron lung; oxygen and rental of equipment for its administration.

"Medical expenses" means expenses for medical treatment, surgical treatment, dental treatment, professional nursing services, hospital expenses, rehabilitation services, X-ray and other diag-

nostic services, prosthetic devices, ambulance services, medication and other reasonable and necessary expenses resulting from the treatment prescribed by persons licensed to practice medicine and surgery pursuant to R.S.45:9-1 et seq., dentistry pursuant to R.S.45:6-1 et seq., psychology pursuant to P.L.1966, c.282 (C.45:14B-1 et seq.) or chiropractic pursuant to P.L.1953, c.233 (C.45:9-41.1 et al.) or by persons similarly licensed in other states and nations or any nonmedical remedial treatment rendered in accordance with a recognized religious method of healing.

"Motor bus" means an omnibus, as defined in R.S.39:1-1, except that "motor bus" shall not include:

a. Vehicles engaged in the transportation of passengers for hire in the manner and form commonly called taxicab service unless such service becomes or is held out to be regular service between stated termini;

b. Hotel buses used exclusively for the transportation of hotel patrons to or from local railroad or other common carrier stations including local airports;

c. Buses operated for the transportation of enrolled children and adults only when serving as chaperones to or from a school, school connected activity, day camp, summer day camp, nursery school, child care center, pre-school center or other similar places of education, including "School Vehicle Type I" and "School Vehicle Type II" as defined in R.S.39:1-1;

d. Any autobus with a carrying capacity of not more than 13 passengers operated under municipal consent upon a route established wholly within the limits of a single municipality or with a carrying capacity of not more than 20 passengers operated under municipal consent upon a route established wholly within the limits of not more than four contiguous municipalities within any county of the fifth or sixth class, which route in either case does not in whole or in part parallel upon the same street the line of any street railway or traction railway or any other autobus route;

e. Autocabs, limousines or livery services as defined in R.S.48:16-13, unless such service becomes or is held out to be regular service between stated termini;

f. Any vehicle used in a "ridesharing" arrangement, as defined by the "New Jersey Ridesharing Act of 1981," P.L.1981, c.413 (C.27:26-1 et al.);

g. Any motor bus owned and operated by the New Jersey Transit Corporation; or

h. Any special paratransit vehicle as defined in R.S.48:4-1.

"Noneconomic loss" means pain, suffering and inconvenience.

"Passenger" means any person occupying, entering into or alighting from a motor bus, except employees of the owner or operator of the motor bus while they are on duty.

2. R.S.48:4-1 is amended to read as follows:

Scope of chapter; terms defined.

48:4-1. The term "autobus" as used in this chapter means and includes, except as hereinafter noted, any motor vehicle or motorbus operated over public highways or public places in this State for the transportation of passengers for hire in intrastate business, whether used in regular route, casino, charter or special bus operations, notwithstanding such motor vehicle or motorbus may be used in interstate commerce.

The term "ridesharing" as used in this chapter means the transportation of persons in a motor vehicle, with a maximum carrying capacity of not more than 15 passengers, including the driver, where such transportation is incidental to the purpose of the driver. The term shall include such ridesharing arrangements known as carpools and vanpools.

Nothing contained herein shall be construed to include:

a. Vehicles engaged in the transportation of passengers for hire in the manner and form commonly called taxicab service unless such service becomes or is held out to be regular service between stated termini;

b. Hotel buses used exclusively for the transportation of hotel patrons to or from local railroad or other common carrier stations including local airports;

c. Buses operated for the transportation of enrolled children and adults only when serving as chaperones to or from a school, school connected activity, day camp, summer day camp, nursery school, child care center, pre-school center or other similar places of education, including "School Vehicle Type I" and "School Vehicle Type II" as defined in R.S.39:1-1;

d. Any autobus with a carrying capacity of not more than 13 passengers operated under municipal consent upon a route established wholly within the limits of a single municipality or with a carrying capacity of not more than 20 passengers operated under municipal consent upon a route established wholly within the limits of not more than four contiguous municipalities within any county of the fifth or sixth class, which route in either case does

not in whole or in part parallel upon the same street the line of any street railway or traction railway or any other autobus route;

e. Autocabs, limousines or livery services as defined in R.S.48:16-13, unless such service becomes or is held out to be regular service between stated termini;

f. Any vehicle used in a "ridesharing" arrangement, as defined by the "New Jersey Ridesharing Act of 1981," P.L.1981, c.413 (C.27:26-1 et al.);

g. Any special paratransit vehicle as defined in this chapter.

The word "person" as used in this chapter means and includes any individual, copartnership, association, corporation or joint stock company, their lessees, trustees, or receivers appointed by any court.

The word "street" as used in this chapter means and includes any street, avenue, park, parkway, highway, road or other public place.

The term "special paratransit vehicle" as used in this chapter means any motor vehicle which is used exclusively for the transportation of persons who are at least 60 years of age or who have disabilities or who are the clients of social service agencies, provided, that the motor vehicle is used in a service provided by a county either directly or by contract, or provided by a nonprofit organization, and the service is included by a county as part of its county plan required by section 6 of P.L.1983, c.578 (C.27:25-30), regardless of whether a fare is charged or donations are accepted.

The term "regular route bus operation" as used in this chapter means and includes the operation of an autobus between fixed termini, on a regular schedule and with provision for convenient one-way transportation in either direction, and shall also include all existing regular route operations to or from any casino licensed under the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), unless that operation to or from casinos has been determined by the Commissioner of Transportation to be other than a regular route operation.

The term "regular route in the nature of special bus operation" or "casino bus operation" as used in this chapter means and includes the operation of an autobus to or from any casino licensed under the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), unless that operation has been determined by the Commissioner of Transportation to be a regular route bus operation.

The term "charter bus operation" as used in this chapter means and includes the operation of an autobus or autobuses, not on a regular schedule, by the person owning or leasing such bus or buses pursuant to a contract, agreement or arrangement to furnish an autobus or autobuses and a driver or drivers thereof to a person,

group of persons or organization (corporate or otherwise) for a trip designated by such person, group of persons or organization for a fixed charge per trip, per autobus, per period of time or per mile.

The term "special bus operation" as used in this chapter means and includes the operation by the owner or lessee of an autobus or autobuses for the purpose of carrying passengers for hire, not on a regular schedule, each passenger paying a fixed charge for his carriage, on a special trip arranged and designated by such owner or lessee, which fixed charge may or may not include special premiums.

The term "special premiums" as used in this chapter means the provision of meals, gifts, lodging, entertainment, sightseeing services or other similar inducements in connection with the purchase or issuing of a ticket. No casino bonuses shall be included in this definition.

3. This act shall take effect immediately.

Approved December 21, 1992.

CHAPTER 193

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, 1993 and regulating the disbursement thereof," passed June 30, 1992 (P.L.1992, c.40).

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
62 DEPARTMENT OF LABOR
50 Economic Planning, Development and Security
54 Manpower and Employment Services

10-4545 Employment Development Services	$17,635,000

State Aid and Grants ..... ($17,635,000)
Job Training Partnership Act--
Title II-B, Summer youth employment and training program ..... ($11,635,000)
Job Training Partnership Act--
Title III, Dislocated Workers..... ($6,000,000)

2. This act shall take effect immediately.

Approved December 21, 1992.

CHAPTER 194

AN ACT concerning fire training facilities.

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

1. The board of commissioners of a fire district in a municipality with a population of between 60,000 and 70,000 in a county of the fifth class with a population of between 340,000 and 440,000 according to the 1990 federal decennial census may construct, erect or acquire necessary training facilities and equipment; provided, however, that the outstanding amount of the debt of the fire district at any time shall not exceed that amount set for in N.J.S.40A:14-85. Any such bond issue shall be authorized by a resolution of the commissioners specifying the amount and the purpose thereof. The resolution shall be inoperative unless and until it shall have been submitted to and approved by the legal voters within the fire district at the annual election held for the election of commissioners and appropriation of money for fire extinguishing purposes, or at a special election for such purpose.

The resolution shall be written or printed and the election shall be upon notice stating the time and place. If the election is to be the annual one, the notices shall be posted by the clerk of the board of fire commissioners in 10 public places, at least 10 days prior to the date of the election. The board of commissioners and the clerk, in its or his discretion, may advertise the election in a newspaper published in the fire district, if any, otherwise in a newspaper published in the county of the district and circulating

in the district. When a special election is specified notices shall be posted in 10 public places at least 21 days prior to the date of election, and the clerk of the board shall advertise the notice in the newspaper at least twice prior to the election date.

No training facility shall be constructed, erected or acquired without the prior approval by resolution of the county governing body.

2. This act shall take effect immediately and shall expire on December 31, 1994.

Approved December 21, 1992.

CHAPTER 195

AN ACT concerning beach fees and amending P.L.1955, c.49.

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

1. Section 1 of P.L.1955, c.49 (C.40:61-22.20) is amended to read as follows:

C.40:61-22.20 Municipal control over beaches, etc.; fees.

1. The governing body of any municipality bordering on the Atlantic Ocean, tidal water bays or rivers which owns or shall acquire, by any deed of dedication or otherwise, lands bordering on the ocean, tidal water bays or rivers, or easement rights therein, for a place of resort for public health and recreation and for other public purposes shall have the exclusive control, government and care thereof and of any boardwalk, bathing and recreational facilities, safeguards and equipment, now or hereafter constructed or provided thereon, and may, by ordinance, make and enforce rules and regulations for the government and policing of such lands, boardwalk, bathing facilities, safeguards and equipment; provided, that such power of control, government, care and policing shall not be construed in any manner to exclude or interfere with the operation of any State law or authority with respect to such lands, property and facilities. Any such municipality may, in order to provide funds to improve, maintain and police the same and to protect the same from erosion, encroachment and damage by sea or otherwise, and to provide facilities and safeguards for public bathing and recreation,

including the employment of lifeguards, by ordinance, make and enforce rules and regulations for the government, use, maintenance and policing thereof and provide for the charging and collecting of reasonable fees for the registration of persons using said lands and bathing facilities, for access to the beach and bathing and recreational grounds so provided and for the use of the bathing and recreational facilities, but no such fees shall be charged or collected from children under the age of 12 years; and the municipality may by ordinance provide that no fees, or reduced fees, shall be charged to persons 65 or more years of age and to persons who meet the disability criteria for disability benefits under Title II of the federal Social Security Act (42 U.S.C. §401 et seq.).

2. This act shall take effect immediately.

Approved December 22, 1992.

CHAPTER 196

AN ACT concerning immunity from civil liability in certain cases and immunity from civil and criminal liability in certain cases; amending P.L.1986, c.189 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:62A-19 Civil immunity for emergency medical technician instructors.

1. a. Notwithstanding any other provision of law to the contrary, no emergency medical technician who, without compensation, trains or instructs other persons in basic life support services shall be liable in any action for damages as a result of his acts of commission or omission arising out of and in the course of that training or instruction.

b. (1) Nothing in this section shall be deemed to grant immunity to any person causing damage by his willful or wanton act of commission or omission.

(2) Nothing in this section shall be deemed to grant immunity to any person causing damage as the result of the person's operation of a motor vehicle.

c. As used in this section:

(1) "Basic life support services" shall include but not be limited to: patient stabilization, airway clearance, cardiopulmonary resuscitation, hemorrhage control, initial wound care and fracture stabilization.

(2) "Emergency medical technician" means a person who is trained in basic life support services and who is certified by the Department of Health to perform these services.

2. Section 1 of P.L.1986, c.189 (C.2A:62A-10) is amended to read as follows:

C.2A:62A-10 Civil, criminal immunity for obtaining specimens.

1. a. When acting in response to a request of a law enforcement officer, any physician, nurse or medical technician who withdraws or otherwise obtains, in a medically accepted manner, a specimen of breath, blood, urine or other bodily substance and delivers it to a law enforcement officer, shall be immune from civil or criminal liability for so acting, provided the skill and care exercised is that ordinarily required and exercised by others in the profession.

b. Any physician, nurse or medical technician who, for an accepted medical purpose, withdraws or otherwise obtains, in a medically accepted manner, a specimen of breath, blood, urine or other bodily substance and subsequently delivers it to a law enforcement officer either voluntarily or upon court order, shall be immune from civil or criminal liability for so acting, provided the skill and care exercised in obtaining the specimen is that ordinarily required and exercised by others in the profession.

c. The immunity from civil or criminal liability provided in subsections a. and b. of this section shall extend to the hospital or other medical facility on whose premises or under whose auspices the specimens are obtained, provided the skill, care and facilities provided are those ordinarily so provided by similar medical facilities.

d. For the purposes of this section, the term "law enforcement officer" includes a State, county or municipal police officer, a county prosecutor or his assistant, the Attorney General or his deputy or a State or county medical examiner.

3. This act shall take effect immediately.

Approved December 22, 1992.

CHAPTER 197

AN ACT establishing an application fee for certain examinations and supplementing Title 11A of the New Jersey Statutes.

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

C.11A:4-1.1 Application fee for examinations.

1. The Commissioner of the Department of Personnel shall establish a $5 fee for each application for an open competitive or promotional examination. Persons receiving public assistance benefits pursuant to P.L.1947, c.156 (C.44:8-107 et seq.), P.L.1959, c.86 (C.44:10-1 et seq.), or P.L.1973, c.256 (C.44:7-85 et seq.) shall not be required to pay this fee if they apply for an open competitive examination. Receipts derived from application fees shall be appropriated to the department.

C.11A:4-1.2 Rules, regulations.

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

3. This act shall take effect immediately.

Approved December 22, 1992.

CHAPTER 198

AN ACT concerning tools for committing theft offenses and forcible entry offenses and amending N.J.S.2C:5-5.

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

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

Burglar's tools.

2C:5-5. Burglar's Tools.

a. Any person who manufactures or possesses any engine, machine, tool or implement adapted, designed or commonly used for committing or facilitating any offense in chapter 20 of this Title or offenses involving forcible entry into premises

(1) Knowing the same to be so adapted or designed or commonly used; and

(2) With either a purpose so to use or employ it, or with a purpose to provide it to some person who he knows has such a purpose to use or employ it, is guilty of an offense.

b. Any person who publishes plans or instructions dealing with the manufacture or use of any burglar tools as defined above, with the intent that such publication be used for committing or facilitating any offense in chapter 20 of this Title or offenses involving forcible entry into premises is guilty of an offense.

The offense under a. or b. of this section is a crime of the fourth degree if the defendant manufactured such instrument or implements or published such plans or instructions; otherwise it is a disorderly persons offense.

2. This act shall take effect immediately.

Approved December 23, 1992.

CHAPTER 199

AN ACT concerning the payment of certain moneys from casino simulcasting and amending P.L.1992, c.19.

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

1. Section 13 of P.L.1992, c.19 (C.5:12-203) is amended to read as follows:

C.5:12-203 Wagers subject to takeout rate.

13. Sums wagered at a casino on races being transmitted to that casino from an out-of-State sending track shall be subject to the takeout rate determined pursuant to section 12 of this act, and the sums resulting from that takeout rate as applied to the parimutuel pool generated at the casino shall be distributed as follows, subject to the provisions of section 16 of this act:

a. .50% of the parimutuel pool generated at the casino shall be paid to the New Jersey Racing Commission for deposit in the Casino Simulcasting Fund established pursuant to section 18 of this act;

b. 3%, or if applicable 6%, of the parimutuel pool generated at the casino shall be paid to the casino to be used for payment to the out-of-State sending track for the transmission of the race, as provided in section 11 of this act;

c. in calendar years 1993, 1994, and 1995, 2% of the parimutuel pool generated at the casino shall be paid to the New Jersey Racing Commission for payment to the Atlantic City Racetrack until a total of $100,000,000 in parimutuel pools has been generated in wagering on simulcast races at all casinos in each of those calendar years, except that if casino simulcasting in Atlantic City begins after January 1, 1993 and before January 1, 1994, 2% of the parimutuel pool generated at the casino shall be paid to the commission for payment to the Atlantic City Racetrack until that portion of $100,000,000 determined by the following formula has been generated in wagering at casinos on simulcast races in 1993:

$$\frac{A}{B} = \frac{C}{D}$$

where: A = 365 minus (a) the number of racing days in 1993, other than live racing days, prior to the commencement of casino simulcasting in Atlantic City that the Atlantic City Racetrack conducts simulcasting under the provisions of the "Simulcasting Racing Act," P.L.1985, c.269 (C.5:5-110 et seq.) or the provisions of section 37 of P.L.1992, c.19 (C.5:5-125), and (b) the number of live racing days conducted by the Atlantic City Racetrack in 1993;

B = 365 (the number of calendar days in 1993);

C = the amount of the parimutuel pool generated in wagering on simulcast races in 1993 of which 2% is to be paid to the New Jersey Racing Commission for payment to the Atlantic City Racetrack;

D = $100,000,000;

d. of the amount remaining after the deduction of the amounts under subsections a., b., and c. from the amount of the takeout rate, 65% shall be paid to the casino during the first 18 months after the effective date of this act; 60% shall be paid to the casino during the next succeeding 12 months after that 18-month period; 55% shall be paid to the casino during the next succeeding 12 months after that 12-month period; and 50% shall be paid to the casino commencing with the 43rd month after the effective date; except that if, at any time during the 42-month period following the effective date, wagering on sports events is authorized by law and a casino commences such wagering, 50% shall be paid to the casino upon the commencement of such wagering by that casino;

e. .50% of the parimutuel pool generated at the casino shall be paid to the New Jersey Racing Commission and shall be deposited by that commission as follows:

(1) 50% in the special trust account established pursuant to or specified in section 46a.(2) of P.L.1940, c.17 (C.5:5-66), section 2b. of P.L.1984, c.236 (C.5:5-66.1), section 5a.(1) of P.L.1982, c.201 (C.5:5-98), or section 7f.(1)(a) of P.L.1971, c.137 (C.5:10-7), as appropriate, for use and distribution as provided in section 46a.(2)(a), (b), and (c) of P.L.1940, c.17 (C.5:5-66), section 2b.(1), (2), and (3) of P.L.1984, c.236 (C.5:5-66.1), section 5a.(1)(a), (b), and (c) of P.L.1982, c.201 (C.5:5-98), or section 7f.(1)(a)(i), (ii), and (iii) of P.L.1971, c.137 (C.5:10-7), as appropriate; and

(2) 50% in the special trust account established pursuant to or specified in section 46b.(1)(e) and (2)(e) of P.L.1940, c.17 (C.5:5-66), section 5b.(3) of P.L.1982, c.201 (C.5:5-98), or section 7f.(2)(c) of P.L.1971, c.137 (C.5:10-7), as appropriate, for use and distribution as provided therein;

f. .03% of the parimutuel pool generated at the casino shall be paid to the New Jersey Racing Commission and set aside in the special trust account for horse breeding and development for distribution and use as provided in section 5 of P.L.1967, c.40 (C.5:5-88); and

g. the amount remaining after the deduction of the amounts under subsections a., b., c., d., e., and f. from the amount of the takeout rate shall be distributed as follows:

(1) 43% of that remaining amount shall be paid to the New Jersey Racing Commission and shall be distributed by that commission, on the basis of the following formula, among the New Jersey racetracks for their own use:

$$\frac{A}{B} = \frac{C}{D}$$

where: A = the gross parimutuel pool generated at each racetrack during the preceding calendar year, including the parimutuel pool on simulcast races;

B = the gross parimutuel pool generated at racetracks Statewide during the preceding calendar year, including the parimutuel pool on simulcast races;

C = the amount to be paid to each racetrack from the moneys available for distribution pursuant to this paragraph;

D = the total amount of moneys available for distribution pursuant to this paragraph;

(2) 43% of that remaining amount shall be paid to the New Jersey Racing Commission and, subject to the provisions of section 14 of this act, shall be distributed by that commission, in the following year and on the basis of the following formula, among the New Jersey racetracks for payment as purse money and for programs designed to aid horsemen and horsemen's organizations as provided in section 46a.(4) of P.L.1940, c.17 (C.5:5-66), section 2d. of P.L.1984, c.236 (C.5:5-66.1), section 5a.(2) of P.L.1982, c.201 (C.5:5-98), or section 7f.(1)(b) of P.L.1971, c.137 (C.5:10-7), in the case of harness races, and section 46b.(1)(d) or 46b.(2)(d) of P.L.1940, c.17 (C.5:5-66), section 5b.(2) of P.L.1982, c.201 (C.5:5-98), or section 7f.(2)(b) of P.L.1971, c.137 (C.5:10-7), in the case of running races:

$$\frac{A}{B} = \frac{C}{D}$$

where: A = the total amount distributed by each racetrack pursuant to section 46a.(4) of P.L.1940, c.17 (C.5:5-66), section 2d. of P.L.1984, c.236 (C.5:5-66.1), section 5a.(2) of P.L.1982, c.201 (C.5:5-98), or section 7f.(1)(b) of P.L.1971, c.137 (C.5:10-7), in the case of harness races, or section 46b.(1)(d) or 46b.(2)(d) of P.L.1940, c.17 (C.5:5-66), section 5b.(2) of P.L.1982, c.201 (C.5:5-98), or section 7f.(2)(b) of P.L.1971, c.137 (C.5:10-7), in the case of running races, during the preceding calendar year, plus any additional amounts paid out by each racetrack for overnight purses during the preceding calendar year from the permit holder's share of the parimutuel pool;

B = the total amount distributed by racetracks Statewide pursuant to section 46a.(4) of P.L.1940, c.17 (C.5:5-66), section 2d. of P.L.1984, c.236 (C.5:5-66.1), section 5a.(2) of P.L.1982, c.201 (C.5:5-98), and section 7f.(1)(b) of P.L.1971, c.137 (C.5:10-7), in the case of harness races, and pursuant to section 46b.(1)(d) and 46b.(2)(d) of P.L.1940, c.17 (C.5:5-66), section 5b.(2) of P.L.1982, c.201 (C.5:5-98), and section 7f.(2)(b) of P.L.1971, c.137 (C.5:10-7), in the case of running races, during the preceding calendar year, plus any additional amounts paid out by racetracks for overnight purses during the preceding calendar year from the permit holders' share of the parimutuel pool;

C = the amount to be paid to each racetrack from the moneys available for distribution pursuant to this paragraph;

D = the total amount of moneys available for distribution pursuant to this paragraph; and

(3) 14% of that remaining amount shall be paid to the New Jersey Racing Commission for deposit in the Casino Simulcasting Special Fund established pursuant to section 15 of this act.

In addition, all breakage moneys and outstanding parimutuel ticket moneys resulting from the wagering at the casino shall be paid to the New Jersey Racing Commission and deposited in the Casino Simulcasting Special Fund.

If a racetrack conducts both harness races and running races, the moneys the racetrack receives for payment pursuant to paragraph (2) of subsection g. above shall be distributed on the basis of the following formula:

$$\frac{A}{B} = \frac{C}{D}$$

where: A = the total amount distributed by the racetrack pursuant to section 46a.(4) of P.L.1940, c.17 (C.5:5-66), section 2d. of P.L.1984, c.236 (C.5:5-66.1), section 5a.(2) of P.L.1982, c.201 (C.5:5-98), or section 7f.(1)(b) of P.L.1971, c.137 (C.5:10-7), as appropriate, in the case of harness races, plus any additional amounts paid out by the racetrack for overnight purses for harness races during the preceding calendar year from the permit holder's share of the parimutuel pool, or pursuant to section 46b.(1)(d) or 46b.(2)(d) of P.L.1940, c.17 (C.5:5-66), section 5b.(2) of P.L.1982, c.201 (C.5:5-98), or section 7f.(2)(b) of P.L.1971, c.137 (C.5:10-7), as appropriate, in the case of running races, plus any additional amounts paid out by the racetrack for overnight purses for running races during the preceding calendar year from the permit holder's share of the parimutuel pool, as the case may be;

B = the total amount distributed by the racetrack pursuant to section 46a.(4) of P.L.1940, c.17 (C.5:5-66), section 2d. of P.L.1984, c.236 (C.5:5-66.1), section 5a.(2) of P.L.1982, c.201 (C.5:5-98), or section 7f.(1)(b) of P.L.1971, c.137 (C.5:10-7), as appropriate, and pursuant to section 46b.(1)(d) or 46b.(2)(d) of P.L.1940, c.17 (C.5:5-66), section 5b.(2) of P.L.1982, c.201 (C.5:5-98), or section 7f.(2)(b) of P.L.1971, c.137 (C.5:10-7), as appropriate, plus any additional amounts paid out by the racetrack for overnight purses for both harness and running races during the preceding calendar year from the permit holder's share of the parimutuel pool;

C = the amount to be paid by the racetrack for overnight purse money and for programs designed to aid horsemen and horsemen's organizations as provided in section 46a.(4) of P.L.1940, c.17 (C.5:5-66), section 2d. of P.L.1984, c.236 (C.5:5-66.1), section 5a.(2) of P.L.1982, c.201

(C.5:5-98), or section 7f.(1)(b) of P.L.1971, c.137 (C.5:10-7), in the case of harness races, and section 46b.(1)(d) or 46b.(2)(d) of P.L.1940, c.17 (C.5:5-66), section 5b.(2) of P.L.1982, c.201 (C.5:5-98), or section 7f.(2)(b) of P.L.1971, c.137 (C.5:10-7), in the case of running races;

D = the total amount of moneys available to the racetrack for distribution as overnight purse money and for programs designed to aid horsemen and horsemen's organizations pursuant to this paragraph.

2. Section 15 of P.L.1992, c.19 (C.5:12-205) is amended to read as follows:

C.5:12-205 "Casino Simulcasting Special Fund" established.

15. The New Jersey Racing Commission shall establish and administer a separate fund to be known as the "Casino Simulcasting Special Fund," into which shall be deposited the sums dedicated to the fund by section 13 of this act.

Moneys deposited in the special fund shall be annually disbursed in their entirety by the New Jersey Racing Commission and used for the following purposes in the following order of priority:

a. Moneys in the special fund shall first be used to pay the difference between the amount paid to the Atlantic City Racetrack pursuant to subsection c. of section 13 of this act and $2,000,000 in each calendar year during calendar years 1993, 1994, and 1995, except that if casino simulcasting in Atlantic City begins after January 1, 1993 and before January 1, 1994, the amount to be paid for calendar year 1993 shall be the difference between the amount paid pursuant to subsection c. of that section 13 and that portion of $2,000,000 determined by the following formula:

$$\frac{A}{B} = \frac{C}{D}$$

where: A = 365 minus (a) the number of racing days in 1993, other than live racing days, prior to the commencement of casino simulcasting in Atlantic City that the Atlantic City Racetrack conducts simulcasting under the provisions of the "Simulcasting Racing Act," P.L.1985, c.269 (C.5:5-110 et seq.) or the provisions of section 37 of P.L.1992, c.19 (C.5:5-125), and (b) the number of live racing days conducted by the Atlantic City Racetrack in 1993;

B = 365 (the number of calendar days in 1993);

C = the total amount to be paid to the Atlantic City Racetrack;

D = $2,000,000.

b. From any amounts remaining after the payments required by subsection a. of this section are made, the New Jersey Racing Commission shall pay to each casino which began to conduct casino simulcasting within six months after the effective date of this act an amount equal to the breakage moneys and outstanding parimutuel ticket moneys resulting from wagering at the casino on simulcast horse races from out-of-State sending tracks during the first five years that the casino conducts casino simulcasting and 50% of these amounts thereafter.

c. From any amounts remaining after the payments required by subsections a. and b. of this section are made, the New Jersey Racing Commission shall pay to each casino which begins to conduct casino simulcasting later than six months after this act's effective date, including casinos established after that date, an amount equal to the breakage moneys and outstanding parimutuel tickets moneys resulting from wagering at the casino on simulcast horse races from out-of-State sending tracks during the first two years that the casino conducts casino simulcasting and 40% of these amounts thereafter.

d. From any amounts remaining after the payments required by subsections a., b. and c. of this section are made, the New Jersey Racing Commission shall compensate, in such amounts as that commission deems appropriate, the following entities in the following order of priority:

(1) any racetrack in this State which can demonstrate to the satisfaction of that commission that its financial well-being has been negatively affected by casino simulcasting;

(2) any racetrack in this State which that commission finds to be financially distressed;

(3) any horsemen's organization which will use the money to fund a project which that commission determines will be beneficial to the racing industry; and

(4) all racetracks located in this State on an equal basis.

3. Section 16 of P.L.1992, c.19 (C.5:12-206) is amended to read as follows:

C.5:12-206 Payments to Atlantic City Racetrack.

16. Payment to the Atlantic City Racetrack of sums provided by subsection c. of section 13 or subsection a. of section 15 of this act shall be made after the conclusion of each calendar year for calendar years 1993 through 1995. In order to be eligible to receive the

amounts provided by those subsections, the Atlantic City Racetrack shall not receive any simulcast horse race under the provisions of the "Simulcasting Racing Act," P.L.1985, c.269 (C.5:5-110 et seq.) or the provisions of section 37 of this act during any part of an applicable calendar year, or if casino simulcasting in Atlantic City begins after January 1, 1993 and before January 1, 1994 then during any part of 1993 after the commencement of casino simulcasting in Atlantic City, other than when a horse race meeting is being conducted at Atlantic City Racetrack pursuant to a permit issued by the New Jersey Racing Commission. If the Atlantic City Racetrack is not eligible to receive the amount provided by subsection c. of section 13, that amount shall be distributed on the basis of subsections d. and g. of section 13 of this act.

4. This act shall take effect immediately.

Approved December 24, 1992.

CHAPTER 200

AN ACT concerning property tax abatement ordinances and amending P.L.1991, c.441.

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

1. Section 10 of P.L.1991, c.441 (C.40A:21-10) is amended to read as follows:

C.40A:21-10 Formula for payments under tax agreements.

10. Upon adoption of an ordinance authorizing a tax agreement or agreements for a particular project or projects, the governing body may enter into written agreements with the applicants for the exemption and abatement of local real property taxes. An agreement shall provide for the applicant to pay to the municipality in lieu of full property tax payments an amount annually to be computed by one, but in no case a combination, of the following formulas:

a. Cost basis: the agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments an amount equal to 2% of the cost of the project. For the purposes of the agreement, "the cost of the project" means only the cost or fair market value of direct labor and all materials used in the construc-

tion, expansion, or rehabilitation of all buildings, structures, and facilities at the project site, including the costs, if any, of land acquisition and land preparation, provision of access roads, utilities, drainage facilities, and parking facilities, together with architectural, engineering, legal, surveying, testing, and contractors' fees associated with the project; which the applicant shall cause to be certified and verified to the governing body by an independent and qualified architect, following the completion of the project.

b. Gross revenue basis: the agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments an amount annually equal to 15% of the annual gross revenues from the project. For the purposes of the agreement, "annual gross revenues" means the total annual gross rental and other income payable to the owner of the project from the project. If in any leasing, any real estate taxes or assessments on property included in the project, any premiums for fire or other insurance on or concerning property included in the project, or any operating or maintenance expenses ordinarily paid by the landlord, are to be paid by the tenant, then those payments shall be computed and deemed to be part of the rent and shall be included in the annual gross revenue. The tax agreement shall establish the method of computing the revenues and may establish a method of arbitration by which either the landlord or tenant may dispute the amount of payments so included in the annual gross revenue.

c. Tax phase-in basis: the agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments an amount equal to a percentage of taxes otherwise due, according to the following schedule:

(1) In the first full tax year after completion, no payment in lieu of taxes otherwise due;

(2) In the second tax year, an amount not less than 20% of taxes otherwise due;

(3) In the third tax year, an amount not less than 40% of taxes otherwise due;

(4) In the fourth tax year, an amount not less than 60% of taxes otherwise due;

(5) In the fifth tax year, an amount not less than 80% of taxes otherwise due.

2. This act shall take effect immediately.

Approved December 24, 1992.

CHAPTER 201

AN ACT concerning instruction in chess and supplementing chapter 35 of Title 18A of the New Jersey Statutes.

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

C.18A:35-4.15 Findings, declarations.

1. The Legislature finds and declares that:

a. chess increases strategic thinking skills, stimulates intellectual creativity, and improves problem-solving ability while raising self esteem;

b. when youngsters play chess they must call upon higher-order thinking skills, analyze actions and consequences, and visualize future possibilities;

c. in countries where chess is offered widely in schools, students exhibit excellence in the ability to recognize complex patterns and consequently excel in math and science; and

d. instruction in chess during the second grade will enable pupils to learn skills which will serve them throughout their lives.

C.18A:35-4.16 Instruction in chess; guidelines.

2. Each board of education may offer instruction in chess during the second grade for pupils in gifted and talented and special education programs. The Department of Education may establish guidelines to be used by boards of education which offer chess instruction in those programs.

3. This act shall take effect immediately.

Approved December 24, 1992.

CHAPTER 202

AN ACT concerning computation of the unemployment insurance contribution rate of certain employers and supplementing chapter 21 of Title 43 of the Revised Statutes.

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

C.43:21-7.7 Reduced new employer contribution rate.

1. a. Notwithstanding any other provisions of the "unemployment compensation law," R.S.43:21-1 et seq., for the payment of contribu-

tions, an employer who transfers all or an approved part of its operations from another state to this State may qualify for a reduced new employer contribution rate until the employer establishes eligibility based on benefit experience within the State as provided in subsection (c) of R.S.43:21-7. A reduced new employer contribution rate of not less than 1.0% of taxable wages as defined in R.S. 43:21-7(b)(3) may be assigned for those operations, or any part thereof, as approved by the department, if the employer:

(1) As of January 31 immediately preceding the fiscal year within which that transfer occurs, has paid wages subject to the Federal Unemployment Tax Act, 26 U.S.C. §3301 et seq., for not less than 28 consecutive completed calendar quarters;

(2) Has acquired in the other state an employer reserve ratio of not less than 11% or an equivalent cumulative positive reserve balance experience with unemployment insurance contributions and benefits;

(3) Demonstrates to the satisfaction of the department that the employer reserve ratio acquired in the other state or equivalent cumulative reserve balance experience with unemployment insurance contributions and benefits acquired in the other state may be considered indicative of future employment experience in this State; and

(4) Certifies to the satisfaction of the department that at least 50 full-time jobs will be established at the New Jersey location within 180 days of the transfer of operations.

For the purposes of this subsection, "employer reserve ratio" means total employer contributions minus total benefits charged to the employer's account as a percentage of the employer's average annual payroll as defined in paragraph (2) of subsection (a) of R.S.43:21-19.

b. An employer shall, within 30 days of the transfer of operations to this State, apply to the department in a form and manner prescribed for determination of eligibility for a reduced new employer contribution rate. The department shall review the application and, if the employer qualifies, assign a reduced new employer contribution rate as set forth in the following table:

Fund Reserve Ratio	10.0% and Over	7.00% to 9.99%	4.00% to 6.99%	2.50% to 3.99%	0.00% to 2.49%	Less than 0.00%
Reduced New Employer Rate:	1.0	1.0	1.0	1.1	1.2	1.3

For the purposes of this subsection, "fund reserve ratio" means the unemployment trust fund balance as of March 31 as a percentage of the total taxable wages reported as of that date with respect to the prior calendar year. The employer may, within 30 days of receipt of notice of determination of such a rate, withdraw the request.

c. An employer applying for determination of a contribution rate pursuant to this section shall certify to the department that information with respect to wages, contributions and benefits in connection with the transferred operation, and any other information, as the department deems necessary. The employer shall furnish to the department, at those times and in the manner prescribed, that information with respect to those benefits paid after the transfer, and before each succeeding computation date, which were based on wages applicable to the transferred operations and paid in another state.

2. This act shall take effect immediately.

Approved December 24, 1992.

CHAPTER 203

AN ACT increasing the penalty for operating a motor vehicle under certain circumstances and amending R.S.39:3-40.

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

1. 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;

b. Upon conviction for a second offense, a fine of $750.00 and imprisonment in the county jail for not more than five days;

c. Upon conviction for a third offense, a fine of $1,000.00 and imprisonment in the county jail for 10 days;

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.

Notwithstanding subsections a. through e., any person violating this section while under suspension issued pursuant to R.S.39:4-50 or 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. This act shall take effect immediately.

Approved December 24, 1992.

CHAPTER 204

AN ACT concerning the permissible investments of qualified investment funds which may distribute tax-exempt interest or gain under the New Jersey gross income tax, amending P.L.1987, c.310.

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

1. Section 2 of P.L.1987, c.310 (C.54A:6-14.1) is amended to read as follows:

C.54A:6-14.1 Exemption of distributions of qualified investment fund.

2. Gross income shall not include distributions paid by a qualified investment fund, to the extent that the distributions are attributable to interest or gain from obligations described in N.J.S.54A:6-14.

For the purposes of this act, "qualified investment fund" means any investment company or trust registered with the Securities and

Exchange Commission, or any series of such investment company or trust, which for the calendar year in which the distribution is paid:

a. Has no investments other than interest-bearing obligations, obligations issued at a discount, and cash and cash items, including receivables, and financial options, futures, forward contracts, or other similar financial instruments related to interest-bearing obligations, obligations issued at a discount or bond indexes related thereto; and

b. Has not less than 80% of the aggregate principal amount of all of its investments, excluding financial options, futures, forward contracts, or other similar financial instruments related to interest-bearing obligations, obligations issued at a discount or bond indexes related thereto to the extent such instruments are authorized by section 851(b) of the federal Internal Revenue Code of 1986, 26 U.S.C. §851(b), cash and cash items, which cash items shall include receivables, in obligations described in N.J.S.54A:6-14.

For purposes of this section, "series" means a segregated portfolio of assets, the beneficial interests in which are owned by the holders of a class or series of stock or shares of the investment company or trust that is preferred over all other classes or series in respect to the portfolio of assets.

2. This act shall take effect immediately and be retroactive to January 1, 1992.

Approved December 24, 1992.

CHAPTER 205

AN ACT concerning unemployment insurance contributions and amending P.L.1971, c.346.

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

1. Section 4 of P.L.1971, c.346 (C.43:21-7.3) is amended to read as follows:

C.43:21-7.3 Governmental entities.

4. (a) Notwithstanding any other provisions of the "unemployment compensation law" for the payment of contributions, benefits

paid to individuals based upon wages earned in the employ of any governmental entity or instrumentality which is an employer defined under R.S.43:21-19(h)(5) shall, to the extent that such benefits are chargeable to the account of such governmental entity or instrumentality in accordance with the provisions of R.S.43:21-1 et seq., be financed by payments in lieu of contributions.

(b) Any governmental entity or instrumentality may, as an alternative to financing benefits by payments in lieu of contributions, elect to pay contributions beginning with the date on which its subjectivity begins by filing written notice of its election with the department no later than 120 days after such subjectivity begins, provided that such election shall be effective for at least two full calendar years; or it may elect to pay contributions for a period of not less than two calendar years beginning January 1 of any year if written notice of such election is filed with the department not later than February 1 of such year; provided, further, that such governmental entity or instrumentality shall remain liable for payments in lieu of contributions with respect to all benefits paid based on base year wages earned in the employ of such entity or instrumentality in the period during which it financed its benefits by payments in lieu of contributions.

(c) Any governmental entity or instrumentality may terminate its election to pay contributions as of January 1 of any year by filing written notice not later than February 1 of any year with respect to which termination is to become effective. It may not revert to a contributions method of financing for at least two full calendar years after such termination.

(d) Any governmental entity or instrumentality electing the option for contributions financing shall report and pay contributions in accordance with the provisions of R.S.43:21-7 except that, notwithstanding the provisions of that section, the contribution rate for such governmental entity or instrumentality shall be 1% for the entire calendar year 1978 and the contribution rate for any subsequent calendar years shall be the rate established for governmental entities or instrumentalities under subsection (e) of this section.

(e) On or before September 1 of each year, the Commissioner of Labor shall review the composite benefit cost experience of all governmental entities and instrumentalities electing to pay contributions and, on the basis of that experience, establish the contribution rate for the next following calendar year which can be expected to yield sufficient revenue in combination with worker contributions to equal or exceed the projected costs for that calendar year.

(f) Any covered governmental entity or instrumentality electing to pay contributions shall each year appropriate, out of its general funds, moneys to pay the projected costs of benefits at the rate determined under subsection (e) of this section. These funds shall be held in a trust fund maintained by the governmental entity for this purpose. Any surplus remaining in this trust fund may be retained in reserve for payment of benefit costs for subsequent years either by contributions or payments in lieu of contributions.

(g) Any governmental entity or instrumentality electing to finance benefit costs with payments in lieu of contributions shall pay into the fund an amount equal to all benefit costs for which it is liable pursuant to the provisions of the "unemployment compensation law." Each subject governmental entity or instrumentality shall require payments from its workers in the same manner and amount as prescribed under R.S.43:21-7(d) for governmental entities and instrumentalities financing their benefit costs with contributions. No such payment shall be used for a purpose other than to meet the benefits liability of such governmental entity or instrumentality. In addition, each subject governmental entity or instrumentality shall appropriate out of its general funds sufficient moneys which, in addition to any worker payments it requires, are necessary to pay its annual benefit costs estimated on the basis of its past benefit cost experience; provided that for its first year of coverage, its benefit costs shall be deemed to require an appropriation equal to 1% of the projected total of its taxable wages for the year. These appropriated moneys and worker payments shall be held in a trust fund maintained by the governmental entity or instrumentality for this purpose. Any surplus remaining in this trust fund shall be retained in reserve for payment of benefit costs in subsequent years. If a governmental entity or instrumentality requires its workers to make payments as authorized herein, such workers shall not be subject to the contributions required in R.S.43:21-7(d).

(h) Notwithstanding the provisions of the above subsection (g), commencing July 1, 1986 worker contributions to the unemployment trust fund with respect to wages paid by any governmental entity or instrumentality electing or required to make payments in lieu of contributions, including the State of New Jersey, shall be made in accordance with the provisions of R.S.43:21-7(d)(1)(C) and, in addition, each governmental entity or instrumentality electing or required to make payments in lieu of contributions shall, except during the period starting January 1, 1993 and ending December 31, 1995 or, if the unemployment compensation fund reserve ratio, as determined pursuant to paragraph (5) of subsection (c) of R.S.43:21-7, decreases

to a level of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, ending July 1 of that calendar year, require payments from its workers at the rate of 0.50% of wages paid, which amounts are to be held in the trust fund maintained by the governmental entity or instrumentality for payment of benefit costs.

2. This act shall take effect immediately.

Approved December 24, 1992.

CHAPTER 206

AN ACT concerning rental housing and amending P.L.1987, c.153.

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

1. Section 7 of P.L.1987, c.153 is amended to read as follows:

7. This act shall take effect immediately, and shall expire ten years following enactment, but the expiration of this act shall not affect any multiple dwelling for which an exemption from a rent control or rent leveling ordinance was afforded prior to the expiration date, but the period of exemption so afforded shall continue for the full period afforded under this act.

2. This act shall take effect immediately.

Approved December 28, 1992.

CHAPTER 207

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, 1993 and regulating the disbursement thereof," passed June 30, 1992 (P.L.1992, c.40).

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
20 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
30 Educational, Cultural and Intellectual Development
37 Cultural and Intellectual Development Services

10-2920 Public Broadcasting Services..		$974,690
Special Purpose:		
Transmitter Replacement Program-Channel 23.....	($555,690)	
Transmitter Replacement Program-Channel 58.....	($419,000)	

2. This act shall take effect immediately.

Approved December 28, 1992.

CHAPTER 208

AN ACT concerning Medicaid eligibility for certain Medicare beneficiaries and amending P.L.1968, c.413.

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

1. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read as follows:

C.30:4D-3 Definitions.

3. Definitions. As used in this act, and unless the context otherwise requires:

a. "Applicant" means any person who has made application for purposes of becoming a "qualified applicant."

b. "Commissioner" means the Commissioner of Human Services.

c. "Department" means the Department of Human Services, which is herein designated as the single State agency to administer the provisions of this act.

d. "Director" means the Director of the Division of Medical Assistance and Health Services.

e. "Division" means the Division of Medical Assistance and Health Services.

f. "Medicaid" means the New Jersey Medical Assistance and Health Services Program.

g. "Medical assistance" means payments on behalf of recipients to providers for medical care and services authorized under this act.

h. "Provider" means any person, public or private institution, agency or business concern approved by the division lawfully providing medical care, services, goods and supplies authorized under this act, holding, where applicable, a current valid license to provide such services or to dispense such goods or supplies.

i. "Qualified applicant" means a person who is a resident of this State and is determined to need medical care and services as provided under this act, and who:

(1) Is a recipient of Aid to Families with Dependent Children;

(2) Is a recipient of Supplemental Security Income for the Aged, Blind and Disabled under Title XVI of the Social Security Act;

(3) Is an "ineligible spouse" of a recipient of Supplemental Security Income for the Aged, Blind and Disabled under Title XVI of the Social Security Act, as defined by the federal Social Security Administration;

(4) Would be eligible to receive public assistance under a categorical assistance program except for failure to meet an eligibility condition or requirement imposed under such State program which is prohibited under Title XIX of the federal Social Security Act such as a durational residency requirement, relative responsibility, consent to imposition of a lien;

(5) Is a child between 18 and 21 years of age who would be eligible for Aid to Families with Dependent Children, living in the family group except for lack of school attendance or pursuit of formalized vocational or technical training;

(6) Is an individual under 21 years of age who qualifies for categorical assistance on the basis of financial eligibility, but does not qualify as a dependent child under the State's program of Aid to Families with Dependent Children (AFDC), or groups of such individuals, including but not limited to, children in foster placement under supervision of the Division of Youth and Family

Services whose maintenance is being paid in whole or in part from public funds, children placed in a foster home or institution by a private adoption agency in New Jersey or children in intermediate care facilities, including institutions for the mentally retarded, or in psychiatric hospitals;

(7) Meets the standard of need applicable to his circumstances under a categorical assistance program or Supplemental Security Income program, but is not receiving such assistance and applies for medical assistance only;

(8) Is determined to be medically needy and meets all the eligibility requirements described below:

(a) The following individuals are eligible for services, if they are determined to be medically needy:

(i) Pregnant women;

(ii) Dependent children under the age of 21;

(iii) Individuals who are 65 years of age and older; and

(iv) Individuals who are blind or disabled pursuant to either 42 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

(b) The following income standard shall be used to determine medically needy eligibility:

(i) For one person and two person households, the income standard shall be the maximum allowable under federal law, but shall not exceed 133 1/3% of the State's payment level to two person households eligible to receive assistance pursuant to P.L.1959, c.86 (C.44:10-1 et seq.); and

(ii) For households of three or more persons, the income standard shall be set at 133 1/3% of the State's payment level to similar size households eligible to receive assistance pursuant to P.L.1959, c.86 (C.44:10-1 et seq.).

(c) The following resource standard shall be used to determine medically needy eligibility:

(i) For one person households, the resource standard shall be 200% of the resource standard for recipients of Supplemental Security Income pursuant to 42 U.S.C.§1382(1)(B);

(ii) For two person households, the resource standard shall be 200% of the resource standard for recipients of Supplemental Security Income pursuant to 42 U.S.C.§1382(2)(B);

(iii) For households of three or more persons, the resource standard in subparagraph (c)(ii) above shall be increased by $100.00 for each additional person; and

(iv) The resource standards established in (i), (ii), and (iii) are subject to federal approval and the resource standard may be lower if required by the federal Department of Health and Human Services.

(d) Individuals whose income exceeds those established in subparagraph (b) of paragraph (8) of this subsection may become medically needy by incurring medical expenses as defined in 42 C.F.R.435.831(c) which will reduce their income to the applicable medically needy income established in subparagraph (b) of paragraph (8) of this subsection.

(e) A six-month period shall be used to determine whether an individual is medically needy.

(f) Eligibility determinations for the medically needy program shall be administered as follows:

(i) County welfare agencies are responsible for determining and certifying the eligibility of pregnant women and dependent children. The division shall reimburse county welfare agencies for 100% of the reasonable costs of administration which are not reimbursed by the federal government for the first 12 months of this program's operation. Thereafter, 75% of the administrative costs incurred by county welfare agencies which are not reimbursed by the federal government shall be reimbursed by the division;

(ii) The division is responsible for certifying the eligibility of individuals who are 65 years of age and older and individuals who are blind or disabled. The division may enter into contracts with county welfare agencies to determine certain aspects of eligibility. In such instances the division shall provide county welfare agencies with all information the division may have available on the individual.

The division shall notify all eligible recipients of the Pharmaceutical Assistance to the Aged and Disabled program, P.L.1975, c.194 (C.30:4D-20 et seq.) on an annual basis of the medically needy program and the program's general requirements. The division shall take all reasonable administrative actions to ensure that Pharmaceutical Assistance to the Aged and Disabled recipients, who notify the division that they may be eligible for the program, have their applications processed expeditiously, at times and locations convenient to the recipients; and

(iii) The division is responsible for certifying incurred medical expenses for all eligible persons who attempt to qualify for the program pursuant to subparagraph (d) of paragraph (8) of this subsection;

(9) (a) Is a child who is at least one year of age and under six years of age; and

(b) Is a member of a family whose income does not exceed 133% of the poverty level and who meets the federal Medicaid eligibility requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.§1396a);

(10) Is a pregnant woman who is determined by a provider to be presumptively eligible for medical assistance based on criteria established by the commissioner, pursuant to section 9407 of Pub.L.99-509 (42 U.S.C.§1396a(a));

(11) Is an individual 65 years of age and older, or an individual who is blind or disabled pursuant to section 301 of Pub.L.92-603 (42 U.S.C.§1382c), whose income does not exceed 100% of the poverty level, adjusted for family size, and whose resources do not exceed 100% of the resource standard used to determine medically needy eligibility pursuant to paragraph (8) of this subsection;

(12) Is a qualified disabled and working individual pursuant to section 6408 of Pub.L.101-239 (42 U.S.C.§1396d) whose income does not exceed 200% of the poverty level and whose resources do not exceed 200% of the resource standard used to determine eligibility under the Supplemental Security Income Program, P.L.1973, c.256 (C.44:7-85 et seq.);

(13) Is a pregnant woman or is a child who is under one year of age and is a member of a family whose income does not exceed 185% of the poverty level and who meets the federal Medicaid eligibility requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C. §1396a), except that a pregnant woman who is determined to be a qualified applicant shall, notwithstanding any change in the income of the family of which she is a member, continue to be deemed a qualified applicant until the end of the 60-day period beginning on the last day of her pregnancy;

(14) Is a child born after September 30, 1983 who has attained six years of age but has not attained 19 years of age and is a member of a family whose income does not exceed 100% of the poverty level; or

(15) Is a specified low-income medicare beneficiary pursuant to 42 U.S.C. §1396a(a)10(E)iii whose resources beginning January 1, 1993 do not exceed 200% of the resource standard used to determine eligibility under the Supplemental Security Income program, P.L.1973, c.256 (C.44:7-85 et seq.) and whose income beginning January 1, 1993 does not exceed 110% of the poverty level, and beginning January 1, 1995 does not exceed 120% of the poverty level.

An individual who has, within 30 months of applying to be a qualified applicant for Medicaid services in a nursing facility or a medical institution, or for home or community-based services under section

1915(c) of the federal Social Security Act (42 U.S.C.§1396n(c)), disposed of resources for less than fair market value shall be ineligible for assistance for nursing facility services, an equivalent level of services in a medical institution, or home or community-based services under section 1915(c) of the federal Social Security Act (42 U.S.C.§1396n(c)). The period of the ineligibility shall be the lesser of 30 months or the number of months resulting from dividing the uncompensated value of the transferred resources by the average monthly private payment rate for nursing facility services in the State as determined annually by the commissioner.

j. Recipient" means any qualified applicant receiving benefits under this act.

k. "Resident" means a person who is living in the State voluntarily with the intention of making his home here and not for a temporary purpose. Temporary absences from the State, with subsequent returns to the State or intent to return when the purposes of the absences have been accomplished, do not interrupt continuity of residence.

l. "State Medicaid Commission" means the Governor, the Commissioner of Human Services, the President of the Senate and the Speaker of the General Assembly, hereby constituted a commission to approve and direct the means and method for the payment of claims pursuant to this act.

m. "Third party" means any person, institution, corporation, insurance company, public, private or governmental entity who is or may be liable in contract, tort, or otherwise by law or equity to pay all or part of the medical cost of injury, disease or disability of an applicant for or recipient of medical assistance payable under this act.

n. "Governmental peer grouping system" means a separate class of skilled nursing and intermediate care facilities administered by the State or county governments, established for the purpose of screening their reported costs and setting reimbursement rates under the Medicaid program that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated State or county skilled nursing and intermediate care facilities.

o. "Comprehensive maternity or pediatric care provider" means any person or public or private health care facility that is a provider and that is approved by the commissioner to provide comprehensive maternity care or comprehensive pediatric care as defined in subsection b. (18) and (19) of section 6 of P.L.1968, c.413 (C.30:4D-6).

p. "Poverty level" means the official poverty level based on family size established and adjusted under Section 673(2) of Sub-

title B, the "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C.§9902(2)).

2. Section 6 of P.L.1968, c.413 (C.30:4D-6) is amended to read as follows:

C.30:4D-6 Basic medical care and services.

6. a. Subject to the requirements of Title XIX of the federal Social Security Act, the limitations imposed by this act and by the rules and regulations promulgated pursuant thereto, the department shall provide medical assistance to qualified applicants, including authorized services within each of the following classifications:

(1) Inpatient hospital services;

(2) Outpatient hospital services;

(3) Other laboratory and X-ray services;

(4) (a) Skilled nursing or intermediate care facility services;

(b) Such early and periodic screening and diagnosis of individuals who are eligible under the program and are under age 21, to ascertain their physical or mental defects and such health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby, as may be provided in regulations of the Secretary of the federal Department of Health and Human Services and approved by the commissioner;

(5) Physician's services furnished in the office, the patient's home, a hospital, a skilled nursing or intermediate care facility or elsewhere.

b. Subject to the limitations imposed by federal law, by this act, and by the rules and regulations promulgated pursuant thereto, the medical assistance program may be expanded to include authorized services within each of the following classifications:

(1) Medical care not included in subsection a.(5) above, or any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice, as defined by State law;

(2) Home health care services;

(3) Clinic services;

(4) Dental services;

(5) Physical therapy and related services;

(6) Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;

(7) Optometric services;

(8) Podiatric services;

(9) Chiropractic services;

(10) Psychological services;

(11) Inpatient psychiatric hospital services for individuals under 21 years of age, or under age 22 if they are receiving such services immediately before attaining age 21;

(12) Other diagnostic, screening, preventive, and rehabilitative services, and other remedial care;

(13) Inpatient hospital services, skilled nursing facility services and intermediate care facility services for individuals 65 years of age or over in an institution for mental diseases;

(14) Intermediate care facility services;

(15) Transportation services;

(16) Services in connection with the inpatient or outpatient treatment or care of drug abuse, when the treatment is prescribed by a physician and provided in a licensed hospital or in a narcotic and drug abuse treatment center approved by the Department of Health pursuant to P.L.1970, c.334 (C.26:2G-21 et seq.) and whose staff includes a medical director, and limited to those services eligible for federal financial participation under Title XIX of the federal Social Security Act;

(17) Any other medical care and any other type of remedial care recognized under State law, specified by the Secretary of the federal Department of Health and Human Services, and approved by the commissioner;

(18) Comprehensive maternity care, which may include: the basic number of prenatal and postpartum visits recommended by the American College of Obstetrics and Gynecology; additional prenatal and postpartum visits that are medically necessary; necessary laboratory, nutritional assessment and counseling, health education, personal counseling, managed care, outreach and follow-up services; treatment of conditions which may complicate pregnancy; and physician or certified nurse-midwife delivery services;

(19) Comprehensive pediatric care, which may include: ambulatory, preventive and primary care health services. The preventive services shall include, at a minimum, the basic number of preventive visits recommended by the American Academy of Pediatrics;

(20) Services provided by a hospice which is participating in the Medicare program established pursuant to Title XVIII of the Social Security Act, Pub.L.89-97 (42 U.S.C.§1395 et seq.). Hospice services shall be provided subject to approval of the Secretary of the federal Department of Health and Human Services for federal reimbursement;

(21) Mammograms, subject to approval of the Secretary of the federal Department of Health and Human Services for federal reimbursement, including one baseline mammogram for women who are at least 35 but less than 40 years of age; one mammogram examination every two years or more frequently, if recommended by a physician, for women who are at least 40 but less than 50 years of age; and one mammogram examination every year for women age 50 and over.

c. Payments for the foregoing services, goods and supplies furnished pursuant to this act shall be made to the extent authorized by this act, the rules and regulations promulgated pursuant thereto and, where applicable, subject to the agreement of insurance provided for under this act. Said payments shall constitute payment in full to the provider on behalf of the recipient. Every provider making a claim for payment pursuant to this act shall certify in writing on the claim submitted that no additional amount will be charged to the recipient, his family, his representative or others on his behalf for the services, goods and supplies furnished pursuant to this act.

No provider whose claim for payment pursuant to this act has been denied because the services, goods or supplies were determined to be medically unnecessary shall seek reimbursement from the recipient, his family, his representative or others on his behalf for such services, goods and supplies provided pursuant to this act; provided, however, a provider may seek reimbursement from a recipient for services, goods or supplies not authorized by this act, if the recipient elected to receive the services, goods or supplies with the knowledge that they were not authorized.

d. Any individual eligible for medical assistance (including drugs) may obtain such assistance from any person qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability on a prepayment basis), who undertakes to provide him such services.

No copayment or other form of cost-sharing shall be imposed on any individual eligible for medical assistance, except as mandated by federal law as a condition of federal financial participation.

e. Anything in this act to the contrary notwithstanding, no payments for medical assistance shall be made under this act with respect to care or services for any individual who:

(1) Is an inmate of a public institution (except as a patient in a medical institution); provided, however, that an individual who is otherwise eligible may continue to receive services for the month

in which he becomes an inmate, should the commissioner determine to expand the scope of Medicaid eligibility to include such an individual, subject to the limitations imposed by federal law and regulations, or

(2) Has not attained 65 years of age and who is a patient in an institution for mental diseases, or

(3) Is over 21 years of age and who is receiving inpatient psychiatric hospital services in a psychiatric facility; provided, however, that an individual who was receiving such services immediately prior to attaining age 21 may continue to receive such services until he reaches age 22. Nothing in this subsection shall prohibit the commissioner from extending medical assistance to all eligible persons receiving inpatient psychiatric services; provided that there is federal financial participation available.

f. Any provision in a contract of insurance, will, trust agreement or other instrument which reduces or excludes coverage or payment for goods and services to an individual because of that individual's eligibility for or receipt of Medicaid benefits shall be null and void, and no payments shall be made under this act as a result of any such provision.

g. The following services shall be provided to eligible medically needy individuals as follows:

(1) Pregnant women shall be provided prenatal care and delivery services and postpartum care, including the services cited in subsection a.(1), (3) and (5) of section 6 of P.L.1968, c.413 (C.30:4D-6) and subsection b.(1)-(10), (12), (15) and (17) of section 6 of P.L.1968, c.413 (C.30:4D-6).

(2) Dependent children shall be provided with services cited in subsection a.(3) and (5) of section 6 of P.L.1968, c.413 (C.30:4D-6) and subsection b.(1), (2), (3), (4), (5), (6), (7), (10), (12), (15) and (17) of section 6 of P.L.1968, c.413 (C.30:4D-6).

(3) Individuals who are 65 years of age or older shall be provided with services cited in subsection a.(3) and (5) of section 6 of P.L.1968, c.413 (C.30:4D-6) and subsection b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10), (12), (15) and (17) of section 6 of P.L.1968, c.413 (C.30:4D-6).

(4) Individuals who are blind or disabled shall be provided with services cited in subsection a.(3) and (5) of section 6 of P.L.1968, c.413 (C.30:4D-6) and subsection b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10), (12), (15) and (17) of section 6 of P.L.1968, c.413 (C.30:4D-6).

(5) (a) Inpatient hospital services, subsection a.(1) of section 6 of P.L.1968, c.413 (C.30:4D-6), shall only be provided to eligible medically needy individuals, other than pregnant women, if the federal Department of Health and Human Services discontinues the State's waiver to establish inpatient hospital reimbursement rates for the Medicare and Medicaid programs under the authority of section 601(c)(3) of the Social Security Act Amendments of 1983, Pub.L.98-21 (42 U.S.C.§1395ww(c)(5)). Inpatient hospital services may be extended to other eligible medically needy individuals if the federal Department of Health and Human Services directs that these services be included.

(b) Outpatient hospital services, subsection a.(2) of section 6 of P.L.1968, c.413 (C.30:4D-6), shall only be provided to eligible medically needy individuals if the federal Department of Health and Human Services discontinues the State's waiver to establish outpatient hospital reimbursement rates for the Medicare and Medicaid programs under the authority of section 601(c)(3) of the Social Security Amendments of 1983, Pub.L.98-21 (42 U.S.C.§1395ww(c)(5)). Outpatient hospital services may be extended to all or to certain medically needy individuals if the federal Department of Health and Human Services directs that these services be included. However, the use of outpatient hospital services shall be limited to clinic services and to emergency room services for injuries and significant acute medical conditions.

(c) The division shall monitor the use of inpatient and outpatient hospital services by medically needy persons.

h. In the case of a qualified disabled and working individual pursuant to section 6408 of Pub.L.101-239 (42 U.S.C.§1396d), the only medical assistance provided under this act shall be the payment of premiums for Medicare part A under 42 U.S.C.§1395i-2 and §1395r.

i. In the case of a specified low-income medicare beneficiary pursuant to 42 U.S.C. §1396a(a)10(E)iii, the only medical assistance provided under this act shall be the payment of premiums for Medicare part B under 42 U.S.C.§1395r as provided for in 42 U.S.C.§1396d(p)(3)(A)(ii).

3. This act shall take effect immediately.

Approved December 28, 1992.

CHAPTER 209

AN ACT creating the crime of stalking 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:12-10 Definitions; "stalking" designated a crime.

1. a. As used in this act:

(1) "Course of conduct" means a knowing and willful course of conduct directed at a specific person, composed of a series of acts over a period of time, however short, evidencing a continuity of purpose which alarms or annoys that person and which serves no legitimate purpose. The course of conduct must be such as to cause a reasonable person to suffer emotional distress. Constitutionally protected activity is not included within the meaning of "course of conduct."

(2) "Credible threat" means an explicit or implicit threat made with the intent and the apparent ability to carry out the threat, so as to cause the person who is the target of the threat to reasonably fear for that person's safety.

b. A person is guilty of stalking, a crime of the fourth degree, if he purposely and repeatedly follows another person and engages in a course of conduct or makes a credible threat with the intent of annoying or placing that person in reasonable fear of death or bodily injury.

c. A person is guilty of a crime of the third degree if he commits the crime of stalking in violation of an existing court order prohibiting the behavior.

d. A person who commits a second or subsequent offense of stalking which involves an act of violence or a credible threat of violence against the same victim is guilty of a crime of the third degree.

e. This act shall not apply to conduct which occurs during organized group picketing.

2. This act shall take effect immediately.

Approved January 5, 1993.

CHAPTER 210

AN ACT concerning the New Jersey Waterfowl Stamp and amending P.L.1983, c.504.

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

1. Section 2 of P.L.1983, c.504 (C.23:3-76) is amended to read as follows:

C.23:3-76 New Jersey Waterfowl Stamp.

2. a. No person over the age of 16 shall at any time hunt, pursue, kill, take, possess, or attempt to take with a firearm, bow and arrow, or any other method any ducks, geese, brant, or other waterfowl without procuring a New Jersey Waterfowl Stamp, as hereinafter provided, in addition to any other licenses or permits required under Title 23 of the Revised Statutes.

b. The stamp issued pursuant to this act shall be designated the New Jersey Waterfowl Stamp, shall be required to be in the possession of any person engaged in hunting, pursuing, killing, taking, possessing, or attempting to take with a firearm, bow and arrow, or any other method any ducks, geese, brant, or other waterfowl, and shall be exhibited upon the request of any conservation officer, deputy conservation officer, or other law enforcement official.

c. This section shall not apply to any person engaged in hunting, pursuing, killing, taking, possessing, or attempting to take captive-reared mallard ducks, properly marked in accordance with federal regulations, on a commercial shooting preserve.

2. Section 3 of P.L.1983, c.504 (C.23:3-77) is amended to read as follows:

C.23:3-77 Procurement; fee.

3. The New Jersey Waterfowl Stamp shall be procured from the Division of Fish, Game and Wildlife, or from other designated agents deemed qualified by the Division of Fish, Game and Wildlife. The annual fee for the New Jersey Waterfowl Stamp shall be $5.00 for persons without a valid New Jersey resident's firearm hunting or bow and arrow license, and $2.50 for persons possessing a valid New Jersey resident's firearm hunting or bow and arrow license. A New Jersey Waterfowl Stamp shall not be valid unless it is in the possession of the licensee and contains the signature of the licensee written in ink across the face of the stamp. All New Jersey Waterfowl Stamps shall expire on June 30 of each year, unless otherwise prescribed in the State Fish and Game Code.

Any person may procure the $2.50 and $5.00 New Jersey Waterfowl Stamps at their face value for collection purposes only.

3. Section 5 of P.L.1983, c.504 (C.23:3-79) is amended to read as follows:

C.23:3-79 New Jersey Waterfowl Stamp Account.

5. There is established within the "hunters' and anglers' license fund" referred to in R.S.23:3-11 and R.S.23:3-12, a separate and dedicated account to be known as the New Jersey Waterfowl Stamp Account. The New Jersey Waterfowl Stamp Account shall be credited with all revenues received by the Division of Fish, Game and Wildlife from the sale of New Jersey Waterfowl Stamps, all revenues received by the Division of Fish, Game and Wildlife from the sale of any reproduction, replica, or other utilization of the design of the New Jersey Waterfowl Stamp, and all moneys or property received by the Division of Fish, Game and Wildlife for any purpose enumerated in this section. Moneys in the account shall be utilized by the Commissioner of the Department of Environmental Protection, after consultation with the New Jersey Migratory Waterfowl Advisory Committee, only for funding the acquisition, protection, maintenance, improvement, and enhancement of waterfowl habitat and associated wetlands, including but not limited to wetlands, tributaries, marsh fringe areas, and access sites for public use of waterfowl habitat areas. The Department of Environmental Protection may, upon the recommendation of the New Jersey Migratory Waterfowl Advisory Committee, allocate a percentage of the annual revenue from the New Jersey Waterfowl Stamp Account to qualified nonprofit organizations in North America for utilization in their waterfowl habitat programs, provided that direct benefits to New Jersey waterfowl protection and preservation efforts can be clearly demonstrated. The New Jersey Waterfowl Stamp Account shall be kept separate and apart from all other funds and accounts, and shall be disbursed by the State Treasurer to the Department of Environmental Protection only for the purposes identified in this section.

4. This act shall take effect immediately.

Approved January 6, 1993.

CHAPTER 211

AN ACT concerning the incarceration of certain juveniles, and supplementing P.L.1982, c.77 (C.2A:4A-20 et seq.).

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

C.2A:4A-44.1 State incarceration of juveniles in county juvenile detention facilities.

1. The Department of Corrections may enter into an agreement with any county concerning the use of that county's juvenile detention facility for the housing of juveniles the court has placed under the custody of the department for placement in State correctional facilities only if the county's juvenile detention facility is not over its maximum rated capacity.

Unless the contract otherwise provides or the Commissioner of Corrections so directs in order to provide for the secure and orderly operation of the facility, a juvenile placed in a county detention facility pursuant to the provisions of this act shall not be segregated from the juveniles otherwise placed in the county detention facility or excluded from any program or activity offered in that facility.

Any contract entered into pursuant to this section shall ensure that educational, vocational, mental health, health and rehabilitative services are provided to the juveniles and that these services are, at minimum, equivalent to those provided to adjudicated juveniles in State-operated facilities.

2. This act shall take effect on the first day of the third month following enactment, except that the Department of Corrections may take such anticipatory administrative action as shall be necessary for the implementation of this act.

Approved January 6, 1993.

CHAPTER 212

AN ACT concerning the budget message to be transmitted by the Governor to the Legislature for the fiscal year ending June 30, 1994.

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

1. Notwithstanding the provisions of any other law to the contrary, the Governor shall transmit his budget message for the fiscal year ending June 30, 1994 to the Legislature on or before February 9, 1993.

2. This act shall take effect immediately.

Approved January 6, 1993.

CHAPTER 213

AN ACT concerning beaches and shores and supplementing Title 13 of the Revised Statutes.

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

C.13:19-22 Short title.

1. This act shall be known, and may be cited, as the "New Jersey Adopt a Beach Act."

C.13:19-23 Findings, determinations.

2. The Legislature finds and determines:

a. The presence of debris, litter, floatable waste, and other refuse in the ocean waters has an adverse impact on the quality of those waters and on sea mammals and other marine life;

b. Programs involving public participation can be an integral part of a Statewide strategy to combat the deleterious effects of ocean pollution, and can contribute to the goal of achieving a pollution free environment with the hope that in the future, cleanups of this nature will no longer be required;

c. "Adopt a beach" programs, which provide for citizen cleanups of beaches and shores of debris, litter, floatable waste, and other refuse, have been enthusiastically received in other states, and have proved useful in the continuing effort to remove potential pollutants from ocean waters; and

d. It is in the public interest and in furtherance of the general welfare of the people of this State to establish an "Adopt a Beach" program in the Department of Environmental Protection.

C.13:19-24 Definitions.

3. As used in this act:

"Department" means the Department of Environmental Protection.

"Program volunteer" means any group, organization, business, or individual who has adopted a section of beach or shore for cleanup in accordance with this act.

C.13:19-25 Establishment of "Adopt a Beach" program.

4. The department shall, within 180 days of the effective date of this act, establish an "Adopt a Beach" program. The purpose of the program shall be to utilize volunteer labor in a cooperative effort with State and local government to periodically clear the public beaches and shores of the State of debris, litter, floatable waste, and other refuse.

C.13:19-26 Duties of department.

5. a. The department shall:

(1) Develop a packet of information and instructions, and, within the limits of funds made available therefor, provide cleanup supplies, for use by program volunteers in cleaning up beaches and shores in accordance with this act;

(2) Coordinate with program volunteers and appropriate local government officials in arranging for the disposal, and to the maximum extent practicable and feasible, the recycling, of debris, litter, floatable waste, and other refuse collected by program volunteers;

(3) Advertise and promote the "Adopt a Beach" program, and develop and utilize such slogans, symbols, and mascots as the department may deem expedient for such purposes;

(4) Coordinate the operation of the "Adopt a Beach" program with the responsibilities of the department and the Department of Education to prepare and distribute educational materials concerning the deleterious effects of plastics and other forms of pollution on the marine environment pursuant to the "Clean Ocean Education Act," P.L.1988, c.62 (C.58:10A-52 et seq.);

(5) Cooperate with the Department of Corrections on any program established by law or by that department that utilizes prisoners to clean up or maintain beaches or shores;

(6) Provide notice of the provisions of this act to every coastal municipality in the State; and

(7) Organize, coordinate, and designate the dates for two annual coastwide beach and shore cleanups, one in the Spring and one in the Fall, in which all program volunteers shall be asked to participate, and which shall be in addition to any other cleanup activities that program volunteers may undertake.

b. The department may:

(1) Prepare or use from existing environmental advocacy group sources, data cards to be distributed to program volunteers to record information on the amounts and types of debris, litter, floatable waste, and other refuse collected, and such other information as the department may deem useful;

(2) Utilize the information derived from data cards distributed to program volunteers to formulate recommendations to the Governor and the Legislature for administrative or legislative action to effectuate the goal of preventing ocean pollution; and

(3) Issue to each program volunteer an adoption certificate, and, within the limits of funds made available therefor, provide a sign indicating the name of the participating group, organization, business, or individual for placement, if not otherwise prohibited by law or municipal ordinance, at an appropriate point on the public road providing access to the section of beach or shore adopted by the program volunteer, or at such other point as the department may prescribe.

C.13:19-27 Notification to department; assignment of section of beach, shore.

6. a. Any group, organization, business, or individual interested in adopting a section of beach or shore for cleanup in accordance with this act shall notify the department. Such notification may include a request to adopt, if possible, a specified section of beach or shore. Upon receipt of a notification of interest, the department shall: (1) assign an appropriate section of beach or shore to that group, organization, business, or individual for adoption; (2) notify the group, organization, business, or individual of that assignment and provide thereto the materials required to be prepared pursuant to paragraph (1) of subsection a. of section 5 of this act.

b. Upon receipt from the department of notification of its assigned section of beach or shore, the program volunteer shall notify the clerk of the municipality within which the assigned section of beach or shore is located so that the municipality will be aware of the program volunteer's activities and may, at its discretion, provide assistance.

c. (1) An adopted section of beach or shore shall be approximately one mile in length, but other lengths may be permitted depending upon the desires and capabilities of the program volunteer, the amount of waste that may be expected to be collected, or the accessibility of the section of beach or shore.

(2) The adoption period for a section of beach or shore shall be one year, but a program volunteer may renew its participation in

the program by notifying the department annually at such time as shall be specified therefor by the department.

C.13:19-28 Other cleanup activities permitted.

7. Nothing in this act shall be construed to prohibit any person from cleaning up any section of beach or shore, regardless of whether or not it has been adopted for cleanup in accordance with this act.

C.13:19-29 Immunity; waiver; volunteers not considered public employees.

8. a. No department, agency, bureau, board, commission, authority, or other entity of the State, or of any county or municipality, and no employee thereof, shall be liable to any person for any injury or damages that may be caused or sustained by a program volunteer during an "Adopt a Beach" event or activity.

As a condition of participating in the program, a prospective program volunteer shall sign a waiver releasing the department, the State, and any other appropriate governmental entity, and all employees thereof, from liability for any injury or damages that may be caused or sustained by that volunteer during an "Adopt a Beach" event or activity.

b. A program volunteer shall not be considered a "public employee" or "State employee" for purposes of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., or otherwise be accorded any of the protections set forth therein.

C.13:19-30 Donations.

9. Any person may donate to the department, or to a county or municipality, funds, supplies, or services for use in the "Adopt a Beach" program, and the department and any county or municipality are authorized to accept such donations.

10. This act shall take effect immediately.

Approved January 7, 1993.

CHAPTER 214

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

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

1. Section 4 of P.L.1979, c.150 (C.27:25-4) is amended to read as follows:

C.27:25-4 New Jersey Transit Corporation established; board; powers.

4. a. There is hereby established in the Executive Branch of the State Government the New Jersey Transit Corporation, a body corporate and politic with corporate succession. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the corporation is hereby allocated within the Department of Transportation, but, notwithstanding said allocation, the corporation shall be independent of any supervision or control by the department or by any body or officer thereof. The corporation is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the corporation of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

b. The corporation shall be governed by a board which shall consist of seven members including the Commissioner of Transportation and the State Treasurer, who shall be members ex officio, another member of the Executive Branch to be selected by the Governor who shall also serve ex officio, and four other public members who shall be appointed by the Governor, with the advice and consent of the Senate, for four year staggered terms and until their successors are appointed and qualified. No more than two of the public members shall be members of the same political party. At least one public member shall be a regular public transportation rider. Each public member may be removed from office by the Governor for cause. A vacancy in the membership of the board occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only. The first appointments shall be for one, two, three and four years respectively, and thereafter for terms of four years as stated. The board shall annually designate a vice chairman and secretary. The secretary need not be a member.

c. Board members other than those serving ex officio shall serve without compensation, but members shall be reimbursed for actual expenses necessarily incurred in the performance of their duties.

d. The Commissioner of Transportation shall serve as chairman of the board. He shall chair board meetings and shall have responsibility for the scheduling and convening of all meetings of the board. In his absence, the vice chairman shall chair the board meeting. Each ex officio member of the board may designate two employees of his department or agency, one of whom may represent him at meetings of the board. A designee may lawfully vote and otherwise act on behalf of the member for whom he constitutes the designee. Any such designation shall be in writing delivered to the board and shall continue in effect until revoked or amended by writing delivered to the board.

e. The powers of the corporation shall be vested in the members of the board thereof and four members of the board shall constitute a quorum at any meeting thereof. Actions may be taken and motions and resolutions adopted by the board at any meeting thereof by the affirmative vote of at least four members. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

f. A true copy of the minutes of every meeting of the board shall be delivered forthwith, by and under the certification of the secretary thereof, to the Governor. No action taken at such meeting by the board shall have force or effect until approved by the Governor or until 10 days after such copy of the minutes shall have been delivered. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the board or any member thereof at such meeting, such action shall be null 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.

g. The board meetings shall be subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

2. This act shall take effect immediately and shall apply to any public members appointed on or after the effective date of this act.

Approved January 7, 1993.

CHAPTER 215

AN ACT concerning reduced rates by municipal and county utilities authorities for senior citizens and the permanently disabled, supplementing and amending P.L.1957, c.183 and amending P.L.1977, c.384.

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

C.40:14B-22.2 Reduced, abated rents, rates, fees for senior citizens, disabled.

1. Any municipal or county authority may establish within its district rates or schedules which provide for a reduction or total abatement of the rents, rates, fees, or other charges which are charged to or collected from any person residing in the district of the age of 65 or more years, or less than 65 years of age and permanently and totally disabled according to the provisions of the federal Social Security Act, 42 U.S.C.§401 et seq., or disabled under any federal law administered by the United States Department of Veterans Affairs where the disability is rated as 60% or higher, having a total income not in excess of $10,000 per year.

2. Section 22 of P.L.1957, c.183 (C.40:14B-22) is amended to read as follows:

C.40:14B-22 Sewerage service charges.

22. Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "sewerage service charges") for direct or indirect connection with, or the use or services of, the sewerage system. Such sewerage service charges may be charged to and collected from any person contracting for such connection or use or services or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with the sewerage system or from or on which originates or has originated sewage or other wastes which directly or indirectly have entered or may enter the sewerage system, and the owner of any such real property shall be liable for and shall pay such sewerage service charges to the municipal authority at the time when and place where such sewerage service charges are due and payable. Such rents, rates, fees and charges, being in the nature of use or service charges, shall as nearly as the municipal authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use or service of the sewerage system, except as permitted by section 1 of P.L.1992, c.215 (C.40:14B-22.2), and may be based or computed either on the consumption of water on or in connection with the real property, making due allowance for commercial use of water, or on the number and kind of water outlets on or in connection

with the real property, or on the number and kind of plumbing or sewerage fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on the capacity of the improvements on or connected with the real property, or on any other factors determining the type, class and amount of use or service of the sewerage system, or on any combination of any such factors, and may give weight to the characteristics of the sewage and other wastes and any other special matter affecting the cost of treatment and disposal of the same, including chlorine demand, biochemical oxygen demand, concentration of solids and chemical composition, and, as to service outside the district, the cost of installation of necessary physical properties.

In addition to any such sewerage service charges, a separate charge in the nature of a connection fee or tapping fee, in respect of each connection of any property with the sewerage system, may be imposed upon the owner or occupant of the property so connected. Such connection charges shall be uniform within each class of users, and the amount thereof shall not exceed the actual cost of the physical connection, if made by the authority, plus an amount computed in the following manner to represent a fair payment towards the cost of the system:

a. The amount representing all debt service, including but not limited to sinking funds, reserve funds, the principal and interest on bonds, and the amount of any loans and the interest thereon, paid by the municipal authority to defray the capital cost of developing the system as of the end of the immediately preceding fiscal year of the authority shall be added to all capital expenditures made by a municipal authority not funded by a bond ordinance or debt for the development of the system as of the end of the immediately preceding fiscal year of the authority.

b. Any gifts, contributions or subsidies to the authority received from, and not reimbursed or reimbursable to, any federal, State, county or municipal government or agency or any private person, and that portion of amounts paid to the authority by a public entity under a service agreement or service contract which is not repaid to the public entity by the authority, shall then be subtracted.

c. The remainder shall be divided by the total number of service units served by the authority at the end of the immediately preceding fiscal year of the authority, and the results shall then be apportioned to each new connector according to the number of service units attributed to that connector. In attributing service

units to each connector, the estimated average daily flow of sewage for the connector shall be divided by the average daily flow of sewage from the average single family residence in the authority's district, to produce the number of service units to be attributed.

The connection fee shall be recomputed at the end of each fiscal year of the authority, after a public hearing is held in the manner prescribed in section 23 of P.L.1957, c.183 (C.40:14B-23). The revised connection fee may be imposed upon those who subsequently connect in that fiscal year to the system.

The combination of such connection fee or tapping fee and the aforesaid sewerage service charges shall meet the requirements of section 23.

3. Section 15 of P.L.1977, c.384 (C.40:14B-22.1) is amended to read as follows:

C.40:14B-22.1 Solid waste service charges.

15. Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "solid waste service charges") for the use or services of the solid waste system. Such solid waste service charges may be charged to and collected from any municipality or any person contracting for such use or services or from the owner or occupant, or both of them, of any real property from or on which originates or has originated any solid waste to be treated by the solid waste system of the authority, and the owner of any such real property shall be liable for and shall pay such solid waste service charges to the municipal authority at the time when and place where such solid waste service charges are due and payable. Such rents, rates, fees and charges, being in the nature of use or service charges, shall as nearly as the authority shall deem practicable and equitable be uniform throughout the county for the same type, class and amount of use or service of the solid waste system, except as permitted by section 1 of P.L.1992, c.215 (C.40:14B-22.2), and may be based or computed on any factors determining the type, class and amount of use or service of the solid waste system, and may give weight to the characteristics of the solid waste and any other special matter affecting the cost of treatment and disposal of the same.

4. This act shall take effect immediately.

Approved January 7, 1993.

JOINT RESOLUTIONS

(1415)

Joint Resolutions

JOINT RESOLUTION NO. 1

A JOINT RESOLUTION designating the week of May 10-16, 1992 as "Special Education Week" in the State of New Jersey.

WHEREAS, Approximately 175,000 children receive special education instruction in New Jersey's public and private schools; and

WHEREAS, Some 6,700 special needs children are enrolled in preschool and early intervention programs in this State; and

WHEREAS, Thousands of special needs adults receive job counselling, housing assistance and continuing education instruction in New Jersey; and

WHEREAS, Thousands of parents, teachers, child study team members and school administrators give generously of their time and energy to support the learning needs of special education students; and

WHEREAS, The public school districts and the private schools of New Jersey make a major contribution to the public welfare by preparing thousands of exceptional persons to participate as citizens of this State and as members of society; and

WHEREAS, Local public school board members as well as the boards of directors and trustees of the private schools and agencies for the handicapped in the State serve as advocates of the rights of exceptional citizens; now, therefore,

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

1. The week of May 10-16, 1992 is proclaimed as "Special Education Week" in the State of New Jersey.

2. The citizens of this State are urged to recognize the contribution of public school board members, schools and agencies for the handicapped, educators, parents and the students themselves,

and to commend them for their dedication to ensuring quality education for the exceptional citizens of this State.

3. This joint resolution shall take effect immediately.

Approved May 21, 1992.

JOINT RESOLUTION NO. 2

A JOINT RESOLUTION designating the month of May, 1992 as "Women Veterans Awareness Month."

WHEREAS, Although brave American women have participated in all of the conflicts in which this country has engaged since 1776, their sacrifices and heroic exploits have been almost forgotten by the general public until recently, to the detriment of all Americans; and

WHEREAS, The importance of women to the military might of this country was highlighted most recently by their notable involvement in the Persian Gulf conflict; and

WHEREAS, Veterans organizations in New Jersey estimate that there are more than 34,000 women veterans residing in this State who have not received the praise and recognition that they deserve; and

WHEREAS, It is fitting and proper that the citizens of this State be asked to pause and pay tribute to the bravery exhibited and sacrifices made by these women, both alive and dead, in service to this great country; and

WHEREAS, May 14, 1992 is the fiftieth anniversary of the Women's Army Corps, popularly known as the WACs, whose members saw service during World War II; and

WHEREAS, It is in the public interest of this State to designate May, 1992 as "Women Veterans Awareness Month" to acknowledge and commemorate the sacrifices endured and valor displayed by American women veterans during war and peace; now, therefore,

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

1. The month of May, 1992 is designated as "Women Veterans Awareness Month" in the State of New Jersey to acknowledge and commemorate the sacrifices endured and valor displayed by American women veterans during war and peace.

2. The Governor and the Legislature, by appropriate proclamation, shall proclaim May, 1992 as "Women Veterans Awareness Month."

3. The Governor shall call upon the appropriate agencies of State and local government and private organizations to acknowledge and commemorate "Women Veterans Awareness Month" in an appropriate fashion.

4. This joint resolution shall take effect immediately.

Approved May 27, 1992.

JOINT RESOLUTION NO. 3

A JOINT RESOLUTION designating the first full week of June each year as "Garden Week" in New Jersey.

WHEREAS, The National Council of State Garden Clubs annually celebrates "National Garden Week" during the first full week of June; and

WHEREAS, The gardeners of this country produce a cornucopia of foods for our people and for export to other nations; and

WHEREAS, Garden flowers and other garden plants bring breath-taking beauty into our lives and satisfy our aesthetic needs; and

WHEREAS, Gardening instills in our people, both young and old, a deeper appreciation of nature and our beautiful land, which leads to greater respect and care for our environment; and

WHEREAS, Gardeners help preserve and foster the traditional spirit of independence and individual initiative characteristic of the citizens of this nation; and

WHEREAS, Gardening is a pleasant and productive, full or part-time activity for many citizens; and

WHEREAS, It is especially appropriate for the State of New Jersey to recognize and promote the benefits of gardening because New Jersey is known throughout the nation as the "Garden State"; now, therefore,

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

C.36:2-28 "Garden Week" designated.

1. The first full week of June each year shall be designated as "Garden Week" in New Jersey for the purpose of recognizing and promoting the benefits of gardening.

C.36:2-29 Observation of "Garden Week" encouraged.

2. The people of the State and all appropriate State and local governmental entities are urged to observe "Garden Week" by participating in activities that recognize and promote the benefits of gardening.

3. Duly authenticated copies of this joint resolution shall be transmitted to the New Jersey Secretary of Agriculture, the New Jersey Commissioner of Environmental Protection, the governing body of each county and municipality in the State of New Jersey, and the President of the National Council of State Garden Clubs in St. Louis, Missouri.

4. This joint resolution shall take effect immediately.

Approved June 12, 1992.

JOINT RESOLUTION NO. 4

A JOINT RESOLUTION proclaiming October as Literacy Awareness Month.

WHEREAS, It is important to increase the attention we give to the field of literacy and to the problems of the many thousands of New Jersey citizens who are functionally illiterate and lack the necessary skills and educational requirements for job training; and

WHEREAS, Literacy programs in this State are supported by many educators and citizens of the State, serving as volunteers; and

WHEREAS, Literacy instruction is offered in communities throughout the State through boards of education and through the services of many privately sponsored organizations; and

WHEREAS, The importance of adult literacy activity leading to lifelong learning is the key to making every New Jersey resident a fully participating citizen; and

WHEREAS, Adult Basic Education programs, literacy programs, and English as a Second Language are now offered at work sites, in school buildings, in libraries, in homes, and in Day Care Centers, and elsewhere, wherever the need exists; and

WHEREAS, The Partnership Against Illiteracy, a Newark based, area wide organization has taken the leadership in advocating more innovative approaches to literacy instruction, encouraging work site literacy activity, developing programs to promote a family literacy center approach and promoting a general awareness of the importance of literacy instruction and literacy volunteers; now, therefore,

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

1. The month of October is hereby proclaimed as "Literacy Awareness Month" in the State of New Jersey and the Partnership Against Illiteracy is congratulated for taking the leadership in calling this issue to the attention of the citizens of our State.

2. This joint resolution shall take effect immediately.

Approved October 23, 1992.

JOINT RESOLUTION No. 5

A JOINT RESOLUTION creating a "Sentencing Policy Study Commission" to study the State's sentencing and parole laws and policies and make recommendations to ensure the most cost-effective use of public resources in deterring crime, punishing offenders, and protecting the public safety.

WHEREAS, The Legislature by enactment of the "New Jersey Code of Criminal Justice," N.J.S.2C:1-1 et seq., and subsequent amendments thereto, has sought to ensure the public safety by preventing the commission of offenses through the deterrent influence of criminal sanctions, by reforming those offenders by confinement or incarceration when required in the interests of public protection; and

WHEREAS, The sentencing provisions of the New Jersey Code of Criminal Justice and subsequent amendments thereto determine the likelihood that individual offenders will be sentenced to a term of incarceration or parole ineligibility; and

WHEREAS, The cost of incarceration is significant and commands an increasingly large share of scarce public resources; and

WHEREAS, There is a need to study the availability and use of alternatives to traditional incarceration, including but not limited to shock incarceration or "boot camp" facilities, substance abuse treatment, intensively supervised probation and parole, electronically monitored house arrest and curfews, and asset forfeiture, in those cases where these punishment alternatives can be used without jeopardizing the public safety; and

WHEREAS, There is an overriding need to ensure the most cost-effective use of limited public resources in the sanctioning of offenders so as to achieve the benefits of a rational, predictable and uniform sentencing scheme; and

WHEREAS, There is a need to study and review current laws, policies, and practices which limit, enlarge, or otherwise define the options and admit of discretion in the sentencing, incarceration, and parole of offenders; now, therefore,

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

1. There is hereby created a Commission to be known as the "Sentencing Policy Study Commission" to consist of 19 members as follows: two members of the Senate to be appointed by the President thereof, who shall not be of the same political party; two members of the General Assembly to be appointed by the Speaker thereof, who shall not be of the same political party; the Attorney General, or his representative; the Commissioner of Corrections, or his representative; the Public Advocate, or his representative; the Chief Justice, or his representative; the President of the New Jersey Association of Counties, or his representative; the President of the New Jersey County Prosecutors Association, or his representative; the Chairman of the Sheriffs Division of the New Jersey County Officers Association, or his representative; the Chairman of the State Parole Board, or his representative; the President of the New Jersey State Bar Association, or his representative; and six public members appointed by the Governor, no more than three of whom shall be of the same political party, who shall serve during the existence of the Commission. In selecting the public members, the Governor should seek to include persons who have experience, training, or academic background in crime victims' services and counseling, vocational training, substance abuse treatment, or judicial administration. The members appointed from a class of holders of public office shall remain members until the expiration of the Commission or until they cease to be members of the class from which they were appointed, whichever occurs first. Any vacancy in the membership of the Commission shall be filled by appointment in the same manner as the original appointment was made.

2. The Commission shall organize as soon as possible after the appointment of its members. The Governor shall select from among the public members of the Commission a chairman and vice-chairman, and shall also select a secretary, who need not be a member of the Commission.

3. The Commission is directed to study, review, and make recommendations concerning New Jersey's current laws, policies, and practices involving the sentencing, incarceration, and parole of offenders, the availability of treatment resources to respond to

the needs of drug and alcohol dependent offenders, and the use of alternative and innovative sanctions. Without limitation of the foregoing, the Commission shall study and review any and all aspects of the criminal justice and correctional systems with a view toward recommending the most effective and efficient use of limited public resources in protecting the public safety and achieving the goals and objectives of a rational, predictable, and uniform sentencing system.

4. The members of the Commission shall serve without compensation, but shall be reimbursed for necessary expenses actually incurred in the performance of their duties. Staff and related support services shall be provided by the New Jersey Department of Law and Public Safety, and the Commission shall be entitled to accept the assistance and services of such employees of any State, county, or municipal department, board, bureau, commission, or agency as may be made available to it and to employ such legal, stenographic, technical, and clerical assistance and incur such expenses as may be necessary in order to perform its duties within the limits of funds appropriated or otherwise made available to it for its purposes.

5. The Commission may meet and hold public hearings at the place or places it designates during the sessions or recesses of the Legislature and shall issue a final report of its findings and recommendations to the Governor and to the Legislature no later than six months following the original appointment of all members of the Commission.

6. This Joint Resolution shall take effect immediately and shall expire upon the submission by the Commission of its final report pursuant to section 5 hereof.

Approved November 23, 1992.

JOINT RESOLUTION No. 6

A JOINT RESOLUTION designating the artificial reef to be constructed at the "Proposed Mantoloking Reef Site" in the waters of this State east of the Manasquan Inlet, as the "Axel B. Carlson Reef."

WHEREAS, The Legislature notes the much lamented death of Axel B. Carlson, Jr., Monmouth County Freeholder from 1969 to 1974, and lifelong resident of the Borough of Manasquan, whose passing deprived this State's commercial and recreational fishermen of a forceful advocate for enlightened fisheries management policies, and whose devotion to fishing and the sea began at a young age when he worked with his father and brother in the fishing business, becoming at the age of 19 the youngest captain of a poundnet crew on the entire east coast, and continued throughout his life in a variety of public service roles which related to fisheries management; and

WHEREAS, Mr. Carlson was actively involved in bringing public attention to the large fleets of foreign fishing vessels that were taking very large quantities of fish from the waters immediately off the coast of New Jersey, and the concerns raised by Mr. Carlson and others led to the subsequent enactment of the federal Magnuson Fishery Conservation and Management Act, Pub.L.94-265, 16 U.S.C.§971 et al.; and

WHEREAS, Mr. Carlson was appointed to the Marine Fisheries Advisory Commission by Governor Byrne in 1977, which commission recommended changes in this State's laws regarding fisheries management, which recommendation in turn resulted in the enactment of the "Marine Fisheries Management and Commercial Fisheries Act," P.L.1979, c.199 (C.23:2B-1 et al.), that, among its many provisions, recognized the material contribution that fisheries resources make to the economy of this State, created a permanent New Jersey Marine Fisheries Council, and provided an organizational framework for the State to more effectively manage its fisheries resources; and

WHEREAS, Mr. Carlson was also appointed to the New Jersey Marine Fisheries Council in 1984 and served as vice-chairman of that body until his death, and also served on the federal Mid-Atlantic Fishery Management Council from 1985 until his death, becoming its chairman in 1989, and in both positions he was actively involved in developing fishery management plans for foreign and domestic fishery activities for the ocean waters from New York to Virginia; and

WHEREAS, It is altogether fitting and proper, and in the public interest, for the Legislature to take action to honor the memory of this dedicated public servant, particularly by having the artificial reef to be constructed at a four square mile site known as the "Proposed Mantoloking Reef Site" in the ocean waters off the Manasquan Inlet, bear his name, inasmuch as the reef site is located in the coastal waters near the county in which Mr. Carlson lived; now, therefore,

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

C.28:2-27 Designation of "Axel B. Carlson, Jr. Reef."

1. For the public policy purposes cited in the preamble hereto, the artificial reef to be constructed at the site known as the "Proposed Mantoloking Reef Site," located in the waters of this State 4.35 nautical miles east of the Manasquan Inlet, is designated the "Axel B. Carlson, Jr. Reef."

2. The Commissioner of Environmental Protection is authorized to erect appropriate markers and take any other action as may be necessary to effectuate the provisions of this joint resolution.

3. This joint resolution shall take effect immediately.

Approved December 10, 1992.

AMENDMENTS ADOPTED IN 1992 TO THE 1947 CONSTITUTION

Amendments Adopted in 1992 to the 1947 Constitution

ARTICLE I, PARAGRAPH 12

Amend Article I, paragraph 12 to read as follows:

12. Excessive bail shall not be required, excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted. It shall not be cruel and unusual punishment to impose the death penalty on a person convicted of purposely or knowingly causing death or purposely or knowingly causing serious bodily injury resulting in death 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.

Adopted November 3, 1992.
Effective December 3, 1992.

ARTICLE V, SECTION IV, PARAGRAPH 6

Amend Article V, Section IV, paragraph 6 to read as follows:

6. No rule or regulation made by any department, officer, agency or authority of this State, except such as relates to the organization or internal management of the State government or a part thereof, shall take effect until it is filed either with the Secretary of State or in such other manner as may be provided by law. The Legislature shall provide for the prompt publication of such rules and regulations. The Legislature may review any rule or regulation to determine if the rule or regulation is consistent with the intent of the Legislature as expressed in the language of the statute which the rule or regulation is intended to implement. Upon a finding that an existing or proposed rule or regulation is not consistent with legislative intent, the Legislature shall transmit this finding in the form of a concurrent resolution to the Governor and the head of the Executive Branch agency which promulgated, or plans to promulgate, the rule or regulation. The agency shall have 30 days to amend or withdraw the existing or proposed rule or regulation. If the agency does not amend or with-

draw the existing or proposed rule or regulation, the Legislature may invalidate that rule or regulation, in whole or in part, or may prohibit that proposed rule or regulation, in whole or in part, from taking effect by a vote of a majority of the authorized membership of each House in favor of a concurrent resolution providing for invalidation or prohibition, as the case may be, of the rule or regulation. This vote shall not take place until at least 20 calendar days after the placing on the desks of the members of each House of the Legislature in open meeting of the transcript of a public hearing held by either House on the invalidation or prohibition of the rule or regulation.

Adopted November 3, 1992.
Effective December 3, 1992.

ARTICLE VI, SECTION VIII

a. Amend Article VI by adding a new Section VIII as follows:

Section VIII

1. a. On or before July 1, 1997:

(1) The State shall be required to pay for certain judicial and probation costs;

(2) All judicial employees and probation employees shall be employees of the State; and

(3) Any judicial fees and probation fees collected shall be paid to the State Treasury.

b. As used in this section:

(1) "Judicial facility costs" means any costs borne by the counties prior to July 1, 1993 with regard to the operation and maintenance of facilities used by the courts or judicial employees;

(2) "Probation facility costs" means any costs borne by the counties prior to July 1, 1993 with regard to the operation and maintenance of facilities used by probation employees;

(3) "Judicial costs" means the costs incurred by the county for funding the judicial system, including but not limited to the following costs: salaries, health benefits and pension payments of all judicial employees, juror fees and library material costs, except that judicial costs shall not include costs incurred by employees of the surrogate's office or judicial facility costs;

(4) "Judicial employees" means any person employed by the county prior to July 1, 1993 to perform judicial functions, includ-

ing but not limited to employees working for the courts, and the law library and employees of the sheriff's office who act as court aides, except that employees of the surrogate's office and probation employees shall not be construed to be judicial employees;

(5) "Judicial fees" means any fees or fines collected by the judiciary but shall not include sheriff's or surrogate's fees or municipal court fees or fines;

(6) "Judicial functions" means any duties and responsibilities performed in providing any services and direct support necessary for the effective operation of the judicial system;

(7) "Probation costs" means any costs incurred by the county for the operation of the county probation department, including but not limited to the costs of salaries, health benefits, and pension payments of probation employees but shall not include probation facility costs;

(8) "Probation employees" means any person employed by a county probation department prior to July 1, 1993;

(9) "Probation fees" means any fees or fines collected in connection with the probation of any persons.

Adopted November 3, 1992.
Effective December 3, 1992.

EXECUTIVE ORDERS

EXECUTIVE ORDER No. 52

WHEREAS, The State prisons and other penal and correctional institutions of the New Jersey Department of Corrections continue to house populations of inmates in excess of their capacities and remain seriously overcrowded; and

WHEREAS, These conditions continue to endanger the safety, welfare and resources of the residents of this State; and

WHEREAS, The scope of this crisis prevents local governments from safeguarding the people, property and resources of the State; and

WHEREAS, Executive Order No. 24 of January 18, 1991 will expire on January 20, 1992; and

WHEREAS, The conditions specified in Executive Order No. 106 of June 19, 1981, continue to present a substantial likelihood of disaster;

NOW, THEREFORE, I, James J. Florio, 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 a continuing state of emergency and ORDER and DIRECT as follows:

1. Executive Order No. 106 (Byrne) of June 19, 1981; No. 108 (Byrne) of September 11, 1981; No. 1 (Kean) of January 20, 1982; No. 8 (Kean) of May 20, 1982; No. 27 (Kean) of January 10, 1983; No. 43 (Kean) of July 15, 1983; No. 60 (Kean) of January 20, 1984; No. 78 (Kean) of July 20, 1984; No. 89 (Kean) of January 18, 1985; No. 127 (Kean) of January 17, 1986; No. 155 (Kean) of January 12, 1987; No. 184 (Kean) of January 4, 1988; No. 202 (Kean) of January 26, 1989; No. 226 (Kean) of January 12, 1990; and No. 24 (Florio) of January 18, 1991, shall remain in effect until January 20, 1993 notwithstanding any sections in them stating otherwise.

2. This Order shall take effect immediately.

Issued January 17, 1992.

EXECUTIVE ORDER No. 53

WHEREAS, Executive Order No. 51 created a Governor's Task Force on Child Abuse to (a) to study the problem of child abuse in New Jersey and make recommendations for corrective action, (b) educate the public about this problem and offer prevention strategies, (c) develop mechanisms to facilitate early detection of child abuse, furnish appropriate services to the victims of child abuse and their families, and foster cooperative working relationships between responsible agencies, and (d) provide other information on child abuse as the Governor may request; and

WHEREAS, The Governor's Task Force on Child Abuse was to conclude its work by January 1, 1985; and

WHEREAS, The Governor's Task Force on Child Abuse was subsequently renamed the Governor's Task Force on Child Abuse and Neglect, was continued in existence for additional two year periods by Executive Orders No. 110, 173, and 217 and expired on December 31, 1991; and

WHEREAS, There continues to be a need for the Task Force to educate the community and make the public aware of this serious social problem, to prevent child abuse and neglect, to coordinate activities relating to child abuse and neglect, and to ensure community support for these child protection measures;

NOW, THEREFORE, I, James J. Florio, 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 Governor's Task Force on Child Abuse and Neglect is continued in existence until December 31, 1993, retroactive to December 31, 1991.

2. Except as expressly provided herein, the powers and responsibilities of the Task Force pursuant to Executive Order No. 51, Executive Order No. 110, Executive Order No. 173 and Executive Order No. 217 are continued.

3. The Task Force may solicit, receive, disburse and monitor grants and other funds available from any governmental, public, private, not-for-profit or for profit source, including, but not limited, to funding available under any federal or State law, regulation or program.

4. The Department of Human Services is authorized and directed to furnish the Task Force with such staff, office space and supplies as necessary to accomplish the purpose of this Order.

5. All other provisions of Executive Order No. 51, Executive Order No. 110, Executive Order 173 and Executive Order No. 217 shall remain in full force and effect without any modification.

6. This Order shall take effect immediately and shall expire on December 31, 1993.

Issued January 24, 1992.

EXECUTIVE ORDER No. 54

WHEREAS, The public interest of the citizens of the State of New Jersey would be enhanced by the development of strategies to increase economic growth and to create job opportunities; and

WHEREAS, The business community of New Jersey has expressed its interest in establishing a collaborative relationship with New Jersey State government to develop strategies to maximize the State's economic growth and create job opportunities for the citizens of New Jersey; and

WHEREAS, The goal of economic growth is critical for assuring all citizens of New Jersey the opportunity to achieve a high quality of life; and

WHEREAS, The development and coordination of economic growth policies necessitates consultation and collaboration among New Jersey State government, the private business sector and labor and education, among others; and

WHEREAS, It is declared to be the public policy of this State to encourage economic growth, to promote full employment, to encourage business development and expansion and to coordinate and utilize the State government's policies, plans, functions and resources;

NOW, THEREFORE, I, James J. Florio, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established the New Jersey Council on Job Opportunities (hereinafter "the Council") which shall be composed of individuals appointed by the Governor and shall be representative of citizens and groups in the State having an interest in economic growth and the creation of job opportunities.

2. The Council shall make assessments of government policy and advise the Governor on economic policy matters including, but not limited to, the following areas: a) business retention and attraction; b) work force quality; c) government regulations; d) capital investment/infrastructure; d) international trade; e) financing strategies for economic development; f) small business initiatives; g) manufacturing; and h) high technology and research development.

3. Additionally, the Council shall:

a. Evaluate the impact of international and federal economic policies in terms of their effect on the economy of the State;

b. Evaluate the State's economic condition;

c. Analyze and assess the impact of the State budget on the economy of the State;

d. Recommend policies and programs to promote economic growth and job opportunities; and

e. Gather and serve as a clearinghouse for timely and authoritative information concerning the economic growth and development of the State.

4. The Council shall be composed of 15 individuals appointed by the Governor who are representative of the State's business, education and labor communities and individuals who are knowledgeable in the field of economics. The Chair of the Council shall be designated by the Governor and shall serve at his pleasure.

5. The Council shall annually file a written report to the Governor and more frequently if so determined by the Governor or the Council.

6. Council members shall serve for three years, except that, of the initial members appointed pursuant to this Executive Order, five shall serve for terms of one year, five shall serve for terms of two years and five shall serve for terms of three years. Any individual appointed to fill an unexpired term shall serve for the unexpired portion of that term.

7. The Council shall coordinate its work with existing advisory groups including, but not limited to, the following: the State Employment and Training Commission, the Commission on Science and Technology, the State Planning Commission and the Transportation Executive Council.

8. The Council is authorized to call upon any department, office, division or agency of this State to supply it with data and any other information, personnel or assistance it deems necessary to discharge its duties under this Order. Each department, office, division or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate with the Council and furnish it with such assistance as is necessary to accomplish the purpose of this Order. The Council may seek to recruit experts to serve on the staff on a loaned executive basis. These loaned executives may come from State government, the private sector, labor and education. The Attorney General shall act as legal counsel to the Council.

9. The Council is authorized to establish task forces or workgroups to address specific issues as they arise and develop policy recommendations pertaining to those issues.

10. This Order shall take effect immediately.

Issued February 6, 1992.

EXECUTIVE ORDER No. 55

WHEREAS, Executive Order No. 50, issued on January 4, 1992 declared a limited State of Emergency in Atlantic, Cape May, Monmouth, and Ocean Counties and Executive Order No. 51, issued on January 10, 1992, which memorialized the

verbal declaration of a Limited State of Emergency in Cumberland County on January 4, 1992, in response to a storm which caused severe weather conditions which threatened the health, safety and resources of residents; and

WHEREAS, The immediate threat posed by this storm has passed and ceased to endanger the health, safety or resources of residents on or before January 10, 1992;

NOW, THEREFORE, I, James J. Florio, Governor of the State of New Jersey, declare that the limited State of Emergency is hereby terminated effective 12:00 midnight on January 10, 1992 and that Executive Orders No. 50 and 51 are rescinded.

I wish to express my gratitude to the people of the affected areas for the manner in which they cooperated during the limited State of Emergency, and to law enforcement, military and emergency response personnel for their untiring efforts.

This ORDER shall take effect immediately.

Issued February 7, 1992.

EXECUTIVE ORDER No. 56

WHEREAS, On July 23, 1982, Executive Order No. 11 created an Ethnic Advisory Council to advise the Governor regarding the needs of the ethnic communities in New Jersey; and

WHEREAS, The Council membership was subsequently increased by Executive Order No. 99 on May 7, 1985; and Executive Order No. 206 on April 25, 1989; and

WHEREAS, The continued influx of new ethnic groups into New Jersey has precipitated the need to increase our awareness, appreciation and understanding of each of these new ethnic groups; and

WHEREAS, Increasing the membership of the Ethnic Advisory Council to include representatives from these new groups will allow for a better understanding of their contributions and needs;

NOW, THEREFORE, I, James J. Florio, 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. Section 2(a) and 2(b) of Executive Order 11 are hereby amended as follows:

"2(a). The Council shall consist of 46 members appointed by the Governor. At least 38 of these appointees shall be representatives of ethnic communities within the State of New Jersey. In selecting the Council membership, consideration shall be given to appointing as broad a representative sample as possible of New Jersey's ethnic communities. All new members of the Ethnic Advisory Council who are appointed upon the effective date of this Order shall serve a full two-year term from the date of this Order."

"2(b). The Commissioners of the Departments of Community Affairs and Education, the Secretary of State, the Chancellor of Higher Education, the Chairman of the State Council on the Arts, the Chairman of the New Jersey Historical Commission, the Director of the Division on Civil Rights, or their designees, and the Ethnics Community Liaison, appointed by the Governor shall serve on the Council in an ex-officio capacity."

2. This Order shall take effect immediately.

Issued February 11, 1992.

EXECUTIVE ORDER No. 57

WHEREAS, Wayne Dumont, Jr., was born in Paterson on June 25, 1914 and was graduated from Montclair Academy, Lafayette College in Easton, Pennsylvania and the University of Pennsylvania Law School; and

WHEREAS, He played minor league baseball for the former St. Louis Browns and later moved to Phillipsburg in 1940 where he began practicing law; and

WHEREAS, He served for six years as commandant of the New Jersey Military Academy at Sea Girt after having volunteered in World War II and enlisted and was later commissioned in the infantry; and

WHEREAS, After 31 years of service he retired from the Army National Guard as a lieutenant colonel in 1974; and

WHEREAS, He first graced our State capitol in 1951 after being elected to represent Warren County as State Senator; and

WHEREAS, He was reelected to the Senate for three successive terms in 1955, 1959 and 1963, during which time he served as Senate Majority Leader, Senate President and Acting Governor; and

WHEREAS, After a two-year absence following an unsuccessful gubernatorial bid he returned to the Senate in 1967 where he remained until his retirement in July 1990; and

WHEREAS, He was responsible for sponsoring well over 500 bills during his legislative career including the State's first school aid bill and farmland preservation law; and

WHEREAS, He was respected and widely admired and well known for his independent thinking and courageous stands on issues; and

WHEREAS, He is considered to be our State's first "full-time legislator", working tirelessly for the people of New Jersey on issues ranging from the Environment to Education; and

WHEREAS, His sincere dedication and commitment to public and community service never detracted from his love and devotion to his family and friends; and

WHEREAS, His son Wayne Hunt Dumont, carried on his father's tradition of distinguished public service by serving as United States Attorney for New Jersey from December 1981 to August 1985, and by presently serving as a member of the State Commission on Investigation; and

WHEREAS, In spite of his significant stature among his colleagues and admirers, he was the embodiment of humility and sincerity, and a friend to all who had the privilege to know him; and

WHEREAS, It is fitting and appropriate for the State of New Jersey to mark the passing of Wayne Dumont, Jr., a great statesman and a public servant who always put New Jersey first;

NOW, THEREFORE, I, Jim Florio, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half mast at all State departments, offices, agencies and instrumentalities during appropriate hours beginning on Friday, March 20, 1992, through and including Sunday, March 22, 1992 in recognition and mourning of the passing of a distinguished legislator and leader, Wayne Dumont, Jr.

2. This Order shall take effect immediately.

Issued March 19, 1992.

EXECUTIVE ORDER No. 58

WHEREAS, Thomas Joseph Hanratty joined the New Jersey State Police on February 10, 1989, and was assigned to Troop B, northern New Jersey; and

WHEREAS, Through his all too brief assignment, he served with impeccable professionalism, genuine courtesy and abiding commitment to the finest traditions of the New Jersey State Police; and

WHEREAS, Trooper Thomas Joseph Hanratty served proudly as part of a long line of dedicated law enforcement officials; and

WHEREAS, Trooper Hanratty has made the ultimate sacrifice, giving his life in the line of duty and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory;

NOW, THEREFORE, I, James J. Florio, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half mast at all State departments, offices, agencies and instrumentalities during appropriate hours on Monday, April 6, 1992, in recognition and mourning of New Jersey State Trooper Thomas Joseph Hanratty, Badge 4971.

2. This Order shall take effect immediately.

Issued April 6, 1992.

EXECUTIVE ORDER No. 59

WHEREAS, The Federal Intermodel Surface Transportation Efficiency Act of 1991, Pub.L. No. 102-240, 105 Stat. 1914 (1991), acknowledges a 1987 authorization of improvements to Route 21, the Crooks Avenue interchange between Routes 46 and 20 and the Route 46 bridge over the Passaic River between Clifton and Elmwood Park ("Highway Project"); and

WHEREAS, The Intermodel Surface Transportation Efficiency Act authorizes the Governor of the State of New Jersey to carry out all of the responsibilities of the Secretary of the United States Department of Transportation pursuant to Title 23 of the United States Code, and all other provisions of law, with respect to the construction of the Highway Project; and

WHEREAS, In order to provide for expedited completion of the Highway Project, the Intermodel Surface Transportation Efficiency Act authorizes the Governor to waive any and all Federal requirements relating to the scheduling of activities associated with the Highway Project, including final design and right-of-way acquisition activities; and

WHEREAS, Title 27 of the New Jersey Statutes establishes the New Jersey Department of Transportation as the lead State agency with regard to all matters and things incident to the acquisition, improvement, betterment, construction, reconstruction, maintenance and repair of State highways;

NOW, THEREFORE, I, James J. Florio, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Commissioner of the Department of Transportation is designated to act on behalf of the Governor and is hereby delegated the powers of the Governor in carrying out, in accordance with applicable law, all responsibilities of the Secretary of the United States Department of Transportation, pursuant to Title 23 of the United States Code, and all other provisions of law, with respect to the construction of the Highway Project.

2. The Commissioner is designated and delegated the authority to act on behalf of the Governor with respect to the waiver of any and all Federal requirements relating to the scheduling of activities associated with the Highway Project, including final design and right-of-way acquisition activities.

3. The Commissioner shall not delegate to any other person or entity the authority received from the Governor pursuant to paragraphs 1 and 2 of this Executive Order.

4. This Order shall take effect immediately.

Issued May 14, 1992.

EXECUTIVE ORDER No. 60

WHEREAS, N.J.S.A.48:12-109 et seq. authorizes certain officers and employees of the State of New Jersey to utilize rail service within the borders of the State, free of charge; and

WHEREAS, This statute, enacted in 1903, which is outdated and no longer necessary, should be repealed; and

WHEREAS, The number of railroad passes issued under the authority of this statute has been reduced over the past two years to approximately 234, a reduction from 433 in 1989; and

WHEREAS, Rail travel is a cost-effective and environmentally-sound mode of transportation for State officials to utilize while conducting official State business; and

WHEREAS, Unauthorized personnel of the State have used such rail passes without providing a detailed accounting for their usage; and

WHEREAS, The use of these rail passes should be curtailed and specific guidelines and provisions adopted to limit and monitor their use; and

WHEREAS, The use of these passes by members of the Executive Branch should be limited to transportation for purposes related strictly to State business; and

WHEREAS, This Executive Order is being executed as a part of continuing efforts to curtail inefficiencies in State government; and

WHEREAS, It is necessary during tough economic times to maximize New Jersey Transit's revenues to avoid any unnecessary costs being passed on to the commuting public; and

WHEREAS, Governor Thomas H. Kean, on January 19, 1983, signed Executive Order No. 31 (Kean) which directed that N.J.S.A.48:12-109 et seq. be construed so that no rail pass may be issued to any State officer or employee not specifically entitled to such a pass under this statute, but permitted personal commutation to and from work; and

WHEREAS, Executive Order No. 31 (Kean) also placed the responsibility for issuing rail passes with the Secretary of State without conferring upon him adequate authority to monitor and enforce this process;

NOW, THEREFORE, I, Jim Florio, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT that:

1. The terms of N.J.S.A.48:12-109 et seq. shall continue to be strictly applied to ensure that no rail pass is issued to any person not specifically entitled to such a pass under the statute.

2. No Executive Branch officer or employee of the State of New Jersey shall be permitted to use such rail passes for personal commutation to and from work. The use of these rail passes shall be limited solely to purposes directly related to the conduct of official State business.

3. Rail passes shall no longer be individually assigned, but shall be issued to the various State Departments which are responsible for their use. The passes shall be held in the Office of the Commissioner/Secretary or their designees to be assigned on an as-needed basis. Each office shall maintain a log of the usage of these passes which shall include specific information to be set forth in a form determined by the Secretary of State.

4. The Secretary of State shall continue to have the responsibility of issuing rail passes, and shall also be responsible for overseeing the usage of the passes as well as promulgating guidelines in furtherance of the intentions of this Order.

5. The directives of this Order shall not apply to members of the Legislative or Judicial branches of State government who are statutorily entitled to rail passes. Also, this Order shall not apply to employees, their spouses and retirees of New Jersey Transit who have a right to these rail passes through their collective bargaining agreement under law.

6. Executive Order No. 31 of 1983 (Kean) is rescinded.

7. This Order shall take effect immediately.

Issued May 27, 1992.

EXECUTIVE ORDER No. 61

WHEREAS, The phenomenon of violence in society is of extreme concern to the people of this State; and

WHEREAS, Women are the majority of victims of certain categories of physical and psychological violence, such as domestic violence, sexual assault and sexual harassment; and

WHEREAS, New Jersey has been in the forefront of the legal and public policy response to violence against women, particularly by the State's adoption of a progressive domestic violence prevention law; and

WHEREAS, New Jersey seeks to continue improving its response to, and care of, victims of all crimes and especially victims of violence against women; and

WHEREAS, Society is acknowledging through recent laws and a change of societal attitudes that such categories of violence against women are not merely acts between individuals but are manifestations of a socialization process which promotes violence against women; and

WHEREAS, Society is increasingly aware of the wide extent of such acts of violence against women; and

WHEREAS, Violence against women is a component of other major social problems, such as rising health care costs, law enforcement costs, homelessness, substance abuse, child abuse and neglect, and other concerns; and

WHEREAS, A key component to addressing the problem of violence against women is a greatly increased prevention effort, involving public education, training of professionals, programs for offenders and victims, and other activities;

NOW, THEREFORE, I, James J. Florio, 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 an Office on the Prevention of Violence Against Women (hereinafter "Office") in the Division on Women of the Department of Community Affairs.

2. This Office shall function in collaboration with the other State agencies and affiliate groups which are dealing with issues of violence against women.

3. The existing Domestic Violence Prevention Program within the Division on Women will continue to function as a component of the proposed Office.

4. The responsibilities and functions of the Office shall include, but not be limited to:

a. Research-based policy and program development leading to implementation of strategies to prevent violence against women and to explore violence prevention initiatives.

b. Development and implementation of training courses and public education initiatives, with particular focus on the socialization process which promotes violence against women.

c. Provision of staff and fiscal support to the statutorily established Advisory Council on Domestic Violence.

d. Reporting to the Governor on an ongoing basis with respect to issues, programs, and the setting of policy priorities regarding the prevention of violence against women.

5. The Office is authorized to call upon any department, office, division or agency of this State to supply it with data and any other information or assistance it deems necessary to discharge its duties under this Order. Each department, office, division or agency of this State is hereby directed, to the extent not inconsistent with law, to cooperate with the Office and furnish it with such assistance as is necessary to accomplish the purpose of this Order.

6. The Office is authorized to establish task forces or workgroups to address specific issues as they arise and develop policy recommendations pertaining to those issues.

7. This Order shall take effect immediately.

Issued June 11, 1992.

EXECUTIVE ORDER No. 62

WHEREAS, Global interdependence has created unprecedented economic competition on an international scale; and

WHEREAS, Success in the knowledge-driven economy of the 21st Century will be directly related to our investment in both human capital and research and development; and

WHEREAS, A strong and vital higher education system is a critical component of that investment, and a major factor affecting the competitiveness of the business sector; and

WHEREAS, The Board of Higher Education and the Chancellor of Higher Education have recognized this important relationship, and have instituted a strategic planning effort and other major initiatives to enhance the higher education system's contributions to the future of the State; and

WHEREAS, The quality of the higher education system, as well as the general welfare of New Jersey, will be strengthened by close collaboration between the leadership of our higher education and corporate communities; and

WHEREAS, No permanent Statewide organization exists to foster the regular exchange of ideas about issues of mutual concern or for joint policy and program development between these two communities; and

WHEREAS, The Governor, in consultation with the Chancellor, has proposed the establishment of a Business-Higher Education Forum to serve as a forum for such exchange and cooperative action;

NOW, THEREFORE, I, James J. Florio, 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 New Jersey Business-Higher Education Forum (hereinafter "the Forum") which shall be composed of individuals, appointed by the Governor, who are leaders of New Jersey's business and higher education communities. The Chair and Vice-Chair of the Forum shall be designated by the Governor from among the Forum's members.

2. The Forum is authorized to establish an Executive Committee and to organize itself in a manner to best carry out its responsibilities. The Forum is further authorized to establish such task forces or workgroups, as necessary, to address specific issues as they arise and to develop policy recommendations pertaining to those issues.

3. The Chancellor of Higher Education and the Commissioners of Commerce and Labor, together with the Chair of the State Board of Higher Education or a member of the State Board of Higher Education designated by the Chair, shall serve as ex-officio members of the Forum. The Chancellor of Higher Education shall also serve ex-officio on the Executive Committee of the Forum.

4. The Forum shall be in, but not of, the Department of Higher Education. The Department of Higher Education shall be responsible for providing staff, consultants and other resources.

5. The Forum shall advise the Governor, the Legislature, and the citizens of the State of New Jersey on:

a. Issues relating to human capital, academic research and development, and technology transfer;

b. Ways in which the higher education community can contribute to the economic growth, and to the quality of life, of the citizens of New Jersey.

6. The Forum shall also:

a. Provide specific advice and support to the Board and Chancellor of Higher Education on higher education's strategic planning, funding and accountability efforts;

b. Promote cooperative endeavors across the two sectors that benefit the economic and social welfare of the State;

c. Examine such other issues that may arise that are of mutual concern and of serious importance to New Jersey's future and its citizens.

7. The Forum shall coordinate its work with existing policy-making groups including, but not limited to, the following: the State Employment and Training Commission, the Commission on Science and Technology, and the New Jersey Council on Job Opportunities.

8. The Forum is authorized to call upon any department, office, division or agency of this State to supply it with data and

any other information, personnel or assistance it deems necessary to discharge its duties under this Order. Each department, office, division or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate with the Forum and furnish it with such assistance as is necessary to accomplish the purpose of this Order. The Attorney General shall act as legal counsel to the Forum.

9. This Order shall take effect immediately.

Issued June 19, 1992.

EXECUTIVE ORDER No. 63

WHEREAS, The Governor's Task Force on Local Partnerships has examined the opportunities for, and problems with, local governments joining together to provide certain services; and

WHEREAS, The Task Force concluded that the joint delivery of government services offers opportunities to provide governmental services in a more efficient and cost effective manner; and

WHEREAS, The Task Force recommends that State government support and encourage local efforts to provide joint services by assisting local governments in establishing cooperative service initiatives; and

WHEREAS, There are various State agencies that work with local government on issues of mutual concern and a coordination of efforts is needed to ensure more effective responses to joint local services initiatives;

NOW, THEREFORE, I, James J. Florio, 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 in, but not of, the Department of Community Affairs, a State Agency Coordinating Council on Local Partnerships (Council) which shall be composed of fifteen members including representatives of State agencies which have

substantial involvement with units of local government, local agencies, school districts and local authorities and representatives of municipalities and county governments.

2. The Commissioners of the Departments of Community Affairs, Environmental Protection and Energy, Health, Transportation, Personnel, Treasury, Education and the Office of State Planning shall each appoint a representative to the Council. The Attorney General shall appoint a representative from the Department of Law and Public Safety. The Governor shall appoint one additional State representative. The Governor shall also appoint five representatives of municipalities and county government. The Council may recommend to the Governor the addition of other State agency or local representatives. The chair and vice-chair of the Council shall be designated by the Governor from among the Council members.

3. The Council is established for the purpose of:

a. Increasing responsiveness to initiatives for the provision of joint local services;

b. Developing outreach to identify and publicize opportunities for the joint provision of local services;

c. Creating a data base consisting of fiscal, economic, operational and other relevant data to be shared with local governments and to provide a basis for evaluating joint service opportunities;

d. Compiling and maintaining an inventory of case studies on local partnerships which would serve as a basis for comparing the experience of local joint service arrangements in New Jersey and other states; and

e. Providing other "clearinghouse" and reference services.

4. The Council shall extend technical assistance to units of local government on interlocal and regional concerns, including, but not limited to: local police services, local health services, county environmental health; public works; fire services; public education services; code enforcement; planning and land use; cooperative purchasing; joint insurance fund; and joint municipal courts.

5. The Council shall arrange for studies of regional approaches to the provision of joint services; develop guidelines for pilot projects as well as full implementation of interlocal services; and sponsor the development, through the State colleges, State universities and the private sector, of models for various local partnerships and privatization options.

6. The Council shall cooperate with Statewide local government organizations in conducting or sponsoring seminars and workshops on interlocal services and attendant concerns.

7. The Council shall evaluate requests for State funds, as are presently or in the future made available, to carry out the objectives of this Order, and recommend actions and priorities to the appropriate administrative agencies.

8. The Division of Local Government Services (Division) in the Department of Community Affairs shall request from all local governments, as part of the annual local budget process, a report on any joint service opportunities considered in the previous year and any prospects for the following year. The Division shall provide such report to the Council to serve as a basis for its outreach, research and follow-up activities.

9. The Council is authorized to call upon any department, office, division or agency of this State to supply it with data and any other information, personnel or assistance it deems necessary to discharge its duties under this Order. Each department, office, division or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate with the Council and furnish it with such information, personnel and assistance as is necessary to accomplish the purpose of this Order. The Attorney General shall act as legal counsel to the Council.

10. This Order shall take effect immediately.

Issued August 6, 1992.

EXECUTIVE ORDER No. 64

WHEREAS, Millicent H. Fenwick served the people of New Jersey as a member of Congress from 1974 until 1978, and as the United Nations Ambassador to the United Nations Food and Agricultural Organization until 1987, and as a member of the New Jersey General Assembly for two and one-half terms, and as the Director of the State's Division of Consumer Affairs; and

WHEREAS, During her years of public service she was a vigorous advocate for human rights which advocacy resulted in the formation of the Helsinki Commission to monitor compliance with the 1975 Helsinki accord on human rights; and indeed, for her work in this regard, people oppressed in the most remote regions of the world, who knew nothing of our distinguished colleague, owe her a debt of gratitude; and

WHEREAS, By her stature and presence she served as an example of the rightful and prominent role for women in the highest positions of public responsibility; and

WHEREAS, Her characteristic wit, keen intellect and abundant charm both disarmed her critics and enlightened all of those who had occasion to hear her calls for adherence to the highest ethical standards and concern for the environment; and

WHEREAS, In spite of her significant stature among her colleagues and admirers, both in the United States Congress, the General Assembly and the international community, she was the embodiment of sincerity, and a friend to all who had the privilege to know her; and

WHEREAS, Scarcely has there been a public figure whose unique mark will be so indelibly etched in the State's political landscape; and

WHEREAS, Sadly, the singular likes of Millicent Fenwick we shall not see again, it is fitting and appropriate for the State of New Jersey to mark and mourn her passing;

NOW, THEREFORE, I, Donald T. DiFrancesco, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-mast at all State departments, offices, agencies and instrumentalities during appropriate hours beginning on Wednesday, September 16, 1992, through and including Friday, September 18, 1992, in recognition and in mourning of the passing of a distinguished legislator and public servant.

2. This Order shall take effect immediately.

Issued September 16, 1992.

EXECUTIVE ORDER No. 65

WHEREAS, It is the policy of the State of New Jersey to operate government in the most efficient manner possible, and at the lowest possible cost to the taxpayer; and

WHEREAS, The government of the State of New Jersey currently occupies approximately 7.5 million square feet of rented space; and

WHEREAS, The Legislature has appropriated nearly $178 million to pay for State leases in Fiscal Year 1993; and

WHEREAS, The State leasing program would be enhanced and improved by changes in the process of acquiring space for State employees; and

WHEREAS, Chief Counsel M. Robert DeCotiis and State Treasurer Sam Crane have submitted a report setting forth various findings and proposals regarding State leasing;

NOW, THEREFORE, I, James J. Florio, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and Statutes of this State, do hereby DECLARE, ORDER, and DIRECT as follows:

1. I hereby direct the Administrator of the General Services Administration in the Department of the Treasury forthwith to implement the proposals set forth in the Report on State Leasing prepared by the Office of Management and Budget.

2. I further direct the Administrator of the General Services Administration to determine which of these proposals, if any, require the enactment of legislation, and to so indicate to me by October 30, 1992.

3. More particularly, I hereby direct:

a. That, consistent with the recommendations in the Report on State Leasing, a Space Management and Planning Board be formed for the purpose of implementing State policy with respect to acquiring and managing office space and resolving impasses regarding office space. The Board shall be organized within the Department of the Treasury, and shall be comprised of the State Treasurer who shall serve as the Chairperson, the Director of

Budget and Accounting, the Administrator of the General Services Administration, the Executive Director of the State Building Authority, and an employee of a State department or agency designated by the State Treasurer who has expertise in State leasing.

b. As soon as practicable, the Office of Leasing Operations shall prepare a Master Plan setting forth a comprehensive description of all leased facilities currently occupied by State employees. In addition, the Master Plan shall set forth specific recommendations for reducing the overall cost of State space, with particular concern given to the potential for purchasing existing property or building new facilities. These recommendations shall be consistent with the State's policy of consolidating space in urban areas, and with the policy of providing space that is safe and appropriate for State employees.

c. The Administrator of the General Services Administration shall immediately adopt a procedure for submitting lease proposals to a modified competitive process, as described in the Report on State Leasing. This process should incorporate public solicitation of bids where appropriate, and the awarding of leases on the basis of objective criteria promulgated by the Office of Leasing Operations in cooperation with the Space Management and Planning Board.

d. I hereby direct the State Treasurer to conduct a pilot privatization program, in which the State shall contract on an experimental basis with private business entities to assist the State in carrying out its leasing obligations. In particular, this program may include the use of commercial real estate companies selected through a competitive process to assist the State in selecting sites and negotiating leases.

e. The Office of Leasing Operations shall improve its procedures for monitoring leased space. In particular, the Administrator of the General Services Administration, in cooperation with the Space Planning and Management Board, shall promulgate stricter monitoring guidelines, as indicated in the Report on State Leasing.

f. In addition, the Department of the Treasury shall devise a system of incentives to induce agencies to submit accurate and reliable space requests, as indicated in the Report on State Leasing.

g. The Department of the Treasury shall explore with the Legislature a process that would provide for the automatic approval of a lease when the Legislature fails to act upon a lease request within a specified period of time after it receives that request.

h. I further direct the Office of Leasing Operations to strengthen its disclosure requirements, consistent with the recommendations in the Report on State Leasing.

i. I further direct the Department of the Treasury to prepare a comprehensive proposal for improving the computer systems currently used in support of State leasing.

j. The Treasurer shall take all necessary and proper actions for implementing the proposals set forth in this Executive Order, as well as the other proposals submitted to me in the Report on State Leasing. The Treasurer shall provide me with a status report on or before December 15, 1992, indicating which of the proposals have been implemented, and, if any have not, what problems may exist and the proposals for resolution. On or before March 15, 1993, the Treasurer shall again provide me with a status report indicating which proposals have been implemented and, if any have not, what problems exist and what the proposals are for resolution. Thereafter, the Treasurer shall report to me on or before the 15th day of every month on the progress in implementing this Order and the proposals set forth in the report.

4. This Order shall take effect immediately.

Issued October 5, 1992.

EXECUTIVE ORDER No. 66

WHEREAS, The greatest challenge facing American government today is its ability to secure economic prosperity for all citizens; and

WHEREAS, Every American has a right to a job that rewards hard work with security, good wages, dignity, and self-respect; and

WHEREAS, The vitality of families depends upon the availability of jobs that offer them the means to purchase a home, to send children to college, to pay for medical bills, and to care for family members who are aged or sick; and

WHEREAS, The economic means to enjoy a full and abundant life has been the heart of the American dream for over two centuries; and

WHEREAS, Today New Jersey and the nation are currently experiencing a recession which has caused unemployment levels in our State to rise as high as nearly 10%, well above the national average -- a jobs drought that is totally unacceptable; and

WHEREAS, Every public official, of whatever political affiliation, bears a solemn responsibility to address this problem in a spirit of cooperation and with the higher interests of our citizens in mind; and

WHEREAS, The pain caused by workers idled by the economy to our society and its people demands attention without regard to partisan political advantage or posturing; and

WHEREAS, The Legislative and Executive branches must work together to prepare and implement creative and innovative solutions to solve a problem that is not a Republican problem or a Democratic problem, but a New Jersey problem; and

WHEREAS, Senate President Donald T. DiFrancesco and Speaker of the General Assembly Garabed "Chuck" Haytaian have joined with me in a spirit of openness and cooperation to attack this State's most serious economic problems - through the means of this Order and through legislation - so that together we can make a difference in the lives of each and every citizen of New Jersey; and

WHEREAS, Government must seize upon this sense of cooperation and unity, and take every possible step in the coming year to infuse our economy with new jobs, and to provide our citizens with a renewed sense of hope; and

WHEREAS, Government must provide aggressive leadership in attacking this recession through economic strategies that recognize the central importance of the private sector; and

WHEREAS, It is the responsibility of the State and local governments to work cooperatively with our private sector to create economic growth, development, and real permanent jobs by cultivating creative partnerships between the private and public sectors in order to ensure that new businesses and emerging industries take root and prosper in this State; and

WHEREAS, New Jersey has adopted a variety of programs which are designed to promote economic growth through the investment of capital in infrastructure improvements; the provision of capital for new businesses and high technology industries; for the building of structures and other facilities designed to increase opportunities for employment in manufacturing, industrial, commercial, recreational, retail and service enterprises in the State; the making available of financial assistance to encourage new and varied enterprises to locate in the State and to assist existing enterprises to remain and to expand in the State thereby improving employment opportunities for our citizens; the provision of financial and other assistance to encourage the construction of an appropriate balance of housing, industrial and commercial facilities; and the provision of funding for cultural and historical projects and programs; and by reducing the size of State government; and

WHEREAS, New Jersey has invested billions of dollars assuring the presence of a well educated, well trained, and highly skilled labor force within our borders, including substantial investments in public education, higher education, and job training programs; and

WHEREAS, New Jersey has made strategic investments in our future by harnessing the enormous potential of the bond market with new capital programs through the joint efforts of the Executive Branch and the Legislature, enacting such bills as the Economic Recovery Fund Act, under which the New Venture Capital Fund, the Export Loan Program, and the Pooled Loan Program were created; and

WHEREAS, The New Jersey Legislature and I have taken other important steps toward creating jobs in the State, such as lifting the cap on the Transportation Trust Fund, enacting the Permit Extension Act and the New Skills Partnership Act; and

WHEREAS, Notwithstanding its substantial recent efforts to promote economic growth and prosperity for our citizens, New Jersey still lingers in the throes of a recession which has produced high unemployment within this State, thus adversely affecting the economy of the State and the prosperity, safety, health, and general welfare of its citizens and their standard of living; and

WHEREAS, It is therefore necessary to take further actions to provide for the revival of the State's economy and the creation of jobs in the immediate future to provide our citizens with immediate relief from the pain of unemployment; and

WHEREAS, Beyond the substantial resources it has already committed to combating the effects of the recession in this State and the promotion of economic growth and employment opportunities here, the State has only limited additional resources which can be dedicated to addressing the problems of this recession; and

WHEREAS, There is an urgent need for the State to do more now to encourage and promote immediate economic growth and reduce unemployment; and

WHEREAS, The action set forth in this Order is one more step of the many others the Legislature and I have taken, and which we will take in the months ahead, toward moving New Jersey's economy forward; and

WHEREAS, In addition to the principal departments and agencies of State government, a number of State authorities have been given substantial responsibility for the carrying out of New Jersey economic development programs which provide an enormous potential for investing millions of dollars in projects across this State that will boost our economy and provide thousands of jobs to our hard-working citizens; and

WHEREAS, New Jersey's authorities - such as the South Jersey Transportation Authority, the Hackensack Meadowlands Development Commission in the North, and the Casino Reinvestment Development Authority, the New Jersey Sports and Exposition Authority, and the Economic Development Authority all operating Statewide - act independently to invest millions of dollars in capital revenues in different parts of the State; and

WHEREAS, The State must better manage, coordinate, prioritize, direct, and target its existing resources in order to accomplish the goals of energizing our economy and creating jobs; and

WHEREAS, In order to stimulate our economy immediately, New Jersey should provide active and vigorous leadership to its authorities to ensure speedier investment and a more coordinated strategy for action to harness the collective financial power of these authorities; and

WHEREAS, In order to maximize the effectiveness of our existing resources, the Senate President, the Speaker and I have concluded that it is necessary for there to exist better management and control over these authorities to the end that they work together in a coordinated fashion to create more employment opportunities for this State's citizens in the immediate future; and

WHEREAS, It is also necessary that the principal departments of State government and their divisions and agencies, in carrying out their respective responsibilities under law, all coordinate their efforts and their activities with those of the authorities in order to ensure the accomplishment of this goal; and

WHEREAS, It is only by uniting our vast energies and resources in this State that we have a chance to restore the rising tide of opportunity that is the heart of the American promise and the hope of the middle class; and

WHEREAS, New Jersey should use every resource at its disposal to attack an unemployment problem that is simply unacceptable;

NOW, THEREFORE, I, James J. Florio, Governor of the State of New Jersey, together with Senate President Donald T. DiFrancesco and Speaker of the General Assembly Garabed "Chuck" Haytaian, by virtue of the authority vested in me by the Constitution and laws of the State of New Jersey, do hereby ORDER and DIRECT as follows:

1. For purposes of this Order authorities are defined as follows: the Atlantic City Convention Center Authority, the Casino Reinvestment Development Authority, the Delaware River and Bay Authority, the Delaware River Port Authority, the Development Authority for Small Business Minorities and Woman's Enterprise, the Economic Development Authority, the Educational Facilities Authority, the New Jersey Expressway Authority,

the Hackensack Meadowlands Development Commission, the Health Care Facilities Financing Authority, the New Jersey Highway Authority, the Housing and Mortgage Finance Agency, the New Jersey Transit Corporation, the Passaic Valley Sewerage Commission, the Port Authority of New York and New Jersey, the South Jersey Port Corporation, the South Jersey Transportation Authority, the Sports and Exposition Authority, the State Agriculture Development Committee, the New Jersey State Building Authority, the New Jersey Transportation Trust Fund Authority, the New Jersey Turnpike Authority, the Urban Development Corporation, the New Jersey Wastewater Treatment Trust, the New Jersey Water Supply Authority, and the Waterfront Commission of New York Harbor.

2. There is hereby created the position of Chief of Economic Recovery (hereinafter sometimes the "Chief"), who shall be empowered to act on my behalf to direct a comprehensive and aggressive effort involving every part of State government to stimulate New Jersey's economy, to promote economic growth, and to provide jobs to the citizens of this State. The Chief's primary responsibility shall be to direct, control, prioritize, and coordinate the work of the State authorities to the extent permitted by law. The Chief shall have cabinet status, shall be appointed by me in consultation with the Senate President and the Assembly Speaker, and shall serve at my pleasure during the duration of this Order.

3. The Chief of Economic Recovery shall be responsible for identifying all programs currently pending in any State authority, department or agency which would promote economic growth or create jobs, and shall take every necessary and proper action to ensure the immediate implementation of such programs. In order to assist the Chief, the authorities (or the department or agencies if so directed), in such format as determined by the Chief, shall forthwith identify all programs and projects currently pending before them, which have the potential to promote economic growth and create jobs in the immediate future and shall provide a listing of all such programs and projects. The Chief shall examine all such projects, and prioritize them in the order of their potential to immediately create jobs and promote economic growth. The authorities shall cooperate fully with the Chief in this evaluative process and shall take every necessary and proper action to ensure the immediate implementation of the programs and projects which are determined by the Chief to be priority

projects or programs. The authorities shall provide the Chief with any other such information requested by him. This process of evaluation and prioritization of projects and programs shall be a continuing process. The Chief shall meet periodically with the authorities to evaluate and prioritize new programs or projects, or review existing priorities as circumstances warrant.

4. The Chief shall regularly meet with all departments and agencies having responsibility for an economic development project of an authority, and shall expedite the resolution of any impediments to the immediate implementation of such projects. All departments and agencies are ordered to cooperate fully with the Chief in this respect.

5. The Chief is directed to identify unencumbered funds and other resources of the authorities (or departments or agencies) and to make recommendations as to how these resources can be pooled to further the purposes of this Order and to expedite the investment of such resources for appropriate purposes.

6. The Chief is authorized to provide assistance to private businesses and local and county government bodies in resolving matters that may prevent or delay speedy implementation of economic projects. The Chief shall also be responsible for forming partnerships with private investors and entrepreneurs for the purposes of providing the private sector with all appropriate assistance in promoting investment in New Jersey.

7. All authorities which by law are required to submit their minutes, resolutions, or actions to me for my approval or veto, shall henceforth simultaneously submit such minutes, resolutions, or actions to the Chief. The authorities shall fully cooperate with the Chief in his review of such items and shall promptly furnish him with any and all information which he may request in connection with his review thereof.

8. The Chief of Economic Recovery shall report and advise the Senate President, the Assembly Speaker and me in the exercise of my authority to approve or veto the minutes, resolutions or actions of the authorities so as to further the purposes of this Order.

9. I hereby direct all State departments, agencies and authorities to provide the Chief of Economic Recovery with the fullest

measure of cooperation in implementing this Order, and to make available to the Chief any and all resources as may be necessary in discharging the Chief's responsibilities. The Chief is empowered to draw upon the resources and personnel in the existing State departments, agencies, and authorities.

10. The Chief of Economic Recovery shall have access to all information within the possession of any department, agency or authority concerning economic development projects. This Order shall constitute his authorization to receive all such information, without the necessity of any further writing or directive from me.

11. The Chief of Economic Recovery shall report to the Senate President, the Assembly Speaker and me on a weekly basis, or more frequently as the need arises, to advise us on the progress achieved in carrying out this Order.

12. This Order shall take effect immediately and shall remain in effect for one year.

Issued October 19, 1992.

EXECUTIVE ORDER No. 67

WHEREAS, It is critical to initiate changes in our education system to assure that all New Jersey students are prepared for the next century; and

WHEREAS, In 1990 the President of the United States and the Governors of all fifty states endorsed six national education goals for the year 2000; and

WHEREAS, New Jersey added a seventh goal — expanding parental involvement in the schools; and

WHEREAS, The second annual report card issued by the New Jersey Department of Education assessing the State's progress toward meeting these goals has shown some advances but a need for further improvements; and

WHEREAS, It is imperative to have local communities involved in, and committed to, strategies for reaching these goals; and

WHEREAS, It is important to recognize the efforts of local communities by granting a State designation of New Jersey 2000 to communities who develop a plan to attain the seven educational goals; and

WHEREAS, A State advisory panel can assist in promoting Statewide education reform in New Jersey by advising the Governor on which communities to recommend for New Jersey 2000 designation and advising the Governor, the Legislature, and the Department of Education on issues regarding school reform in New Jersey;

NOW, THEREFORE, I, James J. Florio, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established the Governor's New Jersey 2000 Advisory Committee which shall be composed of not more than 30 individuals, appointed by the Governor, who shall be representative of a broad cross-section of the citizens of New Jersey, including, but not limited to, education organizations, local school districts, the higher education community, business and civic leaders, parents and students. Two co-chairs of the Committee shall be designated by the Governor from among the Committee members.

2. It shall be the charge and duty of the New Jersey 2000 Advisory Committee to:

(a) Advise the Governor on which communities to recommend for New Jersey 2000 designation, based on a review of their plans according to the criteria specified below;

(b) Promote the concept of New Jersey 2000 and encourage communities to meet the criteria;

(c) Review the criteria for designation and make recommendations for any changes to that criteria;

(d) Advise the Governor, the Legislature and the Department of Education on how to best promote desired school reforms;

(e) Encourage an active dialogue at the State and local level about school reform in general, including the recommendations of the Quality Education Commission;

(f) Advise the Department of Education on the allocation of any federal funds that may be provided for the support of this initiative; and

(g) Advise the Department of Education on the development of the annual State report on our progress toward the national goals.

3. The committee shall review plans for New Jersey 2000 designation to see if the plans meet the following criteria:

A. Adoption of Goals

(1) The plan must identify who will be involved in the effort and show that those participating represent a sufficiently broad segment of the community including educators, parents, students, business and government leaders, social agencies, and others; and

(2) The plan must contain documentation of formal action by participants to adopt New Jersey 2000 goals and pledge support thereof.

B. Development of Strategy

(1) The plan must identify participants in implementation of strategy to attain the goals adopted by the community;

(2) The plan must contain documentation that participants assisted in developing the strategy; and

(3) The plan must include a strategy which meets the following conditions:

(i) identify planned activities in a concise and logical sequence;

(ii) Identify who is responsible for conducting activities;

(iii) include a timeline for the completion of planned activities; and

(iv) describe resources committed to completion of activities.

C. Development of Progress Report

(1) The plan must contain a format/outline which will be used to report progress toward accomplishing the seven goals and the various program initiatives identified in the community's strategy;

(2) The plan must identify who is responsible for preparation and distribution of the progress report; and

(3) The plan must describe how and when the progress report will be distributed.

D. Plan and Support School Reform

The community's strategy must include the following:

(1) Activities designed to accomplish each of the seven New Jersey 2000 goals; and

(2) Efforts directed toward accomplishment of one or more of the following school reform measures:

—Curriculum framework and standards;

—Preschool education;

—Integrated social services for students in K-12;

—Programs to ensure successful student outcomes for inner city students and those who are socially, economically, and emotionally disadvantaged;

—School-based management;

—Teacher in-service programs to increase teacher knowledge and skills in the areas of student learning and cognition, curriculum and assessment, and the influences of diversity in culture, communication, and learning style on teaching and learning;

—Changes in the school schedule to provide more time and greater flexibility for new and existing programs; and

—Integration of technology resources into educational programs.

4. The Committee is authorized to call upon any department, office, division or agency of the State to supply such data, reports and other information as it deems necessary and appropriate to discharge its responsibilities under this Order. Each department, office, division, or agency of the State is authorized and directed, to the extent not inconsistent with law, to cooperate with the Committee and to furnish it with such information and assistance as is necessary to accomplish the purpose of this Order.

5. Until such time as the members of the Committee are appointed, the Commissioner of Education shall review plans submitted for New Jersey 2000 designation based on the criteria set forth above and advise the Governor on which communities should receive that designation.

6. This Order shall take effect immediately.

Issued October 16, 1992.

EXECUTIVE ORDER No. 68

WHEREAS, On July 25, 1991, the Congress of the United States enacted Pub.L.102-73, referred to as the National Literacy Act of 1991, Federal Public Law (hereinafter the "NLA"); and

WHEREAS, The public interest of the citizens of the State of New Jersey requires that the State shall do all that is or may be required to secure for the State the benefits of federal appropriations under the Adult Education Act, Pub.L.102-73, as amended by the NLA for all purposes specified therein; and

WHEREAS, The NLA provides for the establishment of a State advisory council on adult education and literacy; and

WHEREAS, Coordination and cooperation between the various State agencies can be enhanced by a policy development and oversight body that is independent from the various State agencies and departments and the day-to-day operation of adult education and literacy programs; and

WHEREAS, Improving family literacy to enable parents to be effective first teachers and support their children's educational progress and achieving universal literacy by the year 2000 are national goals developed by the President and the Governors of the 50 states; and

WHEREAS, New Jersey has recently passed legislation permanently establishing the State Employment and Training Commission (hereinafter the "Commission") with a broad mandate to develop and assist in the implementation of a State employment and training policy that will create a coherent, integrated system of employment and training programs; and

WHEREAS, The implementation by the Commission of its responsibility for overall coordination of employment and training programs must include adult education and literacy programs as a vital component of the State's employment and training policy; and

WHEREAS, Coordination and cooperation between the Commission and the State's advisory council on adult education and literacy will strengthen the State's capacity to maintain a suitable climate for continued economic development by meeting the needs of industry for a workforce fully trained in modern and emerging technologies; and

WHEREAS, This coordination can best be achieved by creating an advisory council and establishing procedures that will ensure an effective working relationship between the council and the Commission as well as with agencies and departments;

NOW, THEREFORE, I, James J. Florio, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established the State Council on Adult Education and Literacy (hereinafter referred to as the State Council) which shall:

(a) meet with the State agencies responsible for adult education and literacy training during the planning year to advise on the development of a State plan for literacy and for adult education that fulfills the literacy and adult education needs of the State, especially with respect to the needs of the labor market, economic development goals, and the needs of individuals in the State;

(b) advise the Governor, the State Departments of Education and Higher Education, and other State agencies concerning:

(1) the development and implementation of measurable State literacy and adult education goals consistent with section 342(c)(2) of the Adult Education Act as amended, especially with respect to:

(i) improving levels of literacy in the State by ensuring that all appropriate State agencies have specific objectives and strategies for such goals in a comprehensive approach;

(ii) improving literacy programs in the State; and

(iii) fulfilling the long-term literacy goals of the State;

(2) the coordination and monitoring of State literacy training programs in order to progress toward the long-term literacy goals of the State;

(3) the improvement of the quality of literacy programs in the State by supporting the integration of services, staff training and technology-based learning and the integration of resources of literacy programs conducted by various agencies of State government; and

(4) the development of private sector initiatives that would improve adult education programs and literacy programs, especially through public-private partnerships;

(c) review and comment on the plan submitted pursuant to section 356(h) of the Adult Education Act as amended and submit such comments to the U.S. Secretary of Education and the Commissioner of Education;

(d) measure progress on meeting the goals and objectives established pursuant to paragraph (b)(1) above;

(e) recommend model systems for implementing and coordinating State literacy programs for replication at the local level;

(f) develop reporting requirements, standards for outcomes, performance measures, and program effectiveness in State programs that are consistent with those proposed by the Federal Interagency Task Force on Literacy;

(1) approve the plan for program reviews and evaluations required in section 352 of the Adult Education Act, as amended,

and participate in the implementation and dissemination of such program reviews and evaluations;

(2) advise the Governor, the State Legislature, the State Employment and Training Commission, and the general public of the state of the findings of such program reviews and evaluations; and

(3) include its comments and recommendations in any report of such evaluations;

(g) promote family literacy by working with the Department of Education to develop programs to get parents involved in their children's education and opportunities for parents to receive literacy training at school sites;

(h) report to the Governor on the extent to which the individuals who are members of special populations are provided with equal access to quality adult education and literacy programs; and

(i) make recommendations to the Governor on ways to create greater incentives for joint planning and collaboration between the adult education system and the job training system at the State and local levels; and advise the Governor, the State Board of Education, the State Employment and Training Commission, the Commissioner of Education, and the Commissioner of Labor regarding such evaluation, findings and recommendations.

2. The chairpersons of the Commission and Council shall analyze and organize the current work and structure of their respective bodies to assist the activities and functions of the State Council and to facilitate a collaborative framework for addressing lifelong learning and workforce readiness issues.

3. The Council shall be composed of the Governor or his designee, representatives, appointed by the Governor, of the Department of Higher Education, Department of Education, Department of Human Services, Department of Commerce, Department of Labor, Department of Community Affairs, and the Department of Corrections and a minimum of 15 and maximum of 25 individuals appointed by the Governor who shall be broadly representative of citizens and groups within the State having an interest in adult education and literacy, including representatives from the following:

(a) public and private elementary, secondary and higher education;

(b) public and private sector employment;

(c) recognized State labor organizations;

(d) private literacy organizations, voluntary literacy organizations, and community-based literacy organizations in the State;

(e) representatives of:
(1) the State job training agency;
(2) the State Library program;
(3) the economic development agency;
(4) teachers who have demonstrated outstanding results in teaching children or adults to read; and
(5) individuals who have participated in, and benefited from, adult education and literacy programs.

(f) In making appointments to the State Council, appropriate representation should be given to urban and rural areas, women, persons with disabilities and racial and ethnic minorities, and due consideration shall be given to those persons who serve on a private industry council under the Job Training Partnership Act or on State councils established under other related federal acts and to those persons who are members of the State Employment and Training Commission and who possess the qualifications necessary to serve on the State Council.

(g) Members, other than State agency representatives, shall serve for terms of three years, except that, of the initial appointees pursuant to this Executive Order, one-third of the members shall serve for terms of one year; one-third of the members shall serve for terms of two years; and the remaining members shall serve for terms of three years. The term of any member of the State Council who is also a member of the Commission shall be the same as his or her term on the Commission. Any individual appointed to fill an unexpired term shall serve for the unexpired portion of the term.

(h) Two co-chairs of the Council shall be designated by the Governor from among the Council's members.

4. The functions of the State Council shall be in accordance with Section 332 of the Adult Education Act, as amended by Pub.L.102-73 and consistent with P.L.1989, c.293 and the State Council shall be assigned in, but not of, the Department of Education.

5. The State Council is authorized to apply for and receive funds under the Adult Education Act to obtain the services of such professional, technical and clerical personnel as may be necessary to enable it to carry out its functions under the Adult Education Act (Pub.L.102-73) pursuant to section 331(c) and section 332(a)(2). The State Council is also authorized to apply for other funds to carry out its functions under this Executive Order.

6. The State Council shall meet as soon as practicable after certification has been accepted by the U.S. Secretary of Education. The time, place and manner of meeting, as well as State Council operating procedures and staffing, shall be as provided by the rules of the State Council, except that such rules must provide for not less than one public meeting each year at which the public is given an opportunity to express views concerning the adult and literacy education programs of the State. One number more than one-half of the members on the Council shall constitute a quorum for the purpose of transmitting recommendations and proposals to the Governor, but a lesser number of members may constitute a quorum for other purposes.

7. This Order shall take effect immediately.

Issued October 29, 1992.

EXECUTIVE ORDER No. 69

I, James J. Florio, 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. November 27, 1992, 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 off shall be granted to the aforementioned category of employees whose functions, in the opinion of their appointing authority, precludes such absence on November 27, 1992.

Issued November 9, 1992.

EXECUTIVE ORDER No. 70

WHEREAS, This Administration is committed to improving the efficiency of its operations, eliminating duplication of functions and achieving cost savings wherever feasible; and

WHEREAS, The Commissioner of Personnel has the responsibility and authority, pursuant to N.J.S.A.11A:3-1, to establish and administer a State classification plan; and

WHEREAS, The Commissioner of Personnel has the authority, pursuant to N.J.S.A.11A:3-7, to establish and administer an equitable State employee compensation plan; and

WHEREAS, The Commissioner of Personnel, pursuant to N.J.S.A.11A:2-11, is vested with the authority to plan, evaluate, administer and implement personnel policies and programs in State government; to develop programs to improve the efficiency and effectiveness of the public service; to set standards and procedures for review and to render final administrative decisions on classification and salary appeals; to maintain a management information system; and to assist the Governor in general workforce planning and personnel matters; and

WHEREAS, These statutory provisions in the Civil Service Reform Act establish the Department of Personnel as the human resource agency which administers in a uniform fashion classification, compensation, workforce planning and related functions in the Executive Branch of State government; and

WHEREAS, There is a need to consolidate personnel functions where appropriate in human resource agency reporting to the Governor, in order to ensure the effective and efficient management of personnel policies and programs, and this is especially critical since the Fiscal Year 93 Appropriations Act reduced the availability of funds for human resource administration; and

WHEREAS, Such efforts shall promote savings for State government as well as greater efficiencies and coordination of personnel policies and procedures; and

WHEREAS, Pursuant to N.J.S.A.11A:11-2, the Commissioner of Personnel has the discretionary authority to direct the consolidation of personnel functions in the Executive Branch within the Department of Personnel; and

WHEREAS, The goals of Civil Service reform which began in 1986 need to be reaffirmed, especially in this economic climate, to continue to promote the goals of efficiency and economy; and

WHEREAS, Although the Department of Personnel has been empowered to act as the State department with principal oversight responsibility for classification and compensation matters, the heads of the principal departments are appointing authorities within the law and require sufficient authority over personnel matters to effectively manage their ongoing responsibilities to the public; and

WHEREAS, It is the public policy of this State, pursuant to N.J.S.A.11A:1-2, to provide public officials with appropriate appointment, supervisory and other personnel authority to execute properly their constitutional and statutory responsibilities; and

WHEREAS, The Commissioner of the Department of Personnel has a role to assist the various departments to help them meet their business needs;

NOW, THEREFORE, I, James J. Florio, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the statutes of this State, do hereby ORDER and DIRECT:

1. The Commissioner shall develop a plan for the consolidation and coordination of personnel functions that balances the needs and benefits of central personnel administration and the management needs of the department and agency heads. The plan should address, but not be limited to, classification, compensation and workforce planning in the Executive Branch of State government, and provide for the transfer, if appropriate, to the Department of Personnel such employees, positions, funding, facilities, equipment, powers, duties and functions from throughout the Executive Branch as necessary to effectuate such consolidation and coordination.

2. The Commissioner shall submit no later than 60 days from the date of this Executive Order the consolidation plan to the Governor for review and approval. Upon the approval of the Governor, the Commissioner may, pursuant to the approved plan, direct the consolidation and coordination of personnel functions, including, but not limited to, classification, compensation and

workforce planning, in the Executive Branch and the transfer to the Department of Personnel, if appropriate, of such employees, positions, funding, facilities, equipment, powers, duties and functions to effectuate such consolidation and coordination. The Commissioner shall organize these functions in such units as the Commissioner determines are necessary for the efficient operation of the Department and to properly support the appointing authorities and all State employees in personnel matters.

3. The plan shall include a statement of the problems being addressed by the proposed consolidations and detail the proposed changes, the staffing needs, the division of duties between the operating departments and agencies and the Department of Personnel, and shall address the transfer of staff and resources to implement the plan.

4. The plan shall be developed in consultation with the affected department and agency heads.

5. Each department, division, or agency in the Executive Branch of State government shall cooperate fully with the Commissioner and make available to the Commissioner such information, personnel and assistance necessary to effectuate the purposes of this Order.

6. Within six months, the Commissioner shall submit to the Governor a report on the implementation of this Order after consultation with the Cabinet.

7. This Order shall take effect immediately.

Issued November 17, 1992.

EXECUTIVE ORDER No. 71

WHEREAS, Thousands of citizens of the State of New Jersey from every age group and from all walks of life volunteer countless hours of service in order to help others in their communities; and

WHEREAS, These volunteers work to build strong community organizations, to promote issues in the public interest and to help their fellow citizens in need; and

WHEREAS, Neighborhoods, towns, cities and the State benefit to a great extent from the contributions of individuals and groups volunteering their time and service; and

WHEREAS, Volunteerism promotes good citizenship and responsibility to the community; and

WHEREAS, State government can promote volunteerism and community service by providing leadership, coordination, and recognition; and

WHEREAS, The federal National and Community Service Act of 1990 encourages a concerned body of citizens to join and work together for the common good; and

WHEREAS, New Jersey seeks to involve all sectors of the State in cooperative community service efforts to help create "One New Jersey" by including students from kindergarten through college, participants in New Jersey Youth Corps, and schools and communities in the urban special needs districts; and

WHEREAS, Implementation and coordination of Statewide efforts to enhance volunteerism and service to the community, including those funded by the Commission on National and Community Service, can best be achieved by reconstituting and renaming the Governor's Advisory Committee on Public/Private Volunteer Partnerships to act as advisors to the Governor, the New Jersey Office of Volunteerism and the Department of Higher Education;

NOW, THEREFORE, I, Jim Florio, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and laws of this State do hereby ORDER and DIRECT:

1. The Governor's Advisory Committee on Public/Private Volunteer Partnerships shall be renamed the Governor's Advisory Council on Volunteerism and Community Service.

2. The Advisory Council shall be composed of not more than 42 individuals appointed by the Governor and shall be broadly representative of community service and shall reflect the ethnic and economic diversity of the State of New Jersey:

a. The Commissioners of the Departments of Community Affairs, Education, Human Services, Health and Labor, the Chancellor of Higher Education, the Attorney General, the Chairman of the State Employment and Training Commission, the Executive Director of the Administrative Office of the Courts, or their designees, shall serve on the Advisory Council as ex officio members.

b. One representative of a federal volunteer program shall serve on the Advisory Council as an ex officio member.

c. The public members shall consist of representatives from volunteer associations or organizations, youth-serving organizations, the nonprofit sector, business, and education, including students. The public members may also include representatives from organized labor, low-income groups, and/or persons who volunteer or are engaged in service to the community.

d. All members of the Advisory Council shall serve without compensation. Public members shall serve for terms of three years, except those public members of the Governor's Advisory Committee on Public/Private Volunteer Partnerships whose terms have not expired shall be reappointed to serve out the remainder of their terms as members of the Advisory Council. Appointments to currently vacant positions shall be made for terms of one, two or three years so that one third of the appointments to the Advisory Council are made each year.

e. Advisory Council vacancies shall be filled by the Governor for the remainder of the unexpired term.

3. The Governor shall designate a Chairperson from among the public members of the Advisory Council.

4. The Advisory Council shall:

a. Encourage the expansion of volunteerism and community service in the State of New Jersey by advising and supporting the New Jersey Office of Volunteerism and the Department of Higher Education;

b. Identify and prioritize the important community needs and identify the resources to meet those needs through volunteerism and community service;

c. Recognize and reward successful examples of community partnerships, service projects, and volunteerism and to provide those models to other communities facing those challenges;

d. Involve New Jersey's youth, businesses, individuals and groups to work together to strengthen and meet the needs of New Jersey's communities;

e. Advise the Governor on volunteer, community service and service learning for youth issues.

5. The time, place, and manner of meeting, as well as Advisory Council operating procedures, shall be established by the Advisory Council, except that such rules must provide for not less than one public meeting each year at which the public is given an opportunity to express views concerning volunteerism and community service in the State.

6. The Advisory Council shall receive administrative support from the New Jersey Office of Volunteerism, but shall not obligate any funds of that office or of any other department, office, division or agency of the State.

7. The Department of Higher Education shall be considered the lead State agency in administering grants awarded through the Commission on National and Community Service.

8. This Order shall take effect immediately.

Issued November 20, 1992.

EXECUTIVE ORDER NO. 72

WHEREAS, Richard J. Hughes was the only Governor in New Jersey history to serve the people of his beloved State as both Chief Executive and Chief Justice of the State Supreme Court; and

WHEREAS, Governor Hughes devoted more than five decades of his life to public service; and

WHEREAS, He shepherded New Jersey safely through some of our most uncertain times and, through his deep commitment to justice and equality, helped to ennoble those times; and

WHEREAS, His skilled and gracious statesmanship, his integrity and his commitment to fiscal responsibility remain today a model and an inspiration for all in government; and

WHEREAS, He understood that the lasting greatness of any society is contained in the promise of its children, and that the most important task of government is to nurture that promise through education; and

WHEREAS, His singular vision and determined leadership enabled New Jersey to create a world-class system of universities, colleges and junior colleges in which we could nurture the creative genius of all our young people and continue New Jersey's proud tradition of generational progress; and

WHEREAS, His administration laid the foundation for a strong, modern transportation system that has enabled New Jersey to keep its economy moving for more than a generation; and

WHEREAS, He believed deeply that the strength of America lies in our diversity and that, as President Roosevelt said, we are all sons and daughters of immigrants, equally deserving of dignity and opportunity; and

WHEREAS, His belief in New Jersey's greatness and his ability to convince others of that greatness helped move New Jersey into the national spotlight as the site of the 1964 Democratic national convention and the 1967 summit meeting at Glassboro between President Lyndon Johnson and Soviet Premier Aleksei Kosygin; and

WHEREAS, His keen insight and devotion to justice, now inscribed in law, helped our State, and our nation, to move a little closer to the noble ideals on which we were founded; and

WHEREAS, As Chief Justice of the State's highest court, he was widely respected and admired for his leadership and courageous stands on such diverse issues as the sacred right of

each individual to live and die with dignity, the right of every child to receive a quality education, the right of those accused of crimes to receive a fair trial and the right of those convicted to receive fair and humane treatment; and

WHEREAS, His devotion to public and community service never detracted from his love and devotion to family and friends; and

WHEREAS, His Irish wit, wise counsel and indomitable spirit were rare and precious resources that will be greatly missed in the halls of government and throughout our State; and

WHEREAS, It is fitting and appropriate for the State of New Jersey to mark the passing of Richard J. Hughes, a great statesman and public servant who always put New Jersey first;

NOW, THEREFORE, I, Jim Florio, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours beginning on Monday, December 7, 1992 and through and including Monday, December 21 in recognition and mourning of the passing of one of New Jersey's most distinguished sons, Richard J. Hughes.

2. This Order shall take effect immediately.

Issued December 7, 1992.

EXECUTIVE ORDER NO. 73

WHEREAS, Severe weather conditions of December 11, 1992 including heavy rains, winds and high tides have created flooding, hazardous road conditions, and threatened homes and other structures in the coastal areas of the State; and

WHEREAS, These weather conditions pose a threat and constitute a disaster from a natural cause which threatens and presently does endanger the health, safety or resources of the residents of more than one municipality and county of this State; and which is in some parts of the State and may become in other parts of the State too large in scope to be handled in its entirety by the 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.9-30 et seq.) and 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;

NOW, THEREFORE, I, James J. Florio, 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 limited State of Emergency has and presently exists in Atlantic, Burlington, Cape May, Cumberland, Middlesex, Monmouth and Ocean counties.

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 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 and to prevent ingress or egress from any area that he, in his discretion, deems necessary for the protection of the health, safety and welfare of the public.

The Superintendent of the Division of State Police is further authorized and empowered 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 their residences during the course of this emergency.

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, in accordance with the Laws of 1942, Chapter 251, 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 men, 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.

Issued December 11, 1992.

EXECUTIVE ORDER No. 74

WHEREAS, Severe weather conditions in the State of New Jersey led to the declaration of a limited State of Emergency in certain areas of the State, pursuant to Executive Order No. 73; and

WHEREAS, Conditions in other areas of the State have deteriorated and the conditions in Bergen, Hudson and Salem counties constitute a disaster from a natural cause and continue to pose a threat and endanger the health, safety or resources of the residents of one or more municipalities and counties of this State; and which is in some parts of the State, and threatens to become, too large in scope to be handled in its entirety by normal municipal or county operation services;

NOW, THEREFORE, I, James J. Florio, 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 limited State of Emergency exists in Bergen, Hudson and Salem counties.

Executive Order No. 73 is hereby extended to include Bergen, Hudson and Salem counties. This Order shall take effect immediately and shall remain in effect until such time as I determine that an emergency no longer exists.

Issued December 11, 1992.

EXECUTIVE ORDER No. 75

WHEREAS, Severe weather conditions in the State of New Jersey led to the declaration of a limited State of Emergency in certain areas of the State, pursuant to Executive Order Nos. 73 and 74; and

WHEREAS, Conditions in other areas of the State have deteriorated and the conditions in Camden, Essex, Gloucester, Hunterdon, Mercer, Morris, Passaic, Somerset, Sussex, Union and Warren counties constitute a disaster from a natural cause and continue to pose a threat and endanger the health, safety or resources of the residents of one or more municipalities and counties of this State; and which is in some parts of the State, and threatens to become, too large in scope to be handled in its entirety by normal municipal or county operation services;

NOW, THEREFORE, I, James J. Florio, 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 limited State of Emergency exists in Camden, Essex, Gloucester, Hunterdon, Mercer, Morris, Passaic, Somerset, Sussex, Union and Warren counties.

Executive Order Nos. 73 and 74 are hereby extended to include Camden, Essex, Gloucester, Hunterdon, Mercer, Morris, Passaic, Somerset, Sussex, Union and Warren counties. This Order shall take effect immediately and shall remain in effect until such time as I determine that an emergency no longer exists.

Issued December 11, 1992.

EXECUTIVE ORDER No. 76

WHEREAS, Executive Order No. 73, issued on December 11, 1992, declared a limited State of Emergency in Atlantic, Burlington, Cape May, Cumberland, Middlesex, Monmouth and Ocean counties, and Executive Order No. 74, issued on December 11, 1992, extended the State of Emergency to Bergen, Hudson and Salem counties, and Executive Order No. 75, issued on December 11, 1992, extended the State of Emergency to Camden, Essex, Gloucester, Hunterdon, Mercer, Morris, Passaic, Somerset, Sussex, Union and Warren counties, because of severe weather conditions which threatened the health, safety and resources of the residents of this State; and

WHEREAS, The immediate threat posed by the severe weather conditions of December 11, 1992 has passed and ceased to endanger the health, safety or resources of residents; and

WHEREAS, I wish to express my personal appreciation to the people of New Jersey for the manner in which they cooperated during this emergency and to the law enforcement, military and emergency response personnel of the State for their untiring efforts;

NOW, THEREFORE, I, James J. Florio, 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 that the State of Emergency is hereby terminated effective at noon on December 22, 1992. Executive Order Nos. 73, 74 and 75 are rescinded.

This Order shall take effect immediately.

Issued December 22, 1992.

EXECUTIVE ORDER No. 77

WHEREAS, On October 29, 1992, I created by Executive Order No. 68, the State Council on Adult Education and Literacy, in order to help improve coordination and delivery of adult education and literacy programs across the State; and

WHEREAS, The interest expressed in response to this event has been extensive and from varied constituencies; and

WHEREAS, Broad representation of concerned parties to the Council membership is desirable and in the spirit of Executive Order No. 68;

NOW, THEREFORE, I, James J. Florio, 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. Section 3 of Executive Order No. 68 is hereby amended as follows:

"The Council shall be composed of the Governor or his designee, representatives of the Department of Higher Education, Department of Education, Department of Human Services, Department of Commerce, Department of Labor, Department of Community Affairs, Department of Corrections, and public members to be appointed by the Governor and who shall be broadly representative of citizens and groups within the State having an interest in adult education and literacy."

2. This Order shall take effect immediately.

Issued January 7, 1992.

EXECUTIVE ORDER No. 78

WHEREAS, The people of this State are entitled to a government in which every effort is made to eliminate both the actuality and the appearance of impropriety; and

WHEREAS, Concerns exist about the role of members of the Legislature in the process used for the leasing of real property by State agencies; and

WHEREAS, A prohibition against State agency leases involving members of the Legislature or members of their families will benefit both the members of the Legislature and the State agency officials responsible for leasing by providing a bright-line rule to guide their conduct;

NOW, THEREFORE, I, James J. Florio, 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. As used in this Order, the following terms have the following meanings:

a. "State agency" means any of the principal departments in the Executive Branch of the State Government and any division, board, bureau, office, commission, or other instrumentality within, created by, or allocated to such department.

b. "Interest" means (1) the ownership or control of more than one percent of the profits or assets of a firm, association, or partnership, or more than one percent of the stock in a corporation for profit other than a professional service corporation organized under the "Professional Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.); and (2) the holding of the status of shareholder, associate, partner, or professional employee of a professional service corporation or of any other firm, partnership or association that provides professional services regardless of the extent or amount of shareholder interest in the corporation or of the amount of the assets or profits of the firm, partnership or association owned or controlled.

c. "Member of the immediate family" of any person means the person's spouse, child, parent, or sibling residing in the same household.

2.a. Notwithstanding the provisions of sections 4 and 8 of P.L.1971, c.182 (C.52:13D-15 et al.) or any other law to the contrary and except as provided in subsection b. of this section, a State agency shall not lease or purchase real property, title to which is held, in whole or in part, by a member of the Legislature or a member of his or her immediate family, by any partnership, firm, or corporation in which the member has an interest, or by a trust of any nature into which a member has placed control of real property regardless of whether or not the member has retained control of the trust assets or has knowledge of the management of trust assets.

b. A State agency may acquire real property the acquisition of which is prohibited by subsection a. of this section only pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

3. This Order shall take effect immediately.

Issued January 12, 1993.

EXECUTIVE ORDER No. 79

WHEREAS, Regulation of the process of making or awarding public contracts should serve the purposes of preserving to the State all of the economic benefits of full and free competition and guarding against favoritism, improvidence, extravagance, or corruption; and

WHEREAS, The Legislature has established such regulation in the form of laws which provide that purchases, contracts, or agreements which are to be paid for out of State funds or other public funds should only be made or awarded after public advertisement for bids, unless the purchase, contract, or agreement is authorized by law to be made without such public advertisement; and

WHEREAS, The Legislature has determined that, even in cases where public advertising is not required, the process used to make or award the purchase, contract, or agreement should be one which promotes full and free competition whenever competition is practicable; and

WHEREAS, Through the enactment of P.L.1992, c.130, and the Issuance of Executive Order No. 65 (1992), provision has been made for the effective regulation of one type of agreement to which the general public advertising requirement does not apply -- State agency leases; and

WHEREAS, Further action is needed to assure the public that purchases, contracts, or agreements which are not required to be made or awarded after public advertisement of bids are nonetheless made or awarded pursuant to procedures that promote full and free competition whenever competition is practicable and that provide for disclosure and accountability;

NOW, THEREFORE, I, James J. Florio, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The State Treasurer shall establish, by regulation, procedures, which may be tailored to particular procurement needs, to require the use of a modified competitive process for purchases,

contracts, or agreements for which public advertising for bids is not required pursuant to the provisions of sections 4 and 5 of P.L.1954, c.48 (C.52:34-6 et seq.). These procedures shall apply to all principal departments and any entities allocated thereto by law, notwithstanding whether they are subject to P.L.1954, c.48 (C.52:34-6 et seq.) or other similar provisions contained in the laws or regulations applicable to such entities.

2. The procedures established pursuant to section 1 of this Executive Order shall include a requirement that the individual or entity making or awarding the purchase, contract, or agreement state in writing the reason why a particular vendor was selected over any other competing vendors.

3. This Order shall not apply to lease agreements that are subject to the provisions of P.L.1992, c.130, or Executive Order No. 65 (1992).

4. This Order shall take effect immediately.

Issued January 12, 1993.

REORGANIZATION PLANS

(1491)

REORGANIZATION PLAN
DEPARTMENT OF HUMAN SERVICES

NOTICE OF A REORGANIZATION PLAN TO REDENOMINATE THE DEPARTMENT OF HUMAN SERVICES' DIVISION OF ECONOMIC ASSISTANCE AS THE DIVISION OF FAMILY DEVELOPMENT, AND THE BOARD OF ECONOMIC ASSISTANCE AS THE BOARD OF FAMILY DEVELOPMENT

TAKE NOTICE that on May 7, 1992, Governor James J. Florio hereby issues the following Reorganization Plan (No.001-1992) to rename the Division of Economic Assistance as the Division of Family Development, and the Board of Economic Assistance as the Board of Family Development.

GENERAL STATEMENT OF PURPOSE

On January 21, 1992, I signed into law a package of bills which together will establish the Family Development Program. This legislation represents the most comprehensive reform of welfare in the history of the State. One of the goals of the Family Development Program is to provide a new and more comprehensive approach to addressing the needs and responsibilities of public assistance recipients. Another goal of the program is to provide opportunities for all families and individuals receiving public assistance to become self-sufficient by creating productive, comprehensive workers who can secure permanent full-time jobs at wages that are adequate to support themselves and their families.

The Family Development Program greatly expands current education, training, and employment opportunities for recipients of both the Aid to Families with Dependent Children (AFDC) and the General Assistance (GA) programs. Moreover, it moves beyond the national Job Opportunities and Basic Skills (JOBS) legislation by setting a new direction of individual responsibility, family stability, and self-sufficiency.

The Family Development Program is based on values, especially the importance of marriage and family stability. The goal of the program is to build and support the family unit and to encourage families to stay together by removing the financial barriers that have, in the past, discouraged marriage while simultaneously reducing the multi-generational and long-term

aspects of welfare dependency. The Reorganization Plan to redenominate the Division of Economic Assistance as the Division of Family Development and the Board of Economic Assistance as the Board of Family Development will promote to the public the true purposes and goals of the Family Development Program and end the stigma that may have been associated with the characterization of aid as economic assistance. These changes also reflect the enhanced responsibilities of the Division and the Board to implement these reforms to benefit the family.

THEREFORE, in accordance with the provisions of the "Executive Reorganization Act of 1969," L.1969, c.203 (C.52:14C-1 et seq.), I find that each redenomination included in the Reorganization Plan better promotes and reflects the purposes and goals of the Family Development Program and also satisfies the standards set forth in N.J.S.A.52:14C-2.

THE PROVISIONS OF THE REORGANIZATION ARE AS FOLLOWS:

1. a. The Division of Economic Assistance, amended by L.1989, c.88 (C.30:4A-4), is redenominated the Division of Family Development. I find that this name change, authorized by N.J.S.A.52:14C-5(a), will better reflect the responsibilities of the Division and the primary focus of the Family Development Program which is to reunite and strengthen the family.

b. Whenever in any law, rule, regulation, order, contract, tariff, document, judicial or administrative proceeding or otherwise, reference is made to the Division of Economic Assistance, the same shall mean and refer to the Division of Family Development.

2. a. The Board of Economic Assistance, amended by L.1988, c.173 (C.30:4B-3), is denominated the Board of Family Development. I find that this name change, authorized by N.J.S.A.52:14C-5(a), will better reflect the responsibilities of the Board and its allocation within a renamed Division of Family Development.

b. Whenever in any law, rule, regulation, order, contract, tariff, document, judicial or administrative proceeding or otherwise, reference is made to the Board of Economic Assistance, the same shall mean and refer to the Board of Family Development.

3. All acts and parts of acts inconsistent with any of the provisions of this Reorganization Plan are superseded to the extent of such inconsistencies. A copy of this Reorganization Plan was filed May 7, 1992, 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 6, 1992, 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 Reorganization Plan, or at a date later than July 6, 1992, should the Governor establish such a later date for the effective date of the Plan, or any part thereof, by Executive Order.

TAKE NOTICE that this Reorganization 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 a heading of "Reorganization Plans."

Filed May 7, 1992.
Effective July 6, 1992.

REORGANIZATION PLAN DEPARTMENT OF LAW AND PUBLIC SAFETY

NOTICE OF A PLAN FOR THE REORGANIZATION OF THE DEPARTMENT OF LAW AND PUBLIC SAFETY

TAKE NOTICE that, on November 30, 1992, Governor Jim Florio hereby issues the following Reorganization Plan (No. 004-1992) providing for the reorganization of the Department of Law and Public Safety.

GENERAL STATEMENT OF PURPOSE

This Reorganization Plan represents an ongoing effort to streamline and downsize the structure and functions of the Executive Branch in the interests of efficiency and economy, without quantitative or qualitative diminution of services to the public.

This Reorganization Plan is the result of comprehensive, in-depth review and analysis of the structure of the Department of Law and Public Safety. Underlying the Plan is an intent to coordinate the functions of the Department of Law and Public Safety to achieve

optimal efficiency in the management and performance of the Department's varied functions and duties. The Plan provides for reallocations of functions so as to promote the efficient and expeditious delivery of services to the public while concomitantly achieving the greatest possible economy. Additionally, the Plan provides for the elimination of advisory committees, boards or commissions whose functions have become superfluous or duplicative.

This Reorganization Plan will consolidate within one agency similar departmental functions under the Amusement Games Licensing Law, Bingo Licensing Law and Raffles Licensing Law by transferring regulatory responsibilities currently vested in the Director of the Division of Alcoholic Beverage Control under the Amusement Games Licensing Law to the Legalized Games of Chance Control Commission. Likewise, the plan will reduce the number of divisions in the Department of Law and Public Safety by transferring the State Athletic Control Board to and into the Division of Gaming Enforcement. At the same time, the Division of Gaming Enforcement will assume the investigative and enforcement functions of the Board, which parallel those it currently performs under the Casino Control Act.

Under the Plan, the operations of the Office of Consumer Protection are expanded by transferring to it the licensing, registration and enforcement functions of the Bureau of Employment and Personnel Services. The Plan further provides for the transfer of administrative responsibilities under the Drunk Driving Enforcement Fund from the Director of the Division of Motor Vehicles to the Office of Highway Traffic Safety, which will result in a unified and coordinated approach to the Department's responsibilities with respect to highway safety and related grant programs.

Finally, in furtherance of the goal of downsizing and streamlining to the greatest extent possible while preserving a high level of public service, this Reorganization Plan provides for the elimination of the following committees, boards and commissions:

(1) the Crime Prevention Advisory Committee;

(2) the Bulk Commodities Advisory Board;

(3) The Security Advisory Committee;

(4) the Bio-Analytical Laboratory Advisory Committee;

(5) the Commission on Missing Persons:

(6) the Orthoptic Commission; and

(7) the State Law Enforcement Planning Agency.

With respect to each of the reallocations and eliminations provided for in this Reorganization Plan, I find that one or more of the following purposes will be accomplished:

(1) the better execution of the laws, the more effective management of the Executive Branch and of its agencies and functions, and the expeditious administration of the public business;

(2) a reduction of expenditures and/or an increase in economy to the fullest extent consistent with the efficient operation of the Executive Branch;

(3) an increase in the efficiency of the operations of the Executive Branch to the fullest extent practicable;

(4) the grouping, coordination and consolidation of agencies and functions of the Executive Branch as nearly as possible according to major purposes;

(5) A reduction in the number of agencies by consolidating those having similar functions under a single head, and the abolition of such agencies or functions as are not necessary for the efficient conduct of the Executive Branch; and

(6) the elimination of overlapping and duplication of effort.

For clarity, specific statements of purpose immediately precede the provisions of each reorganization contained in this Plan.

THE PROVISIONS OF THE REORGANIZATION PLAN ARE AS FOLLOWS:

A. Pursuant to present statutory authority, P.L.1959, chs.108, 109 and 113, as supplemented and amended (C.5:8-78 to -130), the Amusement Games Control Commissioner, who is also the Director of the Division of Alcoholic Beverage Control, has general regulatory and enforcement authority with respect to the Amusement Games Licensing Law. The responsibilities of the Amusement Games Control Commissioner involve licensing, regulatory and adjudicatory functions as well as investigatory and compliance functions pursuant to the licensing law and regulations promulgated thereunder.

Pursuant to P.L.1954, c.7, as supplemented and amended, (C.5:8-1 et seq.), the Legalized Games of Chance Control Commission in the Department of Law and Public Safety possesses parallel authority for the Bingo Licensing Law and the Raffles Licensing Law. The Commission is authorized to conduct investigations of the administration of the Bingo Licensing Law and the Raffles Licensing Law, to receive and investigate complaints as to violations and evasions of said laws in any municipality or

municipalities, and to institute prosecutions for the punishment of violations of those laws.

This reorganization will consolidate within one governmental body the similar functions and duties of the Department of Law and Public Safety with respect to the Amusement Games Licensing Law, Bingo Licensing Law and Raffles Licensing Law. Transfer of the functions under the Amusement Games Licensing Law from the Amusement Games Control Commissioner to the Legalized Games of Chance Control Commission will provide for the consolidation within one agency of the similar functions related to those three statutes, and will vest similar duties in a single State agency, thereby eliminating duplication and overlap promoting efficiency and/or economy.

Therefore, I hereby order the following reorganization:

1.a. The Office of the Amusement Games Control Commissioner, created pursuant to P.L.1959, c.108, sec.1 (C.5:8-78) is abolished and the term of office of the Amusement Games Control Commissioner is terminated.

b. All of the functions, powers and duties of the Amusement Games Control Commissioner pursuant to P.L.1959, chs. 108, 109 and 113, as supplemented and amended (C.5:8-78 to -130), are continued and transferred to the Legalized Games of Chance Control Commission in the Division of Consumer Affairs in the Department of Law and Public Safety, except that the power granted to the Amusement Games Control Commissioner pursuant to P.L.1959, c.108, sec.17 (C.5:8-94), to appoint an executive officer and any such term of office is terminated.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203 (C.52:14C-2). Specifically, the transfers provided for herein will consolidate similar regulatory functions within one agency, resulting in the more efficient and/or economical functioning of the Executive Branch.

2. Any unexpended funds appropriated or otherwise available to the Amusement Games Control Commissioner, as determined by the Attorney General, are transferred to the Legalized Games of Chance Control Commission, on the effective date of this Reorganization Plan.

3. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise,

reference is made to the Amusement Games Control Commissioner, the same shall mean and refer to the Legalized Games of Chance Control Commission.

B. Pursuant to present statutory authority, P.L.1985, c.83, as supplemented and amended by P.L.1988, c.20 (C.5:2A-3 to -31), the State Athletic Control Board in the Department of Law and Public Safety was created to regulate and supervise events, exhibitions and other performances involving combative sports such as boxing, wrestling and kick boxing in order to protect the well-being of the participants and to promote public confidence and trust in the integrity of these events. The Board's regulatory functions involve licensing, rulemaking and oversight of compliance with the laws and regulations governing these activities.

Under the Casino Control Act, P.L.1977, c.110, as supplemented and amended (C.5:12-1 et seq.), the Division of Gaming Enforcement in the Department of Law and Public Safety is the investigative half of the two part regulatory structure established to regulate and oversee casinos and all persons and entities doing business therewith. Inspection functions performed by the State Athletic Control Board are largely similar in nature to those of the Division of Gaming Enforcement and, because many boxing matches are held in casinos, the functions of these two separate agencies frequently overlap.

A primary purpose of this Reorganization Plan is to coordinate the functioning of the Department of Law and Public Safety in order to eliminate duplication and overlap and maximize efficiency and economy. Transferring the State Athletic Control Board to the Division of Gaming Enforcement will provide staff economies since personnel of the Division of Gaming Enforcement will be able to provide staff support for State Athletic Control Board functions. The Board will retain its regulatory. licensing and adjudicatory authority. Reassigning inspection and enforcement responsibilities with respect to the activities regulated by the Board to the Division of Gaming Enforcement will streamline the Department and promote overall efficiency and economy by aligning similar functions within one agency.

Therefore, I hereby order the following reorganization:

1.a. The State Athletic Control Board in the Department of Law and Public Safety, created pursuant to P.L.1985, c.83, sec.3 (C.5:2A-3), together with the State Athletic Control Board Medical Advisory Coun-

cil, created pursuant to P.L.1985, c.83, sec.8 (C.5:2A-8), and its powers, functions and duties pursuant to P.L.1985, c.83, as supplemented and amended by P.L.1988, c.20 (C.5:2A-3 to -31), with respect to licensing participants and regulating the conditions under which boxing, wrestling, kick boxing and combative sports exhibitions, events, performances and contests may be held; and to causing to be inspected premises, equipment or documents relevant thereto; and to conducting hearings; are continued and transferred to and into the Division of Gaming Enforcement in the Department of Law and Public Safety, subject to the following allocations of said powers, functions and duties.

b. The position of Commissioner of the State Athletic Control Board and the duties of the Commissioner to assist the board and be responsible for implementation of board directives and policies, established by P.L.1985, c.83, sec.5 (C.5:2A-5) are continued, except that the Commissioner shall be appointed by the Attorney General with the concurrence of the State Athletic Control Board, shall serve at the pleasure of and at a salary set by the Attorney General, and shall be subject to the direction and supervision of the Attorney General and the Director of the Division of Gaming Enforcement.

c. The powers granted to the State Athletic Control Board pursuant to P.L.1985, c.83, sec.5 (C.5:2A-5), to appoint and set the salaries of deputy commissioners, a chief inspector and inspectors, judges, referees and physicians, and any other personnel, are continued and transferred to the Attorney General. Judges, referees and physicians so appointed shall not be deemed to be public employees for purposes of N.J.S.A.34:13A-1 et seq.

d. The power granted to the State Athletic Control Board pursuant to P.L.1985, c.83, sec.5 (C.5:2A-5), to exchange data and receive information from the Federal Bureau of Investigation is continued and transferred to the Attorney General, to be exercised through the Division of Gaming Enforcement.

e. The functions, powers and duties of the State Athletic Control Board pursuant to P.L.1985, c.83, as supplemented and amended by P.L.1988, c.20 (C.5:2A-1 et seq.) to investigate under the laws and regulations related to boxing, wrestling, kick boxing and combative sports exhibitions, events, performances and contests; to conduct background checks and investigate the background of the participants; and to make periodic inspections of training facilities; are continued and transferred to the Attorney General, who may exercise some or all of those duties through the Division of Gaming Enforcement.

f. Employees transferred to the Division of Gaming Enforcement pursuant to this reorganization, and all other persons who thereafter may be hired or assigned to perform duties transferred to the Division of Gaming Enforcement pursuant to this reorganization, shall be subject to the restrictions and requirements imposed on Division employees pursuant to P.L.1977, c.110, as supplemented and amended, including but not limited to the provisions of P.L.1977, c.110, sec.56 (C.5:12-56) and P.L.1977, c.110, secs.58-60 (C.5:12-58 to -60), in addition to those restrictions and requirements applicable pursuant to any other law, regulation or as determined by the Director of the Division of Gaming Enforcement, except that transferred employees shall retain their rights pursuant to P.L.1969, c.203, sec.8 (C.52:14C-8).

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203 (C.52:14C-2). Specifically, I find that transferring the State Athletic Control Board to and into the Division of Gaming Enforcement, and transferring its investigatory duties to that Division, will align similar functions within one agency, resulting in a reduction of expenditures and/or an increase in economy, thereby promoting the overall efficiency of the Executive Branch.

2. Any unexpended balance of funds appropriated or otherwise available to the State Athletic Control Board, including funds from the State Athletic Control Board Account pursuant to P.L.1985, c.83, sec.19 (C.5:2A-19), are transferred to the State Athletic Control Board in the Division of Gaming Enforcement, or to the Division of Gaming Enforcement as necessary to perform the functions transferred to that Division under this Reorganization Plan, as determined by the Attorney General.

3. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the licensing, regulatory or adjudicative authority of the State Athletic Control Board, the same shall mean and refer to the State Athletic Control Board in the Division of Gaming Enforcement. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the inspection, investigation and enforcement functions of the State Athletic Control Board, the same shall mean and refer to the Division of Gaming Enforcement, as supervised and directed by the Attorney General.

C. Pursuant to present statutory authority, P.L.1989, c.331 (C.52:17B-139.4 to 139.5; C.34:8-43 et seq.), the Bureau of Employment and Personnel Services in the Division of Consumer Affairs in the Department of Law and Public Safety is charged with licensing private agencies and agents who provide employment services, registering other entities that engage in consulting, placement, or other services pertaining to the obtaining of employment, and otherwise enforcing the laws of this State governing employment services. At the same time, the Office of Consumer Protection in the Division of Consumer Affairs has broad reach through its investigatory and enforcement functions with respect to a wide range of consumer protection matters.

Consolidating the functions of the Bureau of Employment and Personnel Services with those of the Office of Consumer Protection will result in a more efficient system for enforcing the laws governing employment and personnel services. The consolidation will provide for a greater coordination of functions in the Division of Consumer Affairs and will promote the efficiency and/or economy of the Executive Branch.

Therefore, I hereby order the following reorganization:

1.a. The Bureau of Employment and Personnel Services in the Division of Consumer Affairs in the Department of Law and Public Safety, created by P.L.1989, c.331, sec.2 (C.52:17B-139.4), is abolished. All of the powers, functions and duties of the Bureau of Employment and Personnel Services in the Division of Consumer Affairs, set forth in P.L.1989, c.331 (C.52:17B-139.4 to 139.5; C.34:8-43 et seq.), are continued and transferred to the Office of Consumer Protection in the Division of Consumer Affairs in the Department of Law and Public Safety.

b. The position of Chief of the Bureau of Employment and Personnel Services, created by P.L.1989, c.331, sec.2 (C.52:17B-139.4) is abolished and any term of office terminated. The powers vested in the Chief of the Bureau of Employment and Personnel Services are continued and transferred to the Executive Director of the Office of Consumer Protection in the Division of Consumer Affairs.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203 (C.52:14C-2). Specifically, I find that transfer of the functions of the Bureau of Employment and Personnel Services to the Office of Consumer

Protection will promote the efficient performance of those functions and of the Division of Consumer Affairs in general.

2. Any unexpended funds appropriated or otherwise available to the Bureau of Employment and Personnel Services in the Division of Consumer Affairs, as determined by the Attorney General, are transferred to the Office of Consumer Protection in the Division of Consumer Affairs on the effective date of this Reorganization Plan.

3. Whenever, in any law, rule, regulation, order, contract, document, or judicial or administrative proceeding or otherwise reference is made to the Bureau of Employment and Personnel Services in the Division of Consumer Affairs, the same shall mean and refer to the Office of Consumer Protection in the Division of Consumer Affairs. Whenever, in any law, rule, regulation, order, contract, document, or judicial or administrative proceeding reference is made to the Chief of the Bureau of Employment and Personnel Services in the Division of Consumer Affairs, the same shall mean and refer to the Executive Director of the Office of Consumer Protection in the Division of Consumer Affairs.

D. Pursuant to present statutory authority, P.L.1984, c.4, sec.1 (C.39:4-50.8), the Director of the Division of Motor Vehicles is authorized to receive funds generated through surcharges imposed on defendants convicted of driving while intoxicated under R.S.39:4-50. The Director is statutorily required to deposit ninety-five percent of those funds into a "Drunk Driving Enforcement Fund" which is to be used to finance a Statewide drunk driving enforcement program, supervised by the Director, and to use the remaining five percent for administrative expenses. Eligible municipal, county, State and interstate law enforcement agencies receive grants from the Fund, in amounts proportionate to the amounts collected through enforcement of R.S.39:4-50, to be used to augment drunk driving enforcement efforts.

The Office of Highway Traffic Safety in the Department of Law and Public Safety has general responsibility for the receipt and disbursement of federal funds earmarked for traffic safety programs, and for oversight of funded traffic safety programs. Transfer of the functions of the Division of Motor Vehicles with respect to the allocation and administration of the Drunk Driving Enforcement Fund to the Office of Highway Traffic Safety will eliminate duplication of effort by the Department in administering various grant

programs and will align and assign similar functions within one agency, thereby promoting overall efficiency.

Therefore, I hereby order the following reorganization:

1. The powers, functions and duties of the Director of the Division of Motor Vehicles in the Department of Law and Public Safety pursuant to P.L.1984, c.4, sec.1 (C.39:4-50.8), to administer the Drunk Driving Enforcement Fund, supervise the Statewide drunk driving enforcement program established thereunder, and promulgate rules and regulations, are continued and transferred to the Attorney General, to be exercised through the Office of Highway Traffic Safety in the Department of Law and Public Safety under the supervision of the Attorney General, except that the Division of Motor Vehicles shall remain the initial recipient of funds collected through assessment of surcharges on defendants convicted of violating R.S.39:4-50, and shall be credited with twenty (20%) percent of the administrative assessment for these purposes.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203 (C.52:14C-2). Specifically, I find that transfer of responsibility to administer the Drunk Driving Enforcement Fund from the Division of Motor Vehicles to the Office of Highway Traffic Safety will promote the efficiency of the Executive Branch by more closely aligning similar functions within agencies, thereby increasing efficiency and/or economy without reduction in services to the public.

2. Any unobligated balances of the Drunk Driving Enforcement Fund and any unexpended funds appropriated or otherwise available to the Director of the Division of Motor Vehicles with respect to functions pursuant to P.L.1984, c.4, sec.1 (C.39:4-50.8) transferred by this Reorganization Plan, as determined by the Attorney General, are transferred to the Office of Highway Traffic Safety in the Department of Law and Public Safety on the effective date of this Reorganization Plan.

3. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Director of the Division of Motor Vehicles with respect to the administrative responsibilities under P.L.1984, c.4, sec.1 (C.39:4-50.8) transferred by this Reorganiza-

tion Plan, the same shall mean and refer the Office of Highway Traffic Safety in the Department of Law and Public Safety.

E. Over the years, the Legislature has created numerous committees to advise the Department of Law and Public Safety in fulfilling its statutory missions. These committees have become luxuries we can no longer afford at a time when State Government must do more with fewer resources. The divisions and other agencies within the Department of Law and Public Safety will be able to continue to perform their duties without the input of these formal advisory bodies. Under the Administrative Procedure Act, P.L.1968, c.410 (C.52:14B-1 et seq.), agencies may conduct public hearings on proposed rule changes, and any person who has advice for the agency may provide it. Moreover, pursuant to that Act, any person may petition an agency to promulgate, amend, or repeal a rule.

A primary purpose of this Reorganization Plan is to coordinate the functioning of the Department of Law and Public Safety in order to eliminate duplication and overlap, reduce expenditures, and promote efficiency and economy. Abolition of the advisory committees provided for below will promote the overall efficiency of the Executive Branch without substantive reduction in services to the public.

Therefore, I hereby order the following reorganizations:

1.a. The Crime Prevention Advisory Committee in the Police Training Commission in the Division of Criminal Justice in the Department of Law and Public Safety, created pursuant to P.L.1985, c.1, sec.2 (C.52:17B-77.1), together with its powers, functions and duties, is abolished and the terms of office of its members terminated.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203 (C.52:14C-2). Specifically, I find that elimination of the Crime Prevention Advisory Committee will promote the overall efficiency of the Division of Criminal Justice and the Police Training Commission without resulting in a reduction of services to the public.

b. Any unexpended funds appropriated or otherwise available for the Crime Prevention Advisory Committee, as determined by the Attorney General, are transferred to the Police Training Commission in the Division of Criminal Justice on the effective date of this Reorganization Plan.

c. Whenever, in any law, rule, regulation, order, contract, document or judicial or administrative proceeding or otherwise,

reference is made to the Crime Prevention Advisory Committee, the same shall mean and refer to the Police Training Commission in the Division of Criminal Justice.

2.a. The Bulk Commodities Advisory Board in the Division of Motor Vehicles in the Department of Law and Public Safety, created pursuant to P.L.1977, c.259, sec.6 (C.39:5E-6), together with its powers, functions and duties, is abolished and the terms of office of its members terminated.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203 (C.52:14C-2). Specifically, I find that elimination of the Bulk Commodities Advisory Board will promote the overall efficiency of the Division of Motor Vehicles without resulting in a reduction of services to the public.

b. Any unexpended funds appropriated or otherwise available for the Bulk Commodities Advisory Board, as determined by the Attorney General, are transferred to the Division of Motor Vehicles on the effective date of this Reorganization Plan.

c. Whenever in any law, rule, regulation, order, contract, document or judicial or administrative proceeding or otherwise, reference is made to the Bulk Commodities Advisory Board, the same shall mean and refer to the Division of Motor Vehicles.

3.a. The Security Advisory Committee established pursuant to P.L.1967, c.93, sec.27 (C.49:3-74), together with its powers, functions and duties, is abolished and the terms of office of its members are terminated.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203 (C.52:14C-2). Specifically, I find that elimination of the Security Advisory Committee will promote the overall efficiency of the Bureau of Securities in the Division of Consumer Affairs, without resulting in a reduction of services to the public.

b. Any unexpended funds appropriated or otherwise available to the Security Advisory Committee, as determined by the Attorney General, are transferred to the Bureau of Securities in the Division of Consumer Affairs on the effective date of this Reorganization Plan.

c. Whenever, in any law, rule, regulation, order, contract, document, or judicial or administrative proceeding or otherwise, reference is made to the Security Advisory Committee, the same shall mean and refer to the Bureau of Securities in the Division of Consumer Affairs.

4. a. The Bio-Analytical Laboratory Advisory Committee under the State Board of Medical Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety, created pursuant to P.L.1989, c.153, sec.17 (C.45:9-1), together with its functions, powers and duties, is abolished and the terms of office of its members terminated.

I find that this reorganization is necessary to accomplish the purposes set forth in Section 2 of P.L.1969, c.203 (C.52:14C-2). Specifically, I find that elimination of the Bio-Analytical Laboratory Advisory Committee will promote the overall efficiency of the State Board of Medical Examiners, without resulting in a reduction of services to the public.

b. Any unexpended funds appropriated or otherwise available to the Bio-Analytical Laboratory Advisory Committee, as determined by the Attorney General, are transferred to the State Board of Medical Examiners in the Division of Consumer Affairs on the effective date of this Reorganization Plan.

c. Whenever, in any law, rule, regulation, order, contract, document, or judicial or administrative proceeding or otherwise, reference is made to the Bio-Analytical Laboratory Advisory Committee, the same shall mean and refer to the State Board of Medical Examiners.

F. The Commission on Missing Persons, created by P.L.1983, c.467, sec.4 (C.52:17B-9.9), is responsible for reviewing data and statistics and preparation of a State action plan relating to the problem of missing persons and unidentified bodies, updating the plan annually, and recommending legislation that may be necessary to carry out the purpose of the Act.

That same statute created a Missing Persons Unit within the Department of Law and Public Safety in the Division of State Police. That unit and the persons assigned thereto have a commitment to carry out the provisions of the Act and perform the day-to-day operational mandates of this legislation. Consequently, this unit addresses the operational objectives of the Commission on Missing Persons. In addition, the Attorney General submits an annual report to the Legislature which, among other matters, is to contain suggestions and recommendations for the improvement of planning and coordinating functions to insure the adequate and uniform enforcement of the criminal laws of the State. The Attorney General, through the Division of Criminal Justice, is also authorized and empowered to make studies and surveys of the organization, procedures and methods of operation and administration of all law enforcement agencies within

the State with a view toward preventing crime, improving the administration of criminal justice and securing the enforcement of the criminal law, Thus, the Attorney General possesses the authority to conduct studies and recommend legislation concerning missing persons when appropriate.

A primary purpose of this Reorganization Plan is to coordinate the functioning of the Department of Law and Public Safety in order to eliminate duplication and overlap and reduce expenditures, which will promote efficiency and economy. The abolition of the Commission on Missing Persons will not impair or hinder the primary objectives articulated by the Legislature, but will provide for greater economy and efficiency in the provision of those services.

Therefore, I hereby order the following reorganization:

1. The Commission on Missing Persons, created by P.L.1983, c.467, sec.4 (C.52:17B-9.9), together with its powers, functions and duties, is abolished and the terms of office of its members terminated.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203 (C.52:14C-2). Specifically, I find that elimination of the Commission on Missing Persons will promote the overall efficiency of the Department of Law and Public Safety, without resulting in a reduction of services to the public.

2. Any unexpended funds appropriated or otherwise available to the Commission on Missing Persons, as determined by the Attorney General, are transferred to the Division of State Police in the Department of Law and Public Safety on the effective date of this Reorganization Plan.

3. Whenever, in any law, rule, regulation, order, contract, document, or judicial or administrative proceeding or otherwise, reference is made to the Commission on Missing Persons, the same shall mean and refer to the Division of State Police in the Department of Law and Public Safety.

G. Pursuant to P.L.1968, c.114 (C.45:12A-1 et seq.), the Orthoptic Commission in the State Board of Medical Examiners is constituted to establish standards governing the practice of orthoptics and to register orthoptists. The State Board of Medical Examiners, which oversees the Commission, has more than sufficient expertise to regulate the practice of orthoptics. Moreover,

interested individuals or groups are able to advise the Board or petition it to promulgate, amend, or repeal a rule, pursuant to the Administrative Procedure Act, P.L.1968, c.410 (C.52:14B-1 et seq.).

A primary purpose of this Reorganization Plan is to coordinate the functioning of the Department of Law and Public Safety in order to eliminate duplication and overlap and reduce expenditures, which will promote efficiency and economy. Elimination of the Orthoptic Commission will result in a more efficient regulatory system without reduction of service to the public.

Therefore, I hereby order the following reorganization:

1. The Orthoptic Commission within the State Board of Medical Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety, created pursuant to P.L.1968, c.114, sec.9 (C.45:12A-9), is abolished and the terms of its members are terminated. all functions, powers, and duties of the Orthoptic Commission are continued and transferred to the State Board of Medical Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203 (C.52:14C-2). Specifically, I find that elimination of the Orthoptic Commission will promote the overall efficiency of the State Board of Medical Examiners, without resulting in a reduction of services to the public.

2. Any unexpended funds appropriated or otherwise available for the Orthoptic Commission, as determined by the Attorney General, are transferred to the State Board of Medical Examiners on the effective date of this Reorganization Plan.

3. Whenever, in any law, rule, regulation, order, contract, document or judicial or administrative proceeding or otherwise, reference is made to the Orthoptic Commission, the same shall mean and refer to the State Board of Medical Examiners in the Division of Consumer Affairs.

H. The State Law Enforcement Planning Agency has, pursuant to P.L.1978, c.176 (C.52:17B-147(a)), the responsibility to "serve as the State Planning Agency pursuant to the Federal Omnibus Crime Control and Safe Streets Act of 1968, the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, and other

related Federal or State Acts." In recent years, the availability of federal funds for law enforcement planning purposes has decreased significantly. Over the years, there has been a coincidental reduction in the functions and responsibilities of this planning agency. At the same time, a significant portion of the staff of the Division of Criminal Justice is dedicated to the planning and coordination of the State's law enforcement functions, as well as to public education and deterrence of criminal activity.

A primary purposes of this Reorganization Plan is to coordinate the functioning of the Department of Law and Public Safety in order to eliminate duplication and overlap and reduce expenditures, which will promote efficiency and economy. The State Law Enforcement Planning Agency is no longer necessary and its elimination will reduce duplication and overlap, thereby promoting efficiency and economy.

Therefore, I hereby order the following reorganization:

1. The State Law Enforcement Planning Agency, created by executive order and continued by P.L.1978, c.176, sec.2 (C.52:17B-143), is abolished. All the functions, powers and duties of the State Law Enforcement Planning Agency are continued and transferred to the Division of Criminal Justice in the Department of Law and Public Safety.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203 (C.52:14C-2). Specifically, I find that elimination of the State Law Enforcement Planning Agency will promote the overall efficiency of the Executive Branch without resulting in a reduction of services to the public.

2. Any unexpended funds appropriated or otherwise available for the State Law Enforcement Planning Agency, as determined by the Attorney General, are transferred to the Division of Criminal Justice in the Department of Law and Public Safety on the effective date of this Reorganization Plan.

3. Whenever, in any law, rule, regulation, order, contract, document or judicial or administrative proceeding or otherwise, reference is made to the State Law Enforcement Planning Agency, the same shall mean and refer to the Division of Criminal Justice in the Department of Law and Public Safety.

GENERAL PROVISIONS

1. All acts and parts of acts inconsistent with any of the provisions of this Reorganization Plan are superseded to the extent of such inconsistencies.

2. Unless otherwise specified in this Reorganization Plan, all transfers directed by this Reorganization Plan shall be effected pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

3. If any provisions of this Reorganization Plan or the application thereof to any person, or circumstances, or the exercise of any power or authority hereunder is held invalid or contrary to law, such holding shall not affect other provisions or applications of the Plan, which can be given effect without the invalid provisions or applications, or affect other exercises of power or authority under said provisions not contrary to law. To this end, the provisions of this Reorganization Plan are declared to be severable.

4. This Reorganization Plan is intended to protect and promote the public health, safety and welfare, and shall be liberally construed to obtain the objectives and effect the purposes thereof.

A copy of this Reorganization Plan was filed on November 30, 1992, 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 January 29, 1993, 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 Reorganization Plan, or at a date later than January 29, 1993, should the Governor establish such a later date for the effective date of the Plan of Reorganization, or any part hereof, by Executive Order.

TAKE NOTICE that this Reorganization Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the pamphlet laws and in the New Jersey Register under the heading of "Reorganization Plans."

Filed November 30, 1992.
Effective January 29, 1993.

INDEX